

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

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

5 Section 5. The Environmental Protection Act is amended
6 by changing Sections 3, 3.32, 3.53, 4, 5, 7, 9.2, 9.3, 9.4,
7 12, 13.1, 14.1, 14.2, 14.3, 14.4, 14.6, 17, 19.10, 21, 21.3,
8 21.5, 22.2, 22.2b, 22.9, 22.15, 22.16, 22.16a, 22.22, 22.23,
9 22.23a, 22.27, 22.33, 22.40, 22.43, 22.44, 22.45, 22.47,
10 22.48, 25b-5, 28.5, 30, 31, 39, 39.2, 39.3, 40, 40.1, 40.2,
11 45, 49, 55, 56.1, 56.2, 57.7, 57.8, 57.13, 58.7, 58.8, 58.14,
12 and 58.17 and renumbering Sections 3.01 through 3.94 as
13 follows:

14 (415 ILCS 5/3) (from Ch. 111 1/2, par. 1003)

15 Sec. 3. Definitions.

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

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

27 In the bill for this amendatory Act, the renumbered
28 Sections are shown in the manner commonly used to show
29 renumbering in revisory bills. The Sections being renumbered
30 are shown as existing (rather than new) text; only the
31 changes being made to the existing text are shown with

1 striking and underscoring. The original source lines have
2 been retained.

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

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

10 (415 ILCS 5/3.105 new) (was 415 ILCS 5/3.01)

11 Sec. 3.105. Agency. ~~3-01-~~ "Agency" is the Environmental
12 Protection Agency established by this Act.

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

14 (415 ILCS 5/3.110 new) (was 415 ILCS 5/3.77)

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

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

26 (415 ILCS 5/3.115 new) (was 415 ILCS 5/3.02)

27 Sec. 3.115. Air pollution. ~~3-02-~~ "Air pollution" is the
28 presence in the atmosphere of one or more contaminants in
29 sufficient quantities and of such characteristics and
30 duration as to be injurious to human, plant, or animal life,
31 to health, or to property, or to unreasonably interfere with

1 the enjoyment of life or property.

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

3 (415 ILCS 5/3.120 new) (was 415 ILCS 5/3.03)

4 Sec. 3.120. Air pollution control equipment. ~~3-03-~~ "Air
5 pollution control equipment" means any equipment or facility
6 of a type intended to eliminate, prevent, reduce or control
7 the emission of specified air contaminants to the atmosphere.
8 Air pollution control equipment includes, but is not limited
9 to, landfill gas recovery facilities.

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

11 (415 ILCS 5/3.125 new) (was 415 ILCS 5/3.68)

12 Sec. 3.125. Biodeterioration; biodegradation. ~~3-68-~~

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

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

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

25 (415 ILCS 5/3.130 new) (was 415 ILCS 5/3.04)

26 Sec. 3.130. Board. ~~3-04-~~ "Board" is the Pollution
27 Control Board established by this Act.

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

29 (415 ILCS 5/3.135 new) (was 415 ILCS 5/3.94)

30 Sec. 3.135. Coal combustion by-product; CCB. ~~3-94-~~ "Coal

1 combustion by-product" (CCB) means coal combustion waste when
2 used beneficially for any of the following purposes:

3 (1) The extraction or recovery of material compounds
4 contained within CCB.

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

11 (3) CCB used in conformance with the specifications and
12 under the approval of the Department of Transportation.

13 (4) Bottom ash used as antiskid material, athletic
14 tracks, or foot paths.

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

19 (6) CCB used as a functionally equivalent substitute for
20 agricultural lime as a soil conditioner.

21 (7) Bottom ash used in non-IDOT pavement base, pipe
22 bedding, or foundation backfill.

23 (8) Structural fill, when used in an engineered
24 application or combined with cement, sand, or water to
25 produce a controlled strength fill material and covered with
26 12 inches of soil unless infiltration is prevented by the
27 material itself or other cover material.

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

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

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

1 (B) CCB shall not exceed Class I Groundwater
2 Standards for metals when tested utilizing test method
3 ASTM D3987-85;

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

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

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

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

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

33 (415 ILCS 5/3.140 new) (was 415 ILCS 5/3.76)

1 Sec. 3.140. Coal combustion waste. 3-76- "Coal
 2 combustion waste" means any fly ash, bottom ash, slag, or
 3 flue gas or fluid bed boiler desulfurization by-products
 4 generated as a result of the combustion of:

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

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

22 (415 ILCS 5/3.145 new) (was 415 ILCS 5/3.05)

23 Sec. 3.145. Community water supply. 3-05- "Community
 24 water supply" means a public water supply which serves or is
 25 intended to serve at least 15 service connections used by
 26 residents or regularly serves at least 25 residents.

27 "Non-community water supply" means a public water supply
 28 that is not a community water supply. The requirements of
 29 this Act shall not apply to non-community water supplies.

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

31 (415 ILCS 5/3.150 new) (was 415 ILCS 5/3.69)

32 Sec. 3.150. Compost. 3-69- "Compost" is defined as the

1 humus-like product of the process of composting waste, which
2 may be used as a soil conditioner.

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

4 (415 ILCS 5/3.155 new) (was 415 ILCS 5/3.70)

5 Sec. 3.155. Composting. ~~3.70.~~ "Composting" means the
6 biological treatment process by which microorganisms
7 decompose the organic fraction of waste, producing compost.

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

9 (415 ILCS 5/3.160 new) (was 415 ILCS 5/3.78 and 3.78a)

10 Sec. 3.160. Construction or demolition debris. ~~3.78.~~

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

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

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

1 pavement, or soil generated from construction or demolition
2 activities.

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

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

31 (Source: P.A. 90-475, eff. 8-17-97; 90-761, eff. 8-14-98;
32 91-909, eff. 7-7-00.)

33 (415 ILCS 5/3.165 new) (was 415 ILCS 5/3.06)

1 Sec. 3.165. Contaminant. ~~3-06-~~ "Contaminant" is any
 2 solid, liquid, or gaseous matter, any odor, or any form of
 3 energy, from whatever source.

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

5 (415 ILCS 5/3.170 new) (was 415 ILCS 5/3.63)

6 Sec. 3.170. Contamination; contaminate. ~~3-63-~~
 7 "Contamination" or "contaminate", when used in connection
 8 with groundwater, means water pollution of such groundwater.

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

10 (415 ILCS 5/3.175 new) (was 415 ILCS 5/3.80)

11 Sec. 3.175. Criterion. ~~3-80-~~ "Criterion" means the
 12 numerical concentration of one or more toxic substances
 13 calculated by the Agency as a basis for establishing a permit
 14 limitation or violation of a water quality standard pursuant
 15 to standards and procedures provided for in board
 16 regulations.

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

18 (415 ILCS 5/3.180 new) (was 415 ILCS 5/3.07)

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

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

1 (415 ILCS 5/3.185 new) (was 415 ILCS 5/3.08)

2 Sec. 3.185. Disposal. ~~3-08-~~ "Disposal" means the
3 discharge, deposit, injection, dumping, spilling, leaking or
4 placing of any waste or hazardous waste into or on any land
5 or water or into any well so that such waste or hazardous
6 waste or any constituent thereof may enter the environment or
7 be emitted into the air or discharged into any waters,
8 including ground waters.

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

10 (415 ILCS 5/3.190 new) (was 415 ILCS 5/3.09)

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

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

19 (415 ILCS 5/3.195 new) (was 415 ILCS 5/3.10)

20 Sec. 3.195. Fluid. ~~3-10-~~ "Fluid" means material or
21 substance which flows or moves whether in a semi-solid,
22 liquid, sludge, gas or any other form or state.

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

24 (415 ILCS 5/3.200 new) (was 415 ILCS 5/3.11)

25 Sec. 3.200. Garbage. ~~3-11-~~ "Garbage" is waste resulting
26 from the handling, processing, preparation, cooking, and
27 consumption of food, and wastes from the handling,
28 processing, storage, and sale of produce.

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

30 (415 ILCS 5/3.205 new) (was 415 ILCS 5/3.12)

1 Sec. 3.205. Generator. ~~3-12-~~ "Generator" means any
2 person whose act or process produces waste.
3 (Source: P.A. 87-650.)

4 (415 ILCS 5/3.210 new) (was 415 ILCS 5/3.64)

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

10 (415 ILCS 5/3.215 new) (was 415 ILCS 5/3.14)

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

1 gas.

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

3 (415 ILCS 5/3.220 new) (was 415 ILCS 5/3.15)

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

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

23 (415 ILCS 5/3.225 new) (was 415 ILCS 5/3.16)

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

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

28 (415 ILCS 5/3.230 new) (was 415 ILCS 5/3.89)

29 Sec. 3.230. Household waste. ~~3-89-~~ "Household waste"
30 means any solid waste (including garbage, trash, and sanitary
31 waste in septic tanks) derived from households (including

1 single and multiple residences, hotels and motels,
2 bunkhouses, ranger stations, crew quarters, campgrounds,
3 picnic grounds, and day-use recreation areas).

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

5 (415 ILCS 5/3.235 new) (was 415 ILCS 5/3.17)

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

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

26 (415 ILCS 5/3.240 new) (was 415 ILCS 5/3.18)

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

1 made.

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

3 (415 ILCS 5/3.245 new) (was 415 ILCS 5/3.72)

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

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

8 (415 ILCS 5/3.250 new) (was 415 ILCS 5/3.73)

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

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

23 (415 ILCS 5/3.255 new) (was 415 ILCS 5/3.79)

24 Sec. 3.255. Land form. ~~3-79-~~ "Land form" means a manmade
25 above-grade mound, less than 50 feet in height, covered with
26 sufficient soil materials to sustain vegetation.

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

28 (415 ILCS 5/3.260 new) (was 415 ILCS 5/3.19)

29 Sec. 3.260. Landfill gas recovery facility. ~~3-19-~~
30 "Landfill gas recovery facility" means any facility which

1 recovers and processes landfill gas from a sanitary landfill
2 or waste disposal site.

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

4 (415 ILCS 5/3.265 new) (was 415 ILCS 5/3.75)

5 Sec. 3.265. Landfill waste. ~~3-75-~~ "Landfill waste" is
6 waste from a closed pollution control facility, closed
7 dumping site, closed sanitary landfill, or a closed waste
8 disposal site; provided however, "landfill waste" shall not
9 include waste removed by or pursuant to the authority of the
10 State or a unit of local government from the public way or
11 household waste removed by or pursuant to the authority of
12 the State or a unit of local government from any unauthorized
13 open dumping site.

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

15 (415 ILCS 5/3.270 new) (was 415 ILCS 5/3.20)

16 Sec. 3.270. Landscape waste. ~~3-20-~~ "Landscape waste"
17 means all accumulations of grass or shrubbery cuttings,
18 leaves, tree limbs and other materials accumulated as the
19 result of the care of lawns, shrubbery, vines and trees.

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

21 (415 ILCS 5/3.275 new) (was 415 ILCS 5/3.88)

22 Sec. 3.275. Lateral expansion. ~~3-88-~~ "Lateral expansion"
23 means a horizontal expansion of the actual waste boundaries
24 of an existing MSWLF unit occurring on or after October 9,
25 1993. For purposes of this Section, a horizontal expansion
26 is any area where solid waste is placed for the first time
27 directly upon the bottom liner of the unit, excluding side
28 slopes, on or after October 9, 1993.

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

30 (415 ILCS 5/3.280 new) (was 415 ILCS 5/3.92)

1 Sec. 3.280. Lawncare wash water containment area. ~~3-92-~~

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

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

11 (415 ILCS 5/3.285 new) (was 415 ILCS 5/3.85, 3.86, and
12 3.87)

13 Sec. 3.285. Municipal Solid Waste Landfill Unit; MSWLF

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

27 ~~See--3-86-~~ "New MSWLF unit" means any municipal solid
28 waste landfill unit that receives household waste on or after
29 October 9, 1993, for the first time.

30 ~~See--3-87-~~ "Existing MSWLF unit" means any municipal
31 solid waste landfill unit that has received solid waste
32 before October 9, 1993.

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

1 (415 ILCS 5/3.290 new) (was 415 ILCS 5/3.21)

2 Sec. 3.290. Municipal waste. ~~3-21-~~ "Municipal waste"
3 means garbage, general household and commercial waste,
4 industrial lunchroom or office waste, landscape waste, and
5 construction or demolition debris.

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

7 (415 ILCS 5/3.295 new) (was 415 ILCS 5/3.22)

8 Sec. 3.295. Municipality. ~~3-22-~~ "Municipality" means any
9 city, village or incorporated town.

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

11 (415 ILCS 5/3.300 new) (was 415 ILCS 5/3.23)

12 Sec. 3.300. Open burning. ~~3-23-~~ "Open burning" is the
13 combustion of any matter in the open or in an open dump.

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

15 (415 ILCS 5/3.305 new) (was 415 ILCS 5/3.24)

16 Sec. 3.305. Open dumping. ~~3-24-~~ "Open dumping" means the
17 consolidation of refuse from one or more sources at a
18 disposal site that does not fulfill the requirements of a
19 sanitary landfill.

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

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

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

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

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

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

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

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

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

17 Sec. 3.320. Pesticide. ~~3-71-~~ "Pesticide" means any
18 substance or mixture of substances intended for preventing,
19 destroying, repelling, or mitigating any pest or any
20 substance or mixture of substances intended for use as a
21 plant regulator, defoliant or desiccant.

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

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

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

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

9 (415 ILCS 5/3.330 new) (was 415 ILCS 5/3.32)

10 Sec. 3.330. ~~3.32.~~ Pollution control facility.

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

17 The following are not pollution control facilities:

18 (1) (Blank);

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) A new pollution control facility is:

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

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

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

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

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

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

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

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

4 (415 ILCS 5/3.340 new) (was 415 ILCS 5/3.65)

5 Sec. 3.340. Potable. ~~3-65-~~ "Potable" means generally fit
6 for human consumption in accordance with accepted water
7 supply principles and practices.

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

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

10 Sec. 3.345. Potential primary source. ~~3-59-~~ "Potential
11 primary source" means any unit at a facility or site not
12 currently subject to a removal or remedial action which:

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

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

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

23 (4) stores or accumulates at any time more than
24 75,000 pounds above ground, or more than 7,500 pounds
25 below ground, of any hazardous substances.

26 A new potential primary source is:

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

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

1 existence as of January 1, 1988; or

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

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

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

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

14 Sec. 3.350. Potential route. ~~3.58.~~ "Potential route"
15 means abandoned and improperly plugged wells of all kinds,
16 drainage wells, all injection wells, including closed loop
17 heat pump wells, and any excavation for the discovery,
18 development or production of stone, sand or gravel.

19 A new potential route is:

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

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

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

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

32 (415 ILCS 5/3.355 new) (was 415 ILCS 5/3.60)

1 Sec. 3.355. Potential secondary source. ~~3-60-~~ "Potential
2 secondary source" means any unit at a facility or a site not
3 currently subject to a removal or remedial action, other than
4 a potential primary source, which:

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

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

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

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

22 (5) stores or accumulates at any time more than
23 50,000 pounds of any de-icing agent; or

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

28 A new potential secondary source is:

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

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

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

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

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

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

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

16 Sec. 3.360. Potentially infectious medical waste. ~~3-84-~~

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

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

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

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

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

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

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

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

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

1 (b) Potentially infectious medical waste does not
2 include:

3 (1) waste generated as general household waste;

4 (2) waste (except for sharps) for which the
5 infectious potential has been eliminated by treatment; or

6 (3) sharps that meet both of the following
7 conditions:

8 (A) the infectious potential has been
9 eliminated from the sharps by treatment; and

10 (B) the sharps are rendered unrecognizable by
11 treatment.

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

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

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

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

27 (415 ILCS 5/3.370 new) (was 415 ILCS 5/3.29)

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

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

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

4 (415 ILCS 5/3.375 new) (was 415 ILCS 5/3.81)

5 Sec. 3.375. Recycling center. ~~3-81-~~ "Recycling center"
6 means a site or facility that accepts only segregated,
7 nonhazardous, nonspecial, homogeneous, nonputrescible
8 materials, such as dry paper, glass, cans or plastics, for
9 subsequent use in the secondary materials market.

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

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

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

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

20 (415 ILCS 5/3.385 new) (was 415 ILCS 5/3.31)

21 Sec. 3.385. Refuse. ~~3-31-~~ "Refuse" means waste.

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

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

24 Sec. 3.390. Regulated recharge area. ~~3-67-~~ "Regulated
25 recharge area" means a compact geographic area, as determined
26 by the Board, the geology of which renders a potable resource
27 groundwater particularly susceptible to contamination.

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

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

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

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

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

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

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

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

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

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

33 (Source: P.A. 87-168.)

1 (415 ILCS 5/3.410 new) (was 415 ILCS 5/3.36)

2 Sec. 3.410. Re-refined oil. ~~3-36-~~ "Re-refined oil" means
3 any oil which has been refined from used oil meeting
4 substantially the same standards as new oil.

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

6 (415 ILCS 5/3.415 new) (was 415 ILCS 5/3.37)

7 Sec. 3.415. Resident. ~~3-37-~~ "Resident" means a person
8 who dwells or has a place of abode which is occupied by that
9 person for 60 days or more each calendar year.

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

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

12 Sec. 3.420. Resource conservation. ~~3-38-~~ "Resource
13 conservation" means reduction of the amounts of waste that
14 are generated, reduction of overall resource consumption and
15 the utilization of recovered resources.

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

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

18 Sec. 3.425. Resource Conservation and Recovery Act; RCRA.
19 ~~3-90-~~ "Resource Conservation and Recovery Act" or "RCRA"
20 means the Resource Conservation and Recovery Act of 1976
21 (P.L. 94-580), as amended.

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

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

24 Sec. 3.430. Resource groundwater. ~~3-66-~~ "Resource
25 groundwater" means groundwater that is presently being or in
26 the future capable of being put to beneficial use by reason
27 of being of suitable quality.

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

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

1 Sec. 3.435. Resource recovery. ~~3-39-~~ "Resource recovery"
2 means the recovery of material or energy from waste.
3 (Source: P.A. 84-1308.)

4 (415 ILCS 5/3.440 new) (was 415 ILCS 5/3.40)

5 Sec. 3.440. Respond; response. ~~3-40-~~ "Respond" or
6 "response" means remove, removal, remedy, and remedial
7 action.
8 (Source: P.A. 84-1308.)

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

10 Sec. 3.445. Sanitary landfill. ~~3-41-~~ "Sanitary landfill"
11 means a facility permitted by the Agency for the disposal of
12 waste on land meeting the requirements of the Resource
13 Conservation and Recovery Act, P.L. 94-580, and regulations
14 thereunder, and without creating nuisances or hazards to
15 public health or safety, by confining the refuse to the
16 smallest practical volume and covering it with a layer of
17 earth at the conclusion of each day's operation, or by such
18 other methods and intervals as the Board may provide by
19 regulation.
20 (Source: P.A. 84-1308.)

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

22 Sec. 3.450. Setback zone. ~~3-61-~~ "Setback zone" means a
23 geographic area, designated pursuant to this Act, containing
24 a potable water supply well or a potential source or
25 potential route, having a continuous boundary, and within
26 which certain prohibitions or regulations are applicable in
27 order to protect groundwaters.
28 (Source: P.A. 85-863.)

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

30 Sec. 3.455. Sewage works. ~~3-42-~~ "Sewage works" means

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

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

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

7 Sec. 3.460. Site. ~~3-43-~~ "Site" means any location,
8 place, tract of land, and facilities, including but not
9 limited to buildings, and improvements used for purposes
10 subject to regulation or control by this Act or regulations
11 thereunder.

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

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

14 Sec. 3.465. Sludge. ~~3-44-~~ "Sludge" means any solid,
15 semi-solid, or liquid waste generated from a municipal,
16 commercial, or industrial wastewater treatment plant, water
17 supply treatment plant, or air pollution control facility or
18 any other such waste having similar characteristics and
19 effects.

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

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

22 Sec. 3.470. Solid waste. ~~3-82-~~ "Solid waste" means
23 waste.

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

25 (415 ILCS 5/3.475 new) (was 415 ILCS 5/3.45)

26 Sec. 3.475. ~~3-45-~~ Special waste. "Special waste" means
27 any of the following:

28 (a) potentially infectious medical waste;

29 (b) hazardous waste, as determined in conformance with
30 RCRA hazardous waste determination requirements set forth in

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

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

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

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

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

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

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

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

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

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

13 (3) as may otherwise be determined under Section
14 22.9 of this Act.

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

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

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

25 Sec. 3.480. Storage. ~~3-46-~~ "Storage" means the
26 containment of waste, either on a temporary basis or for a
27 period of years, in such a manner as not to constitute
28 disposal.

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

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

31 Sec. 3.485. Storage site. ~~3-47-~~ "Storage site" is a site
32 at which waste is stored. "Storage site" includes transfer

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

15 Nothing in this Section shall be construed to be less
16 stringent than or inconsistent with the provisions of the
17 federal Resource Conservation and Recovery Act of 1976 (P.L.
18 94-480) or regulations adopted under it.

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

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

21 Sec. 3.490. Trade secret. ~~3-48-~~ "Trade secret" means the
22 whole or any portion or phase of any scientific or technical
23 information, design, process (including a manufacturing
24 process), procedure, formula or improvement, or business plan
25 which is secret in that it has not been published or
26 disseminated or otherwise become a matter of general public
27 knowledge, and which has competitive value. A trade secret
28 is presumed to be secret when the owner thereof takes
29 reasonable measures to prevent it from becoming available to
30 persons other than those selected by the owner to have access
31 thereto for limited purposes.

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

1 (415 ILCS 5/3.495 new) (was 415 ILCS 5/3.48-5)
2 Sec. 3.495. Transfer container. ~~3-48-5-~~ "Transfer
3 container" means a reusable transportable shipping container
4 that is completely covered or enclosed, that has a volume of
5 not less than 250 cubic feet based on the external
6 dimensions, and that is constructed and maintained to protect
7 the container contents (which may include smaller containers
8 that are or are not transfer containers) from water, rain,
9 and wind, to prevent the free movement of rodents and vectors
10 into or out of the container, and to prevent leaking from the
11 container.
12 (Source: P.A. 89-122, eff. 7-7-95.)

13 (415 ILCS 5/3.500 new) (was 415 ILCS 5/3.83)
14 Sec. 3.500. Transfer station. ~~3-83-~~ "Transfer station"
15 means a site or facility that accepts waste for temporary
16 storage or consolidation and further transfer to a waste
17 disposal, treatment or storage facility. "Transfer station"
18 includes a site where waste is transferred from (1) a rail
19 carrier to a motor vehicle or water carrier; (2) a water
20 carrier to a rail carrier or motor vehicle; (3) a motor
21 vehicle to a rail carrier, water carrier or motor vehicle;
22 (4) a rail carrier to a rail carrier, if the waste is removed
23 from a rail car; or (5) a water carrier to a water carrier,
24 if the waste is removed from a vessel.
25 "Transfer station" does not include (i) a site where
26 waste is not removed from the transfer container, or (ii) a
27 site that accepts or receives open top units containing only
28 clean construction and demolition debris, or (iii) a site
29 that stores waste on a refuse motor vehicle or in the
30 vehicle's detachable refuse receptacle for no more than 24
31 hours, excluding Saturdays, Sundays, and holidays, but only
32 if the detachable refuse receptacle is completely covered or
33 enclosed and is stored on the same site as the refuse motor

1 vehicle that transported the receptacle to the site.

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

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

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

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

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

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

19 Sec. 3.510. Underground injection. ~~3-50-~~ "Underground
20 injection" means the subsurface emplacement of fluids by well
21 injection.

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

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

24 Sec. 3.515. Unit. ~~3-62-~~ "Unit" means any device,
25 mechanism, equipment, or area (exclusive of land utilized
26 only for agricultural production). This term includes
27 secondary containment structures and their contents at
28 agrichemical facilities.

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

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

1 Sec. 3.520. Used oil. ~~3-51-~~ "Used oil" means any oil
2 which has been refined from crude oil or refined from used
3 oil, has been used, and as a result of such use has been
4 contaminated by physical or chemical impurities, except that
5 "used oil" shall not include that type of oil generated on
6 farmland property devoted to agricultural use and used on
7 that property for heating or burning.
8 (Source: P.A. 84-1308.)

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

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

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

18 Sec. 3.530. Virgin oil. ~~3-52-~~ "Virgin oil" means any oil
19 which has been refined from crude oil which may or may not
20 contain additives and has not been used.
21 (Source: P.A. 84-1308.)

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

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

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

12 (415 ILCS 5/3.540 new) (was 415 ILCS 5/3.54)
13 Sec. 3.540. Waste disposal site. ~~3-54-~~ "Waste disposal
14 site" is a site on which solid waste is disposed.
15 (Source: P.A. 84-1308.)

16 (415 ILCS 5/3.545 new) (was 415 ILCS 5/3.55)
17 Sec. 3.545. Water pollution. ~~3-55-~~ "Water pollution" is
18 such alteration of the physical, thermal, chemical,
19 biological or radioactive properties of any waters of the
20 State, or such discharge of any contaminant into any waters
21 of the State, as will or is likely to create a nuisance or
22 render such waters harmful or detrimental or injurious to
23 public health, safety or welfare, or to domestic, commercial,
24 industrial, agricultural, recreational, or other legitimate
25 uses, or to livestock, wild animals, birds, fish, or other
26 aquatic life.
27 (Source: P.A. 84-1308.)

28 (415 ILCS 5/3.550 new) (was 415 ILCS 5/3.56)
29 Sec. 3.550. Waters. ~~3-56-~~ "Waters" means all
30 accumulations of water, surface and underground, natural, and
31 artificial, public and private, or parts thereof, which are

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

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

4 (415 ILCS 5/3.555 new) (was 415 ILCS 5/3.57)

5 Sec. 3.555. Well. ~~3-57-~~ "Well" means a bored, drilled or
6 driven shaft, or dug hole, the depth of which is greater than
7 the largest surface dimension.

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

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

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 his office until a his successor is
20 appointed and has qualified. The Director shall receive an
21 annual salary as set by the Governor from time to time or as
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
31 employ and compensate such consultants and technical
32 assistants as may be required.

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

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

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

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

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

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

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

1 or the validity or effect of a rule or regulation of the
2 Board, and shall have the authority to appear before the
3 Board in any hearing under the Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 The Director of the Agency is authorized to enter into such
2 contracts and agreements as are necessary to carry out the
3 Agency's duties under this subsection.

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

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

17 (v) (Blank.)

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

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

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

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

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

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

22 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

23 Sec. 5. Pollution Control Board.

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

1 amendatory Act of 1983 shall be appointed for initial terms
2 expiring on July 17, 1986.

3 Notwithstanding any provision of this Section to the
4 contrary, the term of office of each member of the Board is
5 abolished on the effective date of this amendatory Act of
6 1985, but the incumbent members shall continue to exercise
7 all of the powers and be subject to all of the duties of
8 members of the Board until their respective successors are
9 appointed and qualified. Thereafter, 3 members of the Board
10 shall be appointed to initial terms expiring July 17, 1986; 2
11 members of the Board shall be appointed to initial terms
12 expiring July 17, 1987; and 2 members of the Board shall be
13 appointed to initial terms expiring July 17, 1988.

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

26 Members of the Board shall hold office until their
27 respective successors have been appointed and qualified. Any
28 member may resign from his office, such resignation to take
29 effect when a his successor has been appointed and has
30 qualified.

31 Board members shall be paid \$30,000 per year until July
32 17, 1979; \$33,000 from July 17, 1979 to July 17, 1980; \$34,900
33 from July 17, 1980 to July 17, 1981; and \$37,000 per year
34 thereafter, or an amount set by the Compensation Review

1 Board, whichever is greater, and the Chairman shall be paid
2 \$35,000--per--year--until--July-17-1979;-\$38,500-from-July-17-
3 1979-to-July-17-1980;-\$40,800-from-July-17-1980--to--July--17-
4 1981-and \$43,000 per year thereafter, or an amount set by the
5 Compensation Review Board, whichever is greater. Each member
6 shall be reimbursed for expenses necessarily incurred, shall
7 devote full time to the performance of his or her duties and
8 shall make a financial disclosure upon appointment. Each
9 Board member may employ one secretary and one assistant, and
10 the Chairman one secretary and 2 ~~two~~ assistants. The Board
11 also may employ and compensate hearing officers to preside at
12 hearings under this Act, and such other personnel as may be
13 necessary. Hearing officers shall be attorneys licensed to
14 practice law in Illinois.

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

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

29 Four members of the Board shall constitute a quorum, and
30 4 votes shall be required for any final determination by the
31 Board, except in a proceeding to remove a seal under
32 paragraph (d) of Section 34 of this Act. The Board shall
33 keep a complete and accurate record of all its meetings.

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

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

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

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

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

1 under subsection (d) of this Section or upon its own motion.

2 (f) The Board may prescribe reasonable fees for permits
3 required pursuant to this Act. Such fees in the aggregate
4 may not exceed the total cost to the Agency for its
5 inspection and permit systems. The Board may not prescribe
6 any permit fees which are different in amount from those
7 established by this Act.

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

9 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007)

10 Sec. 7. Public inspection; fees.

11 (a) All files, records, and data of the Agency, the
12 Board, and the Department shall be open to reasonable public
13 inspection and may be copied upon payment of reasonable fees
14 to be established where appropriate by the Agency, the Board,
15 or the Department, except for the following:

16 (i) information which constitutes a trade secret;

17 (ii) information privileged against introduction in
18 judicial proceedings;

19 (iii) internal communications of the several
20 agencies;

21 (iv) information concerning secret manufacturing
22 processes or confidential data submitted by any person
23 under this Act.

24 (b) Notwithstanding subsection (a) above, as to
25 information from or concerning persons subject to NPDES
26 permit requirements:

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

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

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

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

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

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

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

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

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

9 (415 ILCS 5/9.2) (from Ch. 111 1/2, par. 1009.2)

10 Sec. 9.2. Sulfur dioxide emission standards.

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

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

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

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

2 Sec. 9.3. Alternative control strategies.

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

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

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

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

1 imposed by the Agency in or for the issuance of a permit is
2 more stringent than required by applicable law shall be upon
3 the permit applicant.

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

5 (415 ILCS 5/9.4) (from Ch. 111 1/2, par. 1009.4)

6 Sec. 9.4. Municipal waste incineration emission
7 standards.

8 (a) The General Assembly finds:

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

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

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

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

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

- 1 (2) acid gases;
- 2 (3) heavy metals; and
- 3 (4) organic materials.

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

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

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

24 (d) Within one year after July 1, 1986 ~~the effective~~
25 ~~date of this amendatory Act of 1985~~, the Board shall adopt
26 regulations pursuant to Title VII of this Act, which define
27 the terms in items (2), (3) and (4) of subsection (b) of this
28 Section which are to be used by the Agency in making its
29 determination pursuant to this Section. The provisions of
30 Section 27(b) of this Act shall not apply to this rulemaking.

31 Such regulations shall be written so that the categories
32 of pollutants include, but need not be limited to, the
33 following specific pollutants:

- 34 (1) hydrogen chloride in the definition of acid

1 gases;

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

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

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

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

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

1 at the same site.

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

3 (415 ILCS 5/12) (from Ch. 111 1/2, par. 1012)

4 Sec. 12. Actions prohibited. No person shall:

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

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

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

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

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

27 (f) Cause, threaten or allow the discharge of any
28 contaminant into the waters of the State, as defined herein,
29 including but not limited to, waters to any sewage works, or
30 into any well or from any point source within the State,
31 without an NPDES permit for point source discharges issued by
32 the Agency under Section 39(b) of this Act, or in violation
33 of any term or condition imposed by such permit, or in

1 violation of any NPDES permit filing requirement established
2 under Section 39(b), or in violation of any regulations
3 adopted by the Board or of any order adopted by the Board
4 with respect to the NPDES program.

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

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

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

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

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

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

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

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

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

20 (415 ILCS 5/13.1) (from Ch. 111 1/2, par. 1013.1)
21 Sec. 13.1. Groundwater monitoring network.

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

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

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

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

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

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

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

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

12 Sec. 14.1. Community water supply; minimum setback zone.

13 A minimum setback zone is established for the location of
14 each new community water supply well as follows:

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

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

28 (c) Nothing in this Section shall affect any location
29 and construction requirement imposed in Section 6 of the
30 "Illinois Water Well Construction Code", approved August 20,
31 1965, as amended, and the regulations promulgated thereunder.

32 (d) For the purposes of this Section, a community water
33 supply well is "new" if it is constructed after September 24,

1 ~~1987 the-effective-date-of-this-Section.~~

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

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

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

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

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

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

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

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

29 (c) The Board may grant an exception from the setback
30 requirements of this Section and subsection (e) of Section
31 14.3 to the owner of a new potential route, a new potential
32 primary source other than landfilling or land treating, or a
33 new potential secondary source. The owner seeking an
34 exception with respect to a community water supply well shall

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

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

29 ~~Not--later--than--January--17--1988,~~ The Board shall adopt
30 procedural rules governing requests for exceptions under this
31 subsection. The rulemaking provisions of Title VII of this
32 Act and of Section 5-35 of the Illinois Administrative
33 Procedure Act shall not apply to such rules. A decision made
34 by the Board pursuant to this subsection shall constitute a

1 final determination.

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

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

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

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

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

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

1 abandoning or totally removing the well;

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

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

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

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

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

30 (415 ILCS 5/14.3) (from Ch. 111 1/2, par. 1014.3)

31 Sec. 14.3. Community water supply; maximum setback zone.

32 A maximum setback zone may be established for a community
33 water supply well as follows:

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

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

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

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

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

1 Agency may not file a proposal with the Board for a period of
2 6 months. Rulemaking proceedings initiated by the Agency
3 under this subsection shall be conducted by the Board
4 pursuant to Title VII of this Act, except that subsection (b)
5 of Section 27 shall not apply.

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

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

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

1 no more stringent than the prohibitions of this amendatory
2 Act of 1989. For purposes of this subsection, the term
3 "public waters" means public waters as defined in Section 18
4 of the Rivers, Lakes, and Streams Act "An Act in relation to
5 the regulation of the rivers, lakes and streams of the State
6 of Illinois", approved June 10, 1911, as now or hereafter
7 amended.

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

9 (415 ILCS 5/14.4) (from Ch. 111 1/2, par. 1014.4)
10 Sec. 14.4. Groundwater rules.

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

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

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

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

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

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

33 In preparing such regulation, the Agency shall provide as

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

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

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

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

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

20 (4) requirements for closure or discontinuance of
21 operations.

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

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

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

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

1 therein;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (415 ILCS 5/14.6) (from Ch. 111 1/2, par. 1014.6)
23 Sec. 14.6. Agrichemical facilities.

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

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

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

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

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

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

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

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

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

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

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

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

25 (4) requirements for closure or discontinuance of
26 operations.

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

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

17 (e) (Blank.) ~~After January 1, 1993, and before January~~
18 ~~1, 1994, an owner or operator of a facility that is subject~~
19 ~~to the provisions of this Section may withdraw the notice~~
20 ~~given under subsection (a) of this Section by filing a~~
21 ~~written withdrawal statement with the Department of~~
22 ~~Agriculture. Within 45 days after such filing and after~~
23 ~~consultation with the Agency, the Department of Agriculture~~
24 ~~shall provide written confirmation to the owner or operator~~
25 ~~that the facility is no longer subject to the provisions of~~
26 ~~this Section and must comply with the applicable provisions~~
27 ~~of Section 14.4 within 90 days after receipt of the~~
28 ~~confirmation. The Department of Agriculture shall provide~~
29 ~~copies of the written confirmations to the Agency.~~

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

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

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

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

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

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

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

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

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

2 Sec. 17. Rules; chlorination requirements.

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

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

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

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

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

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

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

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

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

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

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

18 -----
19 Shall the community
20 water supply of (specify YES
21 the unit of local government)
22 be exempt from the mandatory -----
23 chlorination requirement NO
24 of the State of Illinois?
25 -----

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

34 Agency decisions regarding exemptions under this

1 subsection may be appealed to the Board pursuant to the
2 provisions of Section 40(a) of this Act.

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

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

12 (415 ILCS 5/19.10)

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

15 (a) The General Assembly finds and declares that:

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

28 (2) In 1995, Title IV-A was amended by Public Act
29 89-27, effective January 1, 1997, which created the Loan
30 Support Program and made other changes. The Loan Support
31 Program provides financing for certain administrative
32 costs of the Agency. It specifically includes the costs
33 of developing a loan program for public water supply

1 projects.

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

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

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

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

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

1 new applications each year.

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

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

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

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

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

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

1 Control Revolving Fund.

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

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

17 (e) All otherwise lawful actions taken before June 30,
18 1999 (the effective date of P.A. 91-52) ~~this-amendatory-Act~~
19 ~~of-1999~~ by any employee, officer, agency, or unit of State or
20 local government or by any other person or entity, acting in
21 reliance on or pursuant to Title IV-A of the Environmental
22 Protection Act, as set forth in Public Act 85-1135 or as
23 subsequently amended, are hereby validated.

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

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

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

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

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

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

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

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

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

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

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

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

1 the site where such wastes are generated, or (ii) a
2 facility located in a county with a population over
3 700,000, operated and located in accordance with Section
4 22.38 of this Act, and used exclusively for the transfer,
5 storage, or treatment of general construction or
6 demolition debris;

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

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

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

1 This subsection (d) shall not apply to hazardous waste.

2 (e) Dispose, treat, store or abandon any waste, or
3 transport any waste into this State for disposal, treatment,
4 storage or abandonment, except at a site or facility which
5 meets the requirements of this Act and of regulations and
6 standards thereunder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 28 (1) refuse in standing or flowing waters;
- 29 (2) leachate flows entering waters of the State;
- 30 (3) leachate flows exiting the landfill confines
31 (as determined by the boundaries established for the
32 landfill by a permit issued by the Agency);
- 33 (4) open burning of refuse in violation of Section
34 9 of this Act;

1 (5) uncovered refuse remaining from any previous
2 operating day or at the conclusion of any operating day,
3 unless authorized by permit;

4 (6) failure to provide final cover within time
5 limits established by Board regulations;

6 (7) acceptance of wastes without necessary permits;

7 (8) scavenging as defined by Board regulations;

8 (9) deposition of refuse in any unpermitted portion
9 of the landfill;

10 (10) acceptance of a special waste without a
11 required manifest;

12 (11) failure to submit reports required by permits
13 or Board regulations;

14 (12) failure to collect and contain litter from the
15 site by the end of each operating day;

16 (13) failure to submit any cost estimate for the
17 site or any performance bond or other security for the
18 site as required by this Act or Board rules.

19 The prohibitions specified in this subsection (o) shall
20 be enforceable by the Agency either by administrative
21 citation under Section 31.1 of this Act or as otherwise
22 provided by this Act. The specific prohibitions in this
23 subsection do not limit the power of the Board to establish
24 regulations or standards applicable to sanitary landfills.

25 (p) In violation of subdivision (a) of this Section,
26 cause or allow the open dumping of any waste in a manner
27 which results in any of the following occurrences at the dump
28 site:

29 (1) litter;

30 (2) scavenging;

31 (3) open burning;

32 (4) deposition of waste in standing or flowing
33 waters;

34 (5) proliferation of disease vectors;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (v) (Blank).

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

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

16 (415 ILCS 5/21.3) (from Ch. 111 1/2, par. 1021.3)

17 Sec. 21.3. Environmental reclamation lien.

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

- 23 (1) belong to such person; and
- 24 (2) are subject to or affected by a removal or
 25 remedial action under Section 22.2 or preventive action,
 26 corrective action or enforcement action under Section
 27 22.18.

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

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

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

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

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

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

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

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

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

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

29 (415 ILCS 5/21.5) (from Ch. 111 1/2, par. 1021.5)
30 Sec. 21.5. Toxic packaging reduction.

31 (a) For the purposes of this Section, the following
32 terms have the meanings ascribed to them in this subsection:

33 "Distributor" means any person, firm, or corporation

1 that takes title to goods purchased for resale.

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

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

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

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

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

1 this State if the sum of the concentration levels of lead,
2 cadmium, mercury, or hexavalent chromium present in the
3 package or packaging component, but not intentionally
4 introduced by the manufacturer or distributor, exceeds the
5 following limits:

6 (1) 600 parts per million by weight (0.06%)
7 beginning July 1, 1994.

8 (2) 250 parts per million by weight (0.025%)
9 beginning July 1, 1995.

10 (3) 100 parts per million by weight (0.01%)
11 beginning July 1, 1996.

12 (e) The following packages and packaging components are
13 not subject to this Section:

14 (1) Those packages or packaging components with a
15 code indicating a date of manufacture before July 1,
16 1994.

17 (2) Those packages or packaging components for
18 which an exemption has been granted by the Agency under
19 subsection (f).

20 (3) Until July 1, 1998, packages and packaging
21 components that would not exceed the maximum contaminant
22 levels set forth in subsection (d) of this Section but
23 for the addition of post consumer materials.

24 (4) Those packages or packaging components used to
25 contain wine or distilled spirits that have been bottled
26 before July 1, 1994.

27 (5) Packaging components, including but not limited
28 to strapping, seals, fasteners, and other industrial
29 packaging components intended to protect, secure, close,
30 unitize or provide pilferage protection for any product
31 destined for commercial use.

32 (6) Those packages used in transporting,
33 protecting, safe handling or functioning of radiographic
34 film.

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

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

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

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

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

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

21 (h) (Blank.) ~~The Agency shall review the effectiveness~~
22 ~~of this Section no later than January 17, 1996, and shall~~
23 ~~provide a report based upon that review to the Governor and~~
24 ~~the General Assembly. The report shall contain a~~
25 ~~recommendation whether to continue the recycling exemption~~
26 ~~provided in subdivision (e)(3) of this Section and a~~
27 ~~description of the nature of the substitutes used in lieu of~~
28 ~~lead, mercury, cadmium, and hexavalent chromium.~~

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

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

34 (2) specific as to the package or packaging

1 component information requested; and

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

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

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

12 (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)
13 Sec. 22.2. Hazardous waste; fees; liability.

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

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

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

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

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

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

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

1 purposes of this subsection (b), the term
2 "treatment" is defined as in Section 3.505 3-49 but
3 shall not include recycling, reclamation or reuse.

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

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

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

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

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

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

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

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

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

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

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

1 waters pursuant to the provisions of this Act.

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

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

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

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

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

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

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

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

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

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

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

1 release of a hazardous substance or pesticide.

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

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

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

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

26 (h) For purposes of this Section:

27 (1) The term "facility" means:

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

34 (B) any site or area where a hazardous

1 substance has been deposited, stored, disposed of,
2 placed, or otherwise come to be located.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (A) an act of God;

20 (B) an act of war;

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

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

3 (D) any combination of the foregoing paragraphs.

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

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

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

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

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

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

1 the Illinois Pesticide Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (II) the defendant obtained a Phase II

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

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

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

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

21 (III) a Phase II 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 the real property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 rights-of-way.

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

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

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

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

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

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

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

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

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

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

1 scientific justification supporting the Health Advisory or
2 action level.

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

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

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

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

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

11 (1-5) (1) As used in this subsection:

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

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

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

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

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

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

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

1 Section 6923(a)(3).

2 (2) Beginning July 1, 1998, the Agency shall
3 implement the Uniform State Hazardous Materials
4 Transportation Registration and Permit Program. On and
5 after that date, no person shall engage in the offsite
6 transportation of hazardous waste by highway without
7 registering and obtaining a permit under the Uniform
8 Program. A transporter with its principal place of
9 business in Illinois shall register with and obtain a
10 permit from the Agency. A transporter that designates
11 another participating state in the Uniform Program as its
12 base state shall likewise register with and obtain a
13 permit from that state before transporting hazardous
14 waste in Illinois.

15 (3) Beginning July 1, 1998, the Agency shall
16 annually collect no more than a \$250 processing and audit
17 fee from each transporter of hazardous waste who has
18 filed a uniform application and, in addition, the Agency
19 shall annually collect an apportioned vehicle
20 registration fee of \$20. The amount of the apportioned
21 vehicle registration fee shall be calculated consistent
22 with the procedures established under the Uniform
23 Program.

24 All moneys received by the Agency from the
25 collection of fees pursuant to the Uniform Program shall
26 be deposited into the Hazardous Waste Transporter account
27 hereby created within the Environmental Protection Permit
28 and Inspection Fund. Moneys remaining in the account at
29 the close of the fiscal year shall not lapse to the
30 General Revenue Fund. The State Treasurer may receive
31 money or other assets from any source for deposit into
32 the account. The Agency may expend moneys from the
33 account, upon appropriation, for the implementation of
34 the Uniform Program, including the costs to the Agency of

1 fee collection and administration. In addition, funds
2 not expended for the implementation of the Uniform
3 Program may be utilized for emergency response and
4 cleanup activities related to hazardous waste
5 transportation that are initiated by the Agency.

6 Whenever the amount of the Hazardous Waste
7 Transporter account exceeds by 115% the amount annually
8 appropriated by the General Assembly, the Agency shall credit
9 participating transporters an amount, proportionately based
10 on the amount of the vehicle fee paid, equal to the excess in
11 the account, and shall determine the need to reduce the
12 amount of the fee charged transporters in the subsequent
13 fiscal year by the amount of the credit.

14 (4) (A) The Agency may propose and the Board shall
15 adopt rules as necessary to implement and enforce the
16 Uniform Program. The Agency is authorized to enter into
17 agreements with other agencies of this State as necessary
18 to carry out administrative functions or enforcement of
19 the Uniform Program.

20 (B) The Agency shall recognize a Uniform Program
21 registration as valid for one year from the date a notice
22 of registration form is issued and a permit as valid for
23 3 years from the date issued or until a transporter fails
24 to renew its registration, whichever occurs first.

25 (C) The Agency may inspect or examine any motor
26 vehicle or facility operated by a transporter, including
27 papers, books, records, documents, or other materials to
28 determine if a transporter is complying with the Uniform
29 Program. The Agency may also conduct investigations and
30 audits as necessary to determine if a transporter is
31 entitled to a permit or to make suspension or revocation
32 determinations consistent with the standards of the
33 Uniform Program.

34 (5) The Agency may enter into agreements with

1 federal agencies, national repositories, or other
2 participating states as necessary to allow for the
3 reciprocal registration and permitting of transporters
4 pursuant to the Uniform Program. The agreements may
5 include procedures for determining a base state, the
6 collection and distribution of registration fees, dispute
7 resolution, the exchange of information for reporting and
8 enforcement purposes, and other provisions necessary to
9 fully implement, administer, and enforce the Uniform
10 Program.

11 (m) (Blank).

12 (n) (Blank).

13 (Source: P.A. 90-14, eff. 7-1-97; 90-219, eff. 7-25-97;
14 90-773, eff. 8-14-98; 91-36, eff. 6-15-99.)

15 (415 ILCS 5/22.2b)

16 Sec. 22.2b. Limit of liability for prospective purchasers
17 of real property.

18 (a) The State of Illinois may grant a release of
19 liability that provides that a person is not potentially
20 liable under subsection (f) of Section 22.2 of this Act as a
21 result of a release or a threatened release of a hazardous
22 substance or pesticide if:

23 (1) the person performs the response actions to
24 remove or remedy all releases or threatened releases of a
25 hazardous substance or pesticide at an identified area or
26 at identified areas of the property in accordance with a
27 response action plan approved by the Agency under this
28 Section;

29 (2) the person did not cause, allow, or contribute
30 to the release or threatened release of a hazardous
31 substance or pesticide through any act or omission;

32 (3) the person requests, in writing, that the
33 Agency provide review and evaluation services under

1 subsection-(m)-of-Section-22.2-of-this-Act and the Agency
2 agrees to provide the review and evaluation services; and

3 (4) the person is not otherwise liable under
4 subsection (f) of Section 22.2 under, and complies with,
5 regulations adopted by the Agency under subsection (e).

6 (b) The Agency may approve a response action plan under
7 this Section, including but not limited to a response action
8 plan that does not require the removal or remedy of all
9 releases or threatened releases of hazardous substances or
10 pesticides, if the person described under subsection (a)
11 proves:

12 (1) the response action will prevent or mitigate
13 immediate and significant risk of harm to human life and
14 health and the environment;

15 (2) activities at the property will not cause,
16 allow, contribute to, or aggravate the release or
17 threatened release of a hazardous substance or pesticide;

18 (3) due consideration has been given to the effect
19 that activities at the property will have on the health
20 of those persons likely to be present at the property;

21 (4) irrevocable access to the property is given to
22 the State of Illinois and its authorized representatives;

23 (5) the person is financially capable of performing
24 the proposed response action; and

25 (6) the person complies with regulations adopted by
26 the Agency under subsection (e).

27 (c) The limit of liability granted by the State of
28 Illinois under this Section does not apply to any person:

29 (1) Who is potentially liable under subsection (f)
30 of Section 22.2 of this Act for any costs of removal or
31 remedial action incurred by the State of Illinois or any
32 unit of local government as a result of the release or
33 substantial threat of a release of a hazardous substance
34 or pesticide that was the subject of the response action

1 plan approved by the Agency under this Section.

2 (2) Who agrees to perform the response action
3 contained in a response action plan approved by the
4 Agency under this Section and fails to perform in
5 accordance with the approved response action plan.

6 (3) Whose willful and wanton conduct contributes to
7 a release or threatened release of a hazardous substance
8 or pesticide.

9 (4) Whose negligent conduct contributes to a
10 release or threatened release of a hazardous substance or
11 pesticide.

12 (5) Who is seeking a construction or development
13 permit for a new municipal waste incinerator or other new
14 waste-to-energy facility.

15 (d) If a release or threatened release of a hazardous
16 substance or pesticide occurs within the area identified in
17 the response action plan approved by the Agency under this
18 Section and such release or threatened release is not
19 specifically identified in the response action plan, for any
20 person to whom this Section applies, the numeric cleanup
21 level established by the Agency in the response action plan
22 shall also apply to the release or threatened release not
23 specifically identified in the response action plan if the
24 response action plan has a numeric cleanup level for the
25 hazardous substance or pesticide released or threatened to be
26 released. Nothing in this subsection (d) shall limit the
27 authority of the Agency to require, for any person to whom
28 this Section does not apply, a numeric cleanup level that
29 differs from the numeric cleanup level established in the
30 response action plan approved by the Agency under this
31 Section.

32 (e) The Agency may adopt regulations relating to this
33 Section. The regulations may include, but are not limited to,
34 both of the following:

1 (1) Requirements and procedures for a response
2 action plan.

3 (2) Additional requirements that a person must meet
4 in order not to be liable under subsection (f) of Section
5 22.2.

6 (Source: P.A. 89-101, eff. 7-7-95; 90-655, eff. 7-30-98.)

7 (415 ILCS 5/22.9) (from Ch. 111 1/2, par. 1022.9)

8 Sec. 22.9. Special waste determinations.

9 (a) (Blank.) ~~The--Department--shall--complete--a--study--of~~
10 ~~the--benefits--and--feasibility--of--establishing--a--system--of~~
11 ~~classifying--and--regulating--special--wastes--according--to--their~~
12 ~~degree--of--hazard.--Such--study--shall--include--at--a--minimum--an~~
13 ~~assessment--of--the--degree--of--hazard--of--the--special--waste~~
14 ~~streams--produced--in--the--State--alternative--systems--for~~
15 ~~classifying--these--wastes--according--to--their--degree--of--hazard~~
16 ~~and--an--evaluation--of--the--benefits--of--assessing--hazardous~~
17 ~~waste--fees--and--developing--storage--treatment--and--disposal~~
18 ~~standards--based--on--such--classes--of--wastes.--The--Department~~
19 ~~shall--report--to--the--Governor--the--General--Assembly--and--the~~
20 ~~Pollution--Control--Board--with--the--results--of--such--study--no~~
21 ~~later--than--July--1--1985.~~

22 (b) ~~Following--the--completion--of--the--Department's--study,~~
23 ~~but~~ Not later than December 1, 1990, the Pollution Control
24 Board shall, pursuant to Title VII of the Act, adopt
25 regulations that establish standards and criteria for
26 classifying special wastes according to the degree of hazard
27 or an alternative method.

28 (c) The Board shall adopt regulations by December 1,
29 1990, establishing the standards and criteria by which the
30 Agency may determine upon written request by any person that
31 a waste or class of waste is not special waste.

32 (d) (Blank.) ~~Until--such--time--as--the--regulations--required~~
33 ~~in--subsection--(c)--of--this--Section--are--effective--any--person~~

1 may--request--the--Agency--to--determine--that--a--waste--is--not--a
2 special--waste.--Within--60--days--of--receipt--of--a--written
3 request,--the--Agency--shall--make--a--final--determination,--which
4 shall--be--based--on--whether--the--waste--would--pose--a--present--or
5 potential--threat--to--human--health--or--to--the--environment--or--if
6 such--waste--has--inherent--properties--which--make--disposal--of
7 such--waste--in--a--landfill--difficult--to--manage--by--normal--means.

8 (e) (Blank.) If--the--Agency--denies--a--request--made
9 pursuant--to--subsection--(c)--or--(d)--of--this--Section--or--if--the
10 Agency--fails--to--act--within--60--days--after--receipt--of--such
11 request,--the--requester--may--seek--review--before--the--Board
12 pursuant--to--Section--40--as--if--the--Agency--had--denied--an
13 application--for--a--permit.

14 (f) The determinations to be made under subsection (c)
15 subsections--(c),--(d)--and--(e) of this Section shall not apply
16 to hazardous waste.

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

18 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

19 Sec. 22.15. Solid Waste Management Fund; fees.

20 (a) There is hereby created within the State Treasury a
21 special fund to be known as the "Solid Waste Management Fund"
22 constituted from the fees collected by the State pursuant to
23 this Section and from repayments of loans made from the Fund
24 for solid waste projects. Moneys received by the Department
25 of Commerce and Community Affairs in repayment of loans made
26 pursuant to the Illinois Solid Waste Management Act shall be
27 deposited into the Solid Waste Management Revolving Loan
28 Fund.

29 (b) On and after January 1, 1987, the Agency shall
30 assess and collect a fee in the amount set forth herein from
31 the owner or operator of each sanitary landfill permitted or
32 required to be permitted by the Agency to dispose of solid
33 waste if the sanitary landfill is located off the site where

1 such waste was produced and if such sanitary landfill is
2 owned, controlled, and operated by a person other than the
3 generator of such waste. The Agency shall deposit all fees
4 collected into the Solid Waste Management Fund. If a site is
5 contiguous to one or more landfills owned or operated by the
6 same person, the volumes permanently disposed of by each
7 landfill shall be combined for purposes of determining the
8 fee under this subsection.

9 (1) If more than 150,000 cubic yards of
10 non-hazardous solid waste is permanently disposed of at a
11 site in a calendar year, the owner or operator shall
12 either pay a fee of 45 cents per cubic yard ~~(60¢ per~~
13 ~~cubic yard from January 1, 1989 through December 31,~~
14 ~~1993),~~ or, alternatively, the owner or operator may weigh
15 the quantity of the solid waste permanently disposed of
16 with a device for which certification has been obtained
17 under the Weights and Measures Act and pay a fee of 95
18 cents per ton ~~(\$1.27 per ton from January 1, 1989 through~~
19 ~~December 31, 1993)~~ of solid waste permanently disposed
20 of. ~~An owner or operator that is subject to any fee,~~
21 ~~tax, or surcharge imposed under the authority of~~
22 ~~subsection (j) of this Section on September 26, 1991,~~
23 ~~with respect to fees due to the Agency under this~~
24 ~~paragraph after December 31, 1991 and before January 1,~~
25 ~~1994, shall deduct from the amount paid to the Agency the~~
26 ~~amount by which the fee paid under subsection (j) exceeds~~
27 ~~45 cents per cubic yard or 95 cents per ton.~~ In no case
28 shall the fee collected or paid by the owner or operator
29 under this paragraph exceed \$1.05 per cubic yard or \$2.22
30 per ton.

31 (2) If more than 100,000 cubic yards, but not more
32 than 150,000 cubic yards of non-hazardous waste is
33 permanently disposed of at a site in a calendar year, the
34 owner or operator shall pay a fee of \$25,000 ~~(\$33,350 in~~

1 ~~1989, 1990 and 1991~~).

2 (3) If more than 50,000 cubic yards, but not more
3 than 100,000 cubic yards of non-hazardous solid waste is
4 permanently disposed of at a site in a calendar year, the
5 owner or operator shall pay a fee of \$11,300 ~~(\$15,500 in~~
6 ~~1989, 1990 and 1991)~~.

7 (4) If more than 10,000 cubic yards, but not more
8 than 50,000 cubic yards of non-hazardous solid waste is
9 permanently disposed of at a site in a calendar year, the
10 owner or operator shall pay a fee of \$3,450 ~~(\$4,650 in~~
11 ~~1989, 1990 and 1991)~~.

12 (5) If not more than 10,000 cubic yards of
13 non-hazardous solid waste is permanently disposed of at a
14 site in a calendar year, the owner or operator shall pay
15 a fee of \$500 ~~(\$650 in 1989, 1990 and 1991)~~.

16 (c) (Blank.) ~~From January 1, 1987 through December 31,~~
17 ~~1988, the fee set forth in this Section shall not apply to:~~

- 18 ~~(1) Solid waste which is hazardous waste;~~
- 19 ~~(2) Any landfill which is permitted by the Agency~~
20 ~~to receive only demolition or construction debris or~~
21 ~~landscape waste; or~~
- 22 ~~(3) The following wastes:~~
 - 23 ~~(A) Foundry sand;~~
 - 24 ~~(B) Coal combustion by-product, including~~
25 ~~scrubber waste and fluidized bed boiler waste which~~
26 ~~does not contain metal cleaning waste;~~
 - 27 ~~(C) Slag from the manufacture of iron and~~
28 ~~steel;~~
 - 29 ~~(D) Pollution Control Waste;~~
 - 30 ~~(E) Wastes from recycling, reclamation or~~
31 ~~reuse processes designed to remove any contaminant~~
32 ~~from wastes so as to render such wastes reusable,~~
33 ~~provided that the process renders at least 50% of~~
34 ~~the waste reusable;~~

1 ~~(F) Non-hazardous solid waste that is received~~
2 ~~at a sanitary landfill after January 1, 1987 and~~
3 ~~recycled through a process permitted by the Agency.~~

4 (d) The Agency shall establish rules relating to the
5 collection of the fees authorized by this Section. Such
6 rules shall include, but not be limited to:

7 (1) necessary records identifying the quantities of
8 solid waste received or disposed;

9 (2) the form and submission of reports to accompany
10 the payment of fees to the Agency;

11 (3) the time and manner of payment of fees to the
12 Agency, which payments shall not be more often than
13 quarterly; and

14 (4) procedures setting forth criteria establishing
15 when an owner or operator may measure by weight or volume
16 during any given quarter or other fee payment period.

17 (e) Pursuant to appropriation, all monies in the Solid
18 Waste Management Fund shall be used by the Agency and the
19 Department of Commerce and Community Affairs for the purposes
20 set forth in this Section and in the Illinois Solid Waste
21 Management Act, including for the costs of fee collection and
22 administration, ~~and through June 30, 1989, by the University~~
23 ~~of Illinois for research consistent with the Illinois Solid~~
24 ~~Waste Management Act.~~

25 (f) The Agency is authorized to enter into such
26 agreements and to promulgate such rules as are necessary to
27 carry out its duties under this Section and the Illinois
28 Solid Waste Management Act.

29 (g) On the first day of January, April, July, and
30 October of each year, beginning on July 1, 1996, the State
31 Comptroller and Treasurer shall transfer \$500,000 from the
32 Solid Waste Management Fund to the Hazardous Waste Fund.
33 Moneys transferred under this subsection (g) shall be used
34 only for the purposes set forth in item (1) of subsection (d)

1 of Section 22.2.

2 (h) The Agency is authorized to provide financial
3 assistance to units of local government for the performance
4 of inspecting, investigating and enforcement activities
5 pursuant to Section 4(r) at nonhazardous solid waste disposal
6 sites.

7 (i) The Agency is authorized to support the operations
8 of an industrial materials exchange service, and to conduct
9 household waste collection and disposal programs.

10 (j) A unit of local government, as defined in the Local
11 Solid Waste Disposal Act, in which a solid waste disposal
12 facility is located may establish a fee, tax, or surcharge
13 with regard to the permanent disposal of solid waste. All
14 fees, taxes, and surcharges collected under this subsection
15 shall be utilized for solid waste management purposes,
16 including long-term monitoring and maintenance of landfills,
17 planning, implementation, inspection, enforcement and other
18 activities consistent with the Solid Waste Management Act and
19 the Local Solid Waste Disposal Act, or for any other
20 environment-related purpose, including but not limited to an
21 environment-related public works project, but not for the
22 construction of a new pollution control facility other than a
23 household hazardous waste facility. However, the total fee,
24 tax or surcharge imposed by all units of local government
25 under this subsection (j) upon the solid waste disposal
26 facility shall not exceed:

27 (1) ~~45¢-per-cubic-yard-~~(60¢ per cubic yard
28 ~~beginning-January-17-1992~~) if more than 150,000 cubic
29 yards of non-hazardous solid waste is permanently
30 disposed of at the site in a calendar year, unless the
31 owner or operator weighs the quantity of the solid waste
32 received with a device for which certification has been
33 obtained under the Weights and Measures Act, in which
34 case the fee shall not exceed ~~95¢-per-ton-~~(\$1.27 per ton

1 ~~beginning--January--1,--1992}~~ of solid waste permanently
2 disposed of.

3 (2) ~~\$25,000-{\$33,350 beginning--in--1992}~~ if more
4 than 100,000 cubic yards, but not more than 150,000 cubic
5 yards, of non-hazardous waste is permanently disposed of
6 at the site in a calendar year.

7 (3) ~~\$11,300-{\$15,500 beginning--in--1992}~~ if more
8 than 50,000 cubic yards, but not more than 100,000 cubic
9 yards, of non-hazardous solid waste is permanently
10 disposed of at the site in a calendar year.

11 (4) ~~\$3,450--{\$4,650 beginning-in-1992}~~ if more than
12 10,000 cubic yards, but not more than 50,000 cubic yards,
13 of non-hazardous solid waste is permanently disposed of
14 at the site in a calendar year.

15 (5) ~~\$500--{\$650 beginning-in-1992}~~ if not more than
16 10,000 cubic yards of non-hazardous solid waste is
17 permanently disposed of at the site in a calendar year.

18 The corporate authorities of the unit of local government
19 may use proceeds from the fee, tax, or surcharge to reimburse
20 a highway commissioner whose road district lies wholly or
21 partially within the corporate limits of the unit of local
22 government for expenses incurred in the removal of
23 nonhazardous, nonfluid municipal waste that has been dumped
24 on public property in violation of a State law or local
25 ordinance.

26 A county or Municipal Joint Action Agency that imposes a
27 fee, tax, or surcharge under this subsection may use the
28 proceeds thereof to reimburse a municipality that lies wholly
29 or partially within its boundaries for expenses incurred in
30 the removal of nonhazardous, nonfluid municipal waste that
31 has been dumped on public property in violation of a State
32 law or local ordinance.

33 If the fees are to be used to conduct a local sanitary
34 landfill inspection or enforcement program, the unit of local

1 government must enter into a written delegation agreement
2 with the Agency pursuant to subsection (r) of Section 4. The
3 unit of local government and the Agency shall enter into such
4 a written delegation agreement within 60 days after the
5 establishment of such fees, ~~or August 23, 1988, whichever is~~
6 ~~later. For the year commencing January 1, 1989, and~~ At
7 least annually thereafter, the Agency shall conduct an audit
8 of the expenditures made by units of local government from
9 the funds granted by the Agency to the units of local
10 government for purposes of local sanitary landfill inspection
11 and enforcement programs, to ensure that the funds have been
12 expended for the prescribed purposes under the grant.

13 The fees, taxes or surcharges collected under this
14 subsection (j) shall be placed by the unit of local
15 government in a separate fund, and the interest received on
16 the moneys in the fund shall be credited to the fund. The
17 monies in the fund may be accumulated over a period of years
18 to be expended in accordance with this subsection.

19 A unit of local government, as defined in the Local Solid
20 Waste Disposal Act, shall prepare and distribute to the
21 Agency, in April of each year, a report that details spending
22 plans for monies collected in accordance with this
23 subsection. The report will at a minimum include the
24 following:

25 (1) The total monies collected pursuant to this
26 subsection.

27 (2) The most current balance of monies collected
28 pursuant to this subsection.

29 (3) An itemized accounting of all monies expended
30 for the previous year pursuant to this subsection.

31 (4) An estimation of monies to be collected for the
32 following 3 years pursuant to this subsection.

33 (5) A narrative detailing the general direction and
34 scope of future expenditures for one, 2 and 3 years.

1 The exemptions granted under Sections 22.16 and 22.16a,
2 and under subsections (c) and (k) of this Section, shall be
3 applicable to any fee, tax or surcharge imposed under this
4 subsection (j); except that the fee, tax or surcharge
5 authorized to be imposed under this subsection (j) may be
6 made applicable by a unit of local government to the
7 permanent disposal of solid waste after December 31, 1986,
8 under any contract lawfully executed before June 1, 1986
9 under which more than 150,000 cubic yards (or 50,000 tons) of
10 solid waste is to be permanently disposed of, even though the
11 waste is exempt from the fee imposed by the State under
12 subsection (b) of this Section pursuant to an exemption
13 granted under Section 22.16.

14 (k) In accordance with the findings and purposes of the
15 Illinois Solid Waste Management Act, beginning January 1,
16 1989 the fee under subsection (b) and the fee, tax or
17 surcharge under subsection (j) shall not apply to:

- 18 (1) Waste which is hazardous waste; or
19 (2) Waste which is pollution control waste; or
20 (3) Waste from recycling, reclamation or reuse
21 processes which have been approved by the Agency as being
22 designed to remove any contaminant from wastes so as to
23 render such wastes reusable, provided that the process
24 renders at least 50% of the waste reusable; or
25 (4) Non-hazardous solid waste that is received at a
26 sanitary landfill and composted or recycled through a
27 process permitted by the Agency; or
28 (5) Any landfill which is permitted by the Agency
29 to receive only demolition or construction debris or
30 landscape waste.

31 (Source: P.A. 89-93, eff. 7-6-95; 89-443, eff. 7-1-96;
32 89-445, eff. 2-7-96; 90-14, eff. 7-1-97; 90-475, eff.
33 8-17-97.)

1 (415 ILCS 5/22.16) (from Ch. 111 1/2, par. 1022.16)
2 Sec. 22.16. Fee exemptions.

3 (a) The Agency shall grant exemptions from the fee
4 requirements of Section 22.15 of this Act for permanent
5 disposal or transport of solid waste meeting all of the
6 following criteria:

7 (1) permanent disposal of the solid waste is
8 pursuant to a written contract between the owner or
9 operator of the sanitary landfill and some other person,
10 or transport of the solid waste is pursuant to a written
11 contract between the transporter and some other person;

12 (2) the contract for permanent disposal or
13 transport of solid waste was lawfully executed on or
14 before December 31, 1986, and by its express terms
15 continues beyond January 1, 1987, or was lawfully
16 executed during 1987 or 1988 and by its express terms
17 continues beyond January 1, 1989;

18 (3) the contract for permanent disposal or
19 transport of solid waste establishes a fixed fee or
20 compensation, does not allow the operator or transporter
21 to pass the fee through to another party, and does not
22 allow voluntary cancellation or re-negotiation of the
23 compensation or fee during the term of the contract; and

24 (4) the contract was lawfully executed on or before
25 December 31, 1986 and has not been amended at any time
26 after that date, or was lawfully executed during 1987 or
27 1988 and has not been amended on or after January 1,
28 1989.

29 (b) Exemptions granted under this Section shall cause
30 the solid waste received by an owner or operator of a
31 sanitary landfill pursuant to a contract exempted under this
32 Section to be disregarded in calculating the volume or weight
33 of solid waste permanently disposed of during a calendar year
34 under Section 22.15 of this Act.

1 (c) (Blank.) Applications--for--exemptions--under--this
 2 Section--may--be--granted--retroactively.----Applications-for
 3 retroactive-or-prospective-exemptions-must-be-submitted--with
 4 proof--of--satisfaction--of--all--criteria--for--granting-the
 5 exemption, and must be received by the Agency before March 1,
 6 1989.

7 (d) It shall be the duty of an owner or operator of a
 8 sanitary landfill to keep accurate records and to prove to
 9 the satisfaction of the Agency the volume or weight of solid
 10 waste received under an exemption during a calendar year.

11 (e) Exemptions under this Section shall expire upon the
 12 expiration, renewal or amendment of the exempted contract,
 13 whichever occurs first.

14 (Source: P.A. 85-1195.)

15 (415 ILCS 5/22.16a) (from Ch. 111 1/2, par. 1022.16a)
 16 Sec. 22.16a. Additional fee exemptions.

17 (a) In accordance with the findings and purposes of the
 18 Illinois Solid Waste Management Act, the Agency shall grant
 19 exemptions from the fee requirements of Section 22.15 of this
 20 Act for solid waste meeting all of the following criteria:

21 (1) the waste is non-putrescible and homogeneous
 22 and does not contain free liquids;

23 (2) combustion of the waste would not provide
 24 practical energy recovery or practical reduction in
 25 volume; and

26 (3) the applicant for exemption demonstrates that
 27 it is not technologically and economically reasonable to
 28 recycle or reuse the waste.

29 (b) Exemptions granted under this Section shall cause
 30 the solid waste exempted under subsection (a) which is
 31 permanently disposed of by an owner or operator of a sanitary
 32 landfill to be disregarded in calculating the volume or
 33 weight of solid waste permanently disposed of during a

1 calendar year under Section 22.15 of this Act.

2 (c) Applications for exemptions under this Section must
3 be submitted on forms provided by the Agency for such
4 purpose, together with proof of satisfaction of all criteria
5 for granting the exemption. ~~For applications received before~~
6 ~~March 1, 1989, exemptions issued under subsection (a) shall~~
7 ~~be effective as of January 1, 1989.~~ For applications
8 received on or after March 1, 1989, exemptions issued under
9 subsection (a) shall be effective beginning with the next
10 calendar quarter following issuance of the exemption.

11 (d) If the Agency denies a request made pursuant to
12 subsection (a), the applicant may seek review before the
13 Board pursuant to Section 40 as if the Agency had denied an
14 application for a permit. If the Agency fails to act within
15 90 days after receipt of an application, the request shall be
16 deemed granted until such time as the Agency has taken final
17 action.

18 (e) It shall be the duty of an owner or operator of a
19 sanitary landfill to keep accurate records and to prove to
20 the satisfaction of the Agency the volume or weight of solid
21 waste received under an exemption during a calendar year.

22 (Source: P.A. 85-1195.)

23 (415 ILCS 5/22.22) (from Ch. 111 1/2, par. 1022.22)

24 Sec. 22.22. Landscape waste.

25 (a) Beginning July 1, 1990, no person may knowingly mix
26 landscape waste that is intended for collection or for
27 disposal at a landfill with any other municipal waste.

28 (b) Beginning July 1, 1990, no person may knowingly put
29 landscape waste into a container intended for collection or
30 disposal at a landfill, unless such container is
31 biodegradable.

32 (c) Beginning July 1, 1990, no owner or operator of a
33 sanitary landfill shall accept landscape waste for final

1 disposal, except that landscape waste separated from
2 municipal waste may be accepted by a sanitary landfill if (1)
3 the landfill provides and maintains for that purpose separate
4 landscape waste composting facilities and composts all
5 landscape waste, and (2) the composted waste is utilized, by
6 the operators of the landfill or by any other person, as part
7 of the final vegetative cover for the landfill or for such
8 other uses as soil conditioning material, or the landfill has
9 received an Agency permit to use source separated and
10 processed landscape waste as an alternative daily cover and
11 the landscape waste is processed at a site, other than the
12 sanitary landfill, that has received an Agency permit before
13 July 30, the-effective-date-of-this-amendatory-Act-of 1997 to
14 process landscape waste. For purposes of this Section, (i)
15 "source separated" means divided into its component parts at
16 the point of generation and collected separately from other
17 solid waste and (ii) "processed" means shredded by mechanical
18 means to reduce the landscape waste to a uniform consistency.

19 (d) The requirements of this Section shall not apply (i)
20 to landscape waste collected as part of a municipal street
21 sweeping operation where the intent is to provide street
22 sweeping service rather than leaf collection, nor (ii) to
23 landscape waste collected by bar screens or grates in a
24 sewage treatment system.

25 (Source: P.A. 90-266, eff. 7-30-97.)

26 (415 ILCS 5/22.23) (from Ch. 111 1/2, par. 1022.23)

27 Sec. 22.23. Batteries.

28 (a) Beginning September 1, 1990, any person selling
29 lead-acid batteries at retail or offering lead-acid batteries
30 for retail sale in this State shall:

31 (1) accept for recycling used lead-acid batteries
32 from customers, at the point of transfer, in a quantity
33 equal to the number of new batteries purchased; and

1 (2) post in a conspicuous place a written notice at
2 least 8.5 by 11 inches in size that includes the
3 universal recycling symbol and the following statements:
4 "DO NOT put motor vehicle batteries in the trash.";
5 "Recycle your used batteries."; and "State law requires
6 us to accept motor vehicle batteries for recycling, in
7 exchange for new batteries purchased."

8 (b) Any person selling lead-acid batteries at retail in
9 this State may either charge a recycling fee on each new
10 lead-acid battery sold for which the customer does not return
11 a used battery to the retailer, or provide a recycling credit
12 to each customer who returns a used battery for recycling at
13 the time of purchasing a new one.

14 (c) Beginning September 1, 1990, no lead-acid battery
15 retailer may dispose of a used lead-acid battery except by
16 delivering it (1) to a battery wholesaler or its agent, (2)
17 to a battery manufacturer, (3) to a collection or recycling
18 facility, or (4) to a secondary lead smelter permitted by
19 either a state or federal environmental agency.

20 (d) Any person selling lead-acid batteries at wholesale
21 or offering lead-acid batteries for sale at wholesale shall
22 accept for recycling used lead-acid batteries from customers,
23 at the point of transfer, in a quantity equal to the number
24 of new batteries purchased. Such used batteries shall be
25 disposed of as provided in subsection (c).

26 (e) A person who accepts used lead-acid batteries for
27 recycling pursuant to subsection (a) or (d) shall not allow
28 such batteries to accumulate for periods of more than 90
29 days.

30 (f) Beginning September 1, 1990, no person may knowingly
31 cause or allow:

32 (1) the placing of a lead-acid battery into any
33 container intended for collection and disposal at a
34 municipal waste sanitary landfill; or

1 (2) the disposal of any lead-acid battery in any
2 municipal waste sanitary landfill or incinerator.

3 (g) The Department of Commerce and Community Affairs
4 shall identify and assist in developing alternative
5 processing and recycling options for used batteries.

6 (h) For the purpose of this Section:

7 "Lead-acid battery" means a battery containing lead and
8 sulfuric acid that has a nominal voltage of at least 6 volts
9 and is intended for use in motor vehicles.

10 "Motor vehicle" includes automobiles, vans, trucks,
11 tractors, motorcycles and motorboats.

12 (i) (Blank.) ~~The--Department--shall--study--the--problems~~
13 ~~associated--with--household--batteries--that--are--processed--or~~
14 ~~disposed--of--as--part--of--mixed--solid--waste,--and--shall--develop~~
15 ~~and--implement--a--pilot--project--to--collect--and--recycle--used~~
16 ~~household--batteries,----The--Department--shall--report--its~~
17 ~~findings--to--the--Governor--and--the--General--Assembly,--together~~
18 ~~with--any--recommendations--for--legislation,--by--November--1,~~
19 ~~1991.~~

20 (j) Knowing violation of this Section shall be a petty
21 offense punishable by a fine of \$100.

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

23 (415 ILCS 5/22.23a)

24 Sec. 22.23a. Fluorescent and high intensity discharge
25 lamps.

26 (a) As used in this Section, "fluorescent or high
27 intensity discharge lamp" means a lighting device that
28 contains mercury and generates light through the discharge of
29 electricity either directly or indirectly through a
30 fluorescent coating, including a mercury vapor, high pressure
31 sodium, or metal halide lamp containing mercury, lead, or
32 cadmium.

33 (b) No person may knowingly cause or allow the disposal

1 of any fluorescent or high intensity discharge lamp in any
2 municipal waste incinerator beginning July 1, 1997. This
3 Section does not apply to lamps generated by households.

4 (c) (1) Hazardous fluorescent and high intensity
5 discharge lamps are hereby designated as a category of
6 universal waste subject to the streamlined hazardous
7 waste rules set forth in Title 35 of the Illinois
8 Administrative Code, Subtitle G, Chapter I, Subchapter c,
9 Part 733 ("Part 733"). Within 60 days of August 19, 1997
10 (the effective date of Public Act 90-502) ~~this-amendatory~~
11 ~~Act-of-1997~~ the Agency shall propose, and within 180 days
12 of receipt of the Agency's proposal the Board shall
13 adopt, rules that reflect this designation and that
14 prescribe procedures and standards for the management of
15 hazardous fluorescent and high intensity discharge lamps
16 as universal waste.

17 (2) If the United States Environmental Protection
18 Agency adopts streamlined hazardous waste regulations
19 pertaining to the management of fluorescent and high
20 intensity discharge lamps, or otherwise exempts those
21 lamps from regulation as hazardous waste, the Board shall
22 adopt an equivalent rule in accordance with Section 7.2
23 of this Act within 180 days of adoption of the federal
24 regulation. The equivalent Board rule may serve as an
25 alternative to the rules adopted under subdivision (1) of
26 this subsection.

27 (d) (Blank.) ~~Until--the--Board-adopts-rules-pursuant-to~~
28 ~~subsection-(c),--fluorescent--and--high--intensity--discharge~~
29 ~~lamps--shall--be-managed-in-accordance-with-existing-laws-and~~
30 ~~regulations-or-under-the-following-conditions:~~

31 ~~(1)--after-being-removed-from-service,--the-generator~~
32 ~~stores-the-lamps-in-a--safe--manner--that--minimizes--the~~
33 ~~chance-of-breakage;~~

34 ~~(2)--no--lamps--are-stored-longer-than-6-months-from~~

1 the-time-they-are-removed-from-service;

2 (3)--the-generator-delivers-the-lamps-to-a--licensed
3 hauler-that-will-deliver-the-lamps-to-a-recycler;-and

4 (4)--the-lamps-are-transported-in-a-safe-manner-that
5 minimizes-the-chance-of-breakage.

6 (e) (Blank.) The---Agency---shall---study---the---problem
7 associated-with-used-fluorescent-and-high-intensity-discharge
8 lamps-that-are-processed-or-disposed--of--as--part--of--mixed
9 solid--waste,-and--shall--identify--possible--collection-and
10 recycling-systems-for-used--fluorescent--and--high--intensity
11 discharge-lamps.--The-Agency-shall-report-its-findings-to-the
12 General-Assembly-and-the-Governor-by-January-17-1998.

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

14 (415 ILCS 5/22.27) (from Ch. 111 1/2, par. 1022.27)

15 Sec. 22.27. Alternative Daily Cover for Sanitary
16 Landfills.

17 (a) The-Agency-shall-investigate--alternative--materials
18 to--soil--as--daily--cover--at--sanitary-landfills,-including
19 chemical-foam,-grit-and-nonputrescible-residuals--from--solid
20 waste---recycling---facilities,-shredded---tire---material,-
21 hydromulch--produced--from-newsprint-or-other-wastepaper,-and
22 finished--compost.--The--investigation---shall---include---a
23 comparative--cost--analysis--of--each-alternative-material-to
24 soil,-environmental-suitability-of--each--material,-and--any
25 potential-savings-in-landfill-capacity-resulting-from-the-use
26 of-an-alternative-cover-material.--The-Agency-shall-report-to
27 the-General-Assembly-by-September-17-1992,-on-the-feasibility
28 of---alternative---materials--for--daily--cover--at--sanitary
29 landfills. If the Agency determines that any or all chemical
30 foams provides a cover material that is as good as, or better
31 than, the traditional soil cover commonly used in this State,
32 the Agency shall certify that material as meeting the
33 requirements of this Section. If the Agency determines that

1 any alternative materials other than chemical foams
2 adequately satisfies daily cover requirements at sanitary
3 landfills, it shall permit use of such materials at such
4 facilities. ~~The Department shall cooperate with the Agency~~
5 ~~in the conduct of the investigation and report required by~~
6 ~~this subsection (a) of this Section.~~

7 (b) In complying with the daily cover requirements
8 imposed on sanitary landfills by Board regulation, the
9 operator of a sanitary landfill may use any foam that has
10 been certified by the Agency under this Section in place of a
11 soil cover.

12 (Source: P.A. 87-727.)

13 (415 ILCS 5/22.33)

14 Sec. 22.33. Compost quality standards.

15 (a) By January 1, 1994, the Agency shall develop and
16 make recommendations to the Board concerning (i) performance
17 standards for landscape waste compost facilities and (ii)
18 testing procedures and standards for the end-product compost
19 produced by landscape waste compost facilities.

20 ~~The Agency, in cooperation with the Department, shall~~
21 ~~appoint a Technical Advisory Committee for the purpose of~~
22 ~~developing these recommendations. Among other things, the~~
23 ~~Committee shall evaluate environmental and safety~~
24 ~~considerations, compliance costs, and regulations adopted in~~
25 ~~other states and countries. The Committee shall have~~
26 ~~balanced representation and shall include members~~
27 ~~representing academia, the composting industry, the~~
28 ~~Department of Agriculture, the landscaping industry,~~
29 ~~environmental organizations, municipalities, and counties.~~

30 Performance standards for landscape waste compost
31 facilities shall at a minimum include:

- 32 (1) the management of odor;
- 33 (2) the management of surface water;

1 (3) contingency planning for handling end-product
2 compost material that does not meet requirements of
3 subsection (b);

4 (4) plans for intended purposes of end-use product;
5 and

6 (5) a financial assurance plan necessary to restore
7 the site as specified in Agency permit.

8 (b) By December 1, 1997, the Board shall adopt:

9 (1) performance standards for landscape waste
10 compost facilities; and

11 (2) testing procedures and standards for the
12 end-product compost produced by landscape waste compost
13 facilities.

14 The Board shall evaluate the merits of different
15 standards for end-product compost applications.

16 (c) On-site composting that is used solely for the
17 purpose of composting landscape waste generated on-site and
18 that will not be offered for off-site sale or use is exempt
19 from any standards promulgated under subsections (a) and (b).
20 Subsection (b)(2) shall not apply to end-product compost used
21 as daily cover or vegetative amendment in the final layer.
22 Subsection (b) applies to any end-product compost offered for
23 sale or use in Illinois.

24 (Source: P.A. 87-1227; 88-690, eff. 1-24-95.)

25 (415 ILCS 5/22.40)

26 Sec. 22.40. Municipal solid waste landfill rules.

27 (a) In accordance with Sec. 7.2, the Board shall adopt
28 rules that are identical in substance to federal regulations
29 or amendments thereto promulgated by the Administrator of the
30 United States Environmental Protection Agency to implement
31 Sections 4004 and 4010 of the Resource Conservation and
32 Recovery Act of 1976 (P.L. 94-580) insofar as those
33 regulations relate to a municipal solid waste landfill unit

1 program. The Board may consolidate into a single rulemaking
2 under this Section all such federal regulations adopted
3 within a period of time not to exceed 6 months. Where the
4 federal regulations authorize the State to adopt alternative
5 standards, schedules, or procedures to the standards,
6 schedules, or procedures contained in the federal
7 regulations, the Board may adopt alternative standards,
8 schedules, or procedures under subsection (b) or retain
9 existing Board rules that establish alternative standards,
10 schedules, or procedures that are not inconsistent with the
11 federal regulations. The Board may consolidate into a single
12 rulemaking under this Section all such federal regulations
13 adopted within a period of time not to exceed 6 months.

14 The provisions and requirements of Title VII of this Act
15 shall not apply to rules adopted under this subsection (a).
16 Section 5-35 of the Illinois Administrative Procedure Act
17 relating to the procedures for rulemaking shall not apply to
18 regulations adopted under this subsection (a).

19 (b) The Board may adopt regulations relating to a State
20 municipal solid waste landfill program that are not
21 inconsistent with the Resource Conservation and Recovery Act
22 of 1976 (P.L. 94-580), or regulations adopted thereunder.
23 Rules adopted under this subsection shall be adopted in
24 accordance with the provisions and requirements of Title VII
25 of this Act and the procedures for rulemaking in Section 5-35
26 of the Illinois Administrative Procedure Act.

27 (c) (Blank.) ~~Notwithstanding--action--by--the--Board,--and~~
28 ~~effective--October--9,--1993,--only--for--those--facilities--meeting~~
29 ~~the---conditions--of--40--C.F.R.--258.1(e)(2)--or--40--C.F.R.~~
30 ~~258.1(e)(3),--the--deadlines--established--in--subsections--(d)(1)~~
31 ~~and--(t),--as--added--by--Public--Act--88-496,--of--Section--21--and~~
32 ~~subsections--(a.5),--(a.10),--and--(b)--of--Section--22.17--of--this~~
33 ~~Act---are---extended---to--those--new--dates--established--in~~
34 ~~regulations--promulgated--by--the--United--States--Environmental~~

1 Protection--Agency--at--58-Federal-Register-51536-(October-1,
 2 1993);-provided,-however,-no-deadline-for--receipt--of--solid
 3 waste-is-extended-past-October-9,-1994.

4 With--respect--to--those--facilities--that-qualify-for-an
 5 extension-in-accordance-with--the--provisions--of--40--C.F.R.
 6 258.1(e)(3),--the--Agency-shall-determine-that-the-facilities
 7 are-needed-to-receive-flood-related-waste--from--a--federally
 8 designated--area-within-a-major-disaster-area-declared-by-the
 9 President-during-the-summer-of-1993--pursuant--to--42--U.S.C.
 10 5121-et-seq.

11 (Source: P.A. 88-496; 88-512; 88-540.)

12 (415 ILCS 5/22.43)

13 Sec. 22.43. Permit modifications for lateral expansions.
 14 The Agency may issue a permit modification for a lateral
 15 expansion, as defined in Section 3.275 Sec.-3-88 of this Act,
 16 for an existing MSWLF unit under Section Sec. 39 of this Act
 17 on-or-after-the-effective-date-of-this-amendatory-Act-of-1993
 18 to a person required to obtain such a permit modification
 19 under subsection (t) of Section 21 of this Act.

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

21 (415 ILCS 5/22.44)

22 Sec. 22.44. Subtitle D management fees.

23 (a) There is created within the State treasury a special
 24 fund to be known as the "Subtitle D Management Fund"
 25 constituted from the fees collected by the State under this
 26 Section.

27 (b) On and after January 1, 1994, the Agency shall
 28 assess and collect a fee in the amount set forth in this
 29 subsection from the owner or operator of each sanitary
 30 landfill permitted or required to be permitted by the Agency
 31 to dispose of solid waste if the sanitary landfill is located
 32 off the site where the waste was produced and if the sanitary

1 landfill is owned, controlled, and operated by a person other
2 than the generator of the waste. The Agency shall deposit
3 all fees collected under this subsection into the Subtitle D
4 Management Fund. If a site is contiguous to one or more
5 landfills owned or operated by the same person, the volumes
6 permanently disposed of by each landfill shall be combined
7 for purposes of determining the fee under this subsection.

8 (1) If more than 150,000 cubic yards of
9 non-hazardous solid waste is permanently disposed of at a
10 site in a calendar year, the owner or operator shall
11 either pay a fee of 5.5 cents per cubic yard or,
12 alternatively, the owner or operator may weigh the
13 quantity of the solid waste permanently disposed of with
14 a device for which certification has been obtained under
15 the Weights and Measures Act and pay a fee of 12 cents
16 per ton of waste permanently disposed of.

17 (2) If more than 100,000 cubic yards, but not more
18 than 150,000 cubic yards, of non-hazardous waste is
19 permanently disposed of at a site in a calendar year, the
20 owner or operator shall pay a fee of \$3,825.

21 (3) If more than 50,000 cubic yards, but not more
22 than 100,000 cubic yards, of non-hazardous solid waste is
23 permanently disposed of at a site in a calendar year, the
24 owner or operator shall pay a fee of \$1,700.

25 (4) If more than 10,000 cubic yards, but not more
26 than 50,000 cubic yards, of non-hazardous solid waste is
27 permanently disposed of at a site in a calendar year, the
28 owner or operator shall pay a fee of \$530.

29 (5) If not more than 10,000 cubic yards of
30 non-hazardous solid waste is permanently disposed of at a
31 site in a calendar year, the owner or operator shall pay
32 a fee of \$110.

33 (c) The fee under subsection (b) shall not apply to any
34 of the following:

1 (1) Hazardous waste.

2 (2) Pollution control waste.

3 (3) Waste from recycling, reclamation, or reuse
4 processes that have been approved by the Agency as being
5 designed to remove any contaminant from wastes so as to
6 render the wastes reusable, provided that the process
7 renders at least 50% of the waste reusable.

8 (4) Non-hazardous solid waste that is received at a
9 sanitary landfill and composted or recycled through a
10 process permitted by the Agency.

11 (5) Any landfill that is permitted by the Agency to
12 receive only demolition or construction debris or
13 landscape waste.

14 (d) The Agency shall establish rules relating to the
15 collection of the fees authorized by this Section. These
16 rules shall include, but not be limited to the following:

17 (1) Necessary records identifying the quantities of
18 solid waste received or disposed.

19 (2) The form and submission of reports to accompany
20 the payment of fees to the Agency.

21 (3) The time and manner of payment of fees to the
22 Agency, which payments shall not be more often than
23 quarterly.

24 (4) Procedures setting forth criteria establishing
25 when an owner or operator may measure by weight or volume
26 during any given quarter or other fee payment period.

27 (e) Fees collected under this Section shall be in
28 addition to any other fees collected under any other Section.

29 (f) The Agency shall not refund any fee paid to it under
30 this Section.

31 (g) Pursuant to appropriation, all moneys in the
32 Subtitle D Management Fund shall be used by the Agency to
33 administer the United States Environmental Protection
34 Agency's Subtitle D Program provided in Sections 4004 and

1 4010 of the Resource Conservation and Recovery Act of 1976
2 (P.L. 94-580) as it relates to a municipal solid waste
3 landfill program in Illinois and to fund a delegation of
4 inspecting, investigating, and enforcement functions, within
5 the municipality only, pursuant to subsection (r) of Section
6 4 of this Act to a municipality having a population of more
7 than 1,000,000 inhabitants. The Agency shall execute a
8 delegation agreement pursuant to subsection (r) of Section 4
9 of this Act with a municipality having a population of more
10 than 1,000,000 inhabitants within 90 days of September 13,
11 ~~the--effective--date--of--this--amendatory--Act--of~~ 1993 and shall
12 on an annual basis distribute from the Subtitle D Management
13 Fund to that municipality no less than \$150,000.
14 (Source: P.A. 90-655, eff. 7-30-98.)

15 (415 ILCS 5/22.45)

16 Sec. 22.45. Subtitle D management fee exemptions;
17 pre-existing contracts.

18 (a) The Agency shall grant exemptions from the fee
19 requirements of Section 22.44 of this Act for permanent
20 disposal or transport of solid waste meeting all of the
21 following criteria:

22 (1) Permanent disposal of the solid waste is
23 pursuant to a written contract between the owner or
24 operator of the sanitary landfill and some other person,
25 or transport of the solid waste is pursuant to a written
26 contract between the transporter and some other person.

27 (2) The contract for permanent disposal or
28 transport of solid waste was lawfully executed on or
29 before September 13, ~~the--effective--date--of--this~~
30 ~~amendatory--Act--of~~ 1993 and by its express terms continues
31 beyond January 1, 1994.

32 (3) The contract for permanent disposal or
33 transport of solid waste establishes a fixed fee or

1 compensation, does not allow the operator or transporter
2 to pass the fee through to another party, and does not
3 allow voluntary cancellation or renegotiation of the
4 compensation or fee during the term of the contract.

5 (4) The contract was lawfully executed on or before
6 September 13, ~~the effective date of this amendatory Act~~
7 of 1993 and has not been amended at any time after that
8 date.

9 (b) Exemptions granted under this Section shall cause
10 the solid waste received by an owner or operator of a
11 sanitary landfill pursuant to a contract exempted under this
12 Section to be disregarded in calculating the volume or weight
13 of solid waste permanently disposed of during a calendar year
14 under Section 22.44 of this Act.

15 (c) An owner or operator of a sanitary landfill shall
16 keep accurate records and prove, to the satisfaction of the
17 Agency, the volume or weight of solid waste received under an
18 exemption during a calendar year.

19 (d) Exemptions under this Section shall expire upon the
20 expiration, renewal, or amendment of the exempted contract,
21 whichever occurs first.

22 (e) For the purposes of this Section, the term "some
23 other person" shall only include persons that are independent
24 operating entities. For purposes of this Section, a person
25 is not an independent operating entity if:

26 (1) the person has any officers or directors that
27 are also officers or directors of the sanitary landfill
28 or transporter;

29 (2) the person is a parent corporation, subsidiary,
30 or affiliate of the owner or operator of the sanitary
31 landfill or transporter; or

32 (3) the person and the owner or operator of the
33 sanitary landfill or transporter are owned by the same
34 entity.

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

2 (415 ILCS 5/22.47)

3 Sec. 22.47. School district hazardous educational waste
4 collection.

5 (a) The Agency shall develop, implement, and fund
6 (through appropriations for that purpose from the General
7 Revenue Fund) a program to collect school district hazardous
8 educational waste from school districts and schools in the
9 State. The program shall provide for the availability for
10 collection, transportation, and appropriate management of
11 hazardous educational wastes for each school district or
12 school by private contractors at least every 3 years.

13 (b) A school district or school may participate in a
14 hazardous educational waste collection program by:

15 (1) Notifying the Agency of the hazardous
16 educational wastes used by the school district or school
17 and including the following information:

- 18 (A) Waste types.
- 19 (B) Waste volumes.
- 20 (C) Number of containers.
- 21 (D) Condition of containers.
- 22 (E) Location of containers.

23 (2) Maintaining wastes in the original containers,
24 if practical.

25 (3) Labeling each container if contents are known.

26 (4) Following Agency instructions on waste
27 segregation, preparation, or delivery for subsequent
28 handling.

29 (c) The Agency shall accept applications from school
30 districts or schools throughout the year. The Agency shall
31 designate waste haulers throughout the State qualified to
32 remove school district hazardous waste at the request of a
33 school district or school. By March 1 and September 1 of

1 each year the Agency shall prepare a schedule of school
2 districts or schools that have been selected for collections
3 over the next 6 months. The selections shall be based on the
4 waste types and volumes, geographic distribution, order of
5 application, and expected costs balanced by available
6 resources. The Agency shall notify each selected school or
7 school district of the date of collection and instruction on
8 waste preparation.

9 (d) For purposes of this Section "hazardous educational
10 waste" means a waste product that could pose a hazard during
11 normal storage, transportation, or disposal generated from an
12 instructional curriculum including laboratory wastes, expired
13 chemicals, unstable compounds, and toxic or flammable
14 materials. "Hazardous educational waste" does not include
15 wastes generated as a result of building, grounds, or vehicle
16 maintenance, asbestos abatement, lead paint abatement, or
17 other non-curriculum activities.

18 (e) ~~(Blank.) By January 1, 1997, the agency shall submit~~
19 ~~a report to the General Assembly on the status of the school~~
20 ~~district hazardous educational waste collection program~~
21 ~~detailing the amounts, types, and locations of wastes~~
22 ~~collected, costs of the program, evaluation of the program,~~
23 ~~and recommendations for future legislative actions.~~

24 (f) The Agency is authorized to use funds from the Solid
25 Waste Management Fund to implement this Section.

26 (Source: P.A. 89-300, eff. 1-1-96.)

27 (415 ILCS 5/22.48)

28 Sec. 22.48. Non-special waste certification; effect on
29 permit.

30 (a) An industrial process waste or pollution control
31 waste not within the exception set forth in subdivision (2)
32 of subsection (c) of Section 3.475 3-45 of this Act must be
33 managed as special waste unless the generator first certifies

1 in a signed, dated, written statement that the waste is
2 outside the scope of the categories listed in subdivision (1)
3 of subsection (c) of Section 3.475 3-45 of this Act.

4 (b) All information used to determine that the waste is
5 not a special waste shall be attached to the certification.
6 The information shall include but not be limited to:

7 (1) the means by which the generator has determined
8 that the waste is not a hazardous waste;

9 (2) the means by which the generator has determined
10 that the waste is not a liquid;

11 (3) if the waste undergoes testing, the analytic
12 results obtained from testing, signed and dated by the
13 person responsible for completing the analysis;

14 (4) if the waste does not undergo testing, an
15 explanation as to why no testing is needed;

16 (5) a description of the process generating the
17 waste; and

18 (6) relevant Material Data Safety Sheets.

19 (c) Certification made pursuant to this Section shall be
20 effective from the date signed until there is a change in the
21 generator, in the raw materials used, or in the process
22 generating the waste.

23 (d) Certification made pursuant to this Section, with
24 the requisite attachments, shall be maintained by the
25 certifying generator while effective and for at least 3 years
26 following a change in the generator, a change in the raw
27 materials used, or a change in or termination of the process
28 generating the waste. The generator shall provide a copy of
29 the certification, upon request by the Agency, the waste
30 hauler, or the operator of the facility receiving the waste
31 for storage, treatment, or disposal, to the party requesting
32 the copy. If the Agency believes that the waste that is the
33 subject of the certification has been inaccurately certified
34 to, the Agency may require the generator to analytically test

1 the waste for the constituent believed to be present and
2 provide the Agency with a copy of the analytic results.

3 (e) A person who knowingly and falsely certifies that a
4 waste is not special waste is subject to the penalties set
5 forth in subdivision (6) of subsection (h) of Section 44 of
6 this Act.

7 (f) To the extent that a term or condition of an
8 existing permit requires the permittee to manage as special
9 waste a material that is made a non-special waste under
10 Public Act 90-502 this-amendatory-Act-of-1997, that term or
11 condition is hereby superseded, and the permittee may manage
12 that material as a non-special waste, even if the material is
13 identified in the permit as part of a particular waste stream
14 rather than identified specifically as a special waste.

15 (Source: P.A. 90-502, eff. 8-19-97.)

16 (415 ILCS 5/25b-5) (from Ch. 111 1/2, par. 1025b-5)

17 Sec. 25b-5. Review of toxic chemical status. The Agency
18 shall periodically review the status of toxic chemicals and
19 types of facilities covered under the reporting requirements
20 of Section 313 of the federal Emergency Planning and
21 Community Right-to-Know Act of 1986. ~~On or before January 17,~~
22 ~~1989, and after providing an opportunity for public comment,~~
23 ~~the Agency shall submit to the Governor a list of toxic~~
24 ~~chemicals and facilities not currently covered under that Act~~
25 ~~which it believes may pose a threat to public health and the~~
26 ~~environment in Illinois. Within 60 days thereafter, the~~
27 ~~Governor shall either petition the Administrator of the~~
28 ~~United States Environmental Protection Agency to modify the~~
29 ~~lists of chemicals and facilities currently covered pursuant~~
30 ~~to Section 313 according to the Agency's recommendations, or~~
31 ~~refer the matter back to the Agency for further consideration~~
32 ~~in accordance with his written recommendations for change.~~

33 (Source: P.A. 85-927.)

1 (415 ILCS 5/28.5) (from Ch. 111 1/2, par. 1028.5)
2 (Section scheduled to be repealed on December 31, 2002.)
3 Sec. 28.5. Clean Air Act rules; fast-track.

4 (a) This Section shall apply solely to the adoption of
5 rules proposed by the Agency and required to be adopted by
6 the State under the Clean Air Act as amended by the Clean Air
7 Act Amendments of 1990 (CAAA).

8 (b) This Section is repealed on December 31, 2007 2002.

9 (c) For purposes of this Section, a "fast-track"
10 rulemaking proceeding is a proceeding to promulgate a rule
11 that the CAAA requires to be adopted. For purposes of this
12 Section, "requires to be adopted" refers only to those
13 regulations or parts of regulations for which the United
14 States Environmental Protection Agency is empowered to impose
15 sanctions against the State for failure to adopt such rules.
16 All fast-track rules must be adopted under procedures set
17 forth in this Section, unless another provision of this Act
18 specifies the method for adopting a specific rule.

19 (d) When the CAAA requires rules other than identical in
20 substance rules to be adopted, upon request by the Agency,
21 the Board shall adopt rules under fast-track rulemaking
22 requirements.

23 (e) The Agency shall submit its fast-track rulemaking
24 proposal in the following form:

25 (1) The Agency shall file the rule in a form that
26 meets the requirements of the Illinois Administrative
27 Procedure Act and regulations promulgated thereunder.

28 (2) The cover sheet of the proposal shall
29 prominently state that the rule is being proposed under
30 this Section.

31 (3) The proposal shall clearly identify the
32 provisions and portions of the federal statute,
33 regulations, guidance, policy statement, or other
34 documents upon which the rule is based.

1 (4) The supporting documentation for the rule shall
2 summarize the basis of the rule.

3 (5) The Agency shall describe in general the
4 alternative selected and the basis for the alternative.

5 (6) The Agency shall file a summary of economic and
6 technical data upon which it relied in drafting the rule.

7 (7) The Agency shall provide a list of any
8 documents upon which it directly relied in drafting the
9 rule or upon which it intends to rely at the hearings and
10 shall provide such documents to the Board. Additionally,
11 the Agency shall make such documents available at an
12 appropriate location for inspection and copying at the
13 expense of the interested party.

14 (8) The Agency shall include in its submission a
15 description of the geographical area to which the rule is
16 intended to apply, a description of the process or
17 processes affected, an identification by classes of the
18 entities expected to be affected, and a list of sources
19 expected to be affected by the rule to the extent known
20 to the Agency.

21 (f) Within 14 days of receipt of the proposal, the Board
22 shall file the rule for first notice under the Illinois
23 Administrative Procedure Act and shall schedule all required
24 hearings on the proposal and cause public notice to be given
25 in accordance with the Illinois Administrative Procedure Act
26 and the CAAA.

27 (g) The Board shall set 3 hearings on the proposal, each
28 of which shall be scheduled to continue from day to day,
29 excluding weekends and State and federal holidays, until
30 completed. The Board shall require the written submission of
31 all testimony at least 10 days before a hearing, with
32 simultaneous service to all participants of record in the
33 proceeding as of 15 days prior to hearing, unless a waiver is
34 granted by the Board for good cause. In order to further

1 expedite the hearings, presubmitted testimony shall be
2 accepted into the record without the reading of the testimony
3 at hearing, provided that the witness swears to the testimony
4 and is available for questioning, and the Board shall make
5 every effort to conduct the proceedings expeditiously and
6 avoid duplication and extraneous material.

7 (1) The first hearing shall be held within 55 days
8 of receipt of the rule and shall be confined to testimony
9 by and questions of the Agency's witnesses concerning the
10 scope, applicability, and basis of the rule. Within 7
11 days after the first hearing, any person may request that
12 the second hearing be held.

13 (A) If, after the first hearing, the Agency
14 and affected entities are in agreement on the rule,
15 the United States Environmental Protection Agency
16 has not informed the Board of any unresolved
17 objection to the rule, and no other interested party
18 contests the rule or asks for the opportunity to
19 present additional evidence, the Board may cancel
20 the additional hearings. When the Board adopts the
21 final order under these circumstances, it shall be
22 based on the Agency's proposal as agreed to by the
23 parties.

24 (B) If, after the first hearing, the Agency
25 and affected entities are in agreement upon a
26 portion of the rule, the United States Environmental
27 Protection Agency has not informed the Board of any
28 unresolved objections to that agreed portion of the
29 rule, and no other interested party contests that
30 agreed portion of the rule or asks for the
31 opportunity to present additional evidence, the
32 Board shall proceed to the second hearing, as
33 provided in paragraph (2) of subsection (g) of this
34 Section, but the hearing shall be limited in scope

1 to the unresolved portion of the proposal. When the
2 Board adopts the final order under these
3 circumstances, it shall be based on such portion of
4 the Agency's proposal as agreed to by the parties.

5 (2) The second hearing shall be scheduled to
6 commence within 30 days of the first day of the first
7 hearing and shall be devoted to presentation of
8 testimony, documents, and comments by affected entities
9 and all other interested parties.

10 (3) The third hearing shall be scheduled to
11 commence within 14 days after the first day of the second
12 hearing and shall be devoted solely to any Agency
13 response to the material submitted at the second hearing
14 and to any response by other parties. The third hearing
15 shall be cancelled if the Agency indicates to the Board
16 that it does not intend to introduce any additional
17 material.

18 (h) In any fast-track rulemaking proceeding, the Board
19 shall accept evidence and comments on the economic impact of
20 any provision of the rule and shall consider the economic
21 impact of the rule based on the record. The Board may order
22 an economic impact study in a manner that will not prevent
23 adoption of the rule within the time required by subsection
24 (o) of this Section.

25 (i) In all fast-track rulemakings under this Section,
26 the Board shall take into account factors set forth in
27 subsection (a) of Section 27 of this Act.

28 (j) The Board shall adopt rules in the fast-track
29 rulemaking docket under the requirements of this Section that
30 the CAAA requires to be adopted, and may consider a
31 non-required rule in a second docket that shall proceed under
32 Title VII of this Act.

33 (k) The Board is directed to take whatever measures are
34 available to it to complete fast-track rulemaking as

1 expeditiously as possible consistent with the need for
2 careful consideration. These measures shall include, but not
3 be limited to, having hearings transcribed on an expedited
4 basis.

5 (l) Following the hearings, the Board shall close the
6 record 14 days after the availability of the transcript.

7 (m) The Board shall not revise or otherwise change an
8 Agency fast-track rulemaking proposal without agreement of
9 the Agency until after the end of the hearing and comment
10 period. Any revisions to an Agency proposal shall be based
11 on the record of the proceeding.

12 (n) All rules adopted by the Board under this Section
13 shall be based solely on the record before it.

14 (o) The Board shall complete a fast-track rulemaking by
15 adopting a second notice order no later than 130 days after
16 receipt of the proposal if no third hearing is held and no
17 later than 150 days if the third hearing is held. If the
18 order includes a rule, the Illinois Board shall file the rule
19 for second notice under the Illinois Administrative Procedure
20 Act within 5 days after adoption of the order.

21 (p) Upon receipt of a statement of no objection to the
22 rule from the Joint Committee on Administrative Rules, the
23 Board shall adopt the final order and submit the rule to the
24 Secretary of State for publication and certification within
25 21 days.

26 (Source: P.A. 90-265, eff. 7-30-97.)

27 (415 ILCS 5/30) (from Ch. 111 1/2, par. 1030)

28 Sec. 30. Investigations. The Agency shall cause
29 investigations to be made upon the request of the Board or
30 upon receipt of information concerning an alleged violation
31 of this Act or of any rule or regulation promulgated
32 thereunder, or of any permit granted by the Agency or any
33 term or condition of any such permit, and may cause to be

1 made such other investigations as it shall deem advisable.

2 (Source: P.A. 78-862.)

3 (415 ILCS 5/31) (from Ch. 111 1/2, par. 1031)

4 Sec. 31. Notice; complaint; hearing.

5 (a) (1) Within 180 days of becoming aware of an alleged
6 violation of the Act or any rule adopted under the Act or
7 of a permit granted by the Agency or condition of the
8 permit, the Agency shall issue and serve, by certified
9 mail, upon the person complained against a written notice
10 informing that person that the Agency has evidence of the
11 alleged violation. At a minimum, the written notice
12 shall contain:

13 (A) notification to the person complained
14 against of the requirement to submit a written
15 response addressing the violations alleged and the
16 option to meet with appropriate agency personnel to
17 resolve any alleged violations that could lead to
18 the filing of a formal complaint;

19 (B) a detailed explanation by the Agency of
20 the violations alleged;

21 (C) an explanation by the Agency of the
22 actions that the Agency believes may resolve the
23 alleged violations, including an estimate of a
24 reasonable time period for the person complained
25 against to complete the suggested resolution; and

26 (D) an explanation of any alleged violation
27 that the Agency believes cannot be resolved without
28 the involvement of the Office of the Illinois
29 Attorney General or the State's Attorney of the
30 county in which the alleged violation occurred and
31 the basis for the Agency's belief.

32 (2) A written response to the violations alleged
33 shall be submitted to the Agency, by certified mail,

1 within 45 days of receipt of notice by the person
2 complained against, unless the Agency agrees to an
3 extension. The written response shall include:

4 (A) information in rebuttal, explanation or
5 justification of each alleged violation;

6 (B) a proposed Compliance Commitment Agreement
7 that includes specified times for achieving each
8 commitment and which may consist of a statement
9 indicating that the person complained against
10 believes that compliance has been achieved; and

11 (C) a request for a meeting with appropriate
12 Agency personnel if a meeting is desired by the
13 person complained against.

14 (3) If the person complained against fails to
15 respond in accordance with the requirements of
16 subdivision (2) of this subsection (a), the failure to
17 respond shall be considered a waiver of the requirements
18 of this subsection (a) and nothing in this Section shall
19 preclude the Agency from proceeding pursuant to
20 subsection (b) of this Section.

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

32 (5) If a meeting requested pursuant to subdivision
33 (2) of this subsection (a) is held, the person complained
34 against shall, within 21 days following the meeting or

1 within an extended time period as agreed to by the
2 Agency, submit by certified mail to the Agency a written
3 response to the alleged violations. The written response
4 shall include:

5 (A) additional information in rebuttal,
6 explanation or justification of each alleged
7 violation;

8 (B) a proposed Compliance Commitment Agreement
9 that includes specified times for achieving each
10 commitment and which may consist of a statement
11 indicating that the person complained against
12 believes that compliance has been achieved; and

13 (C) a statement indicating that, should the
14 person complained against so wish, the person
15 complained against chooses to rely upon the initial
16 written response submitted pursuant to subdivision
17 (2) of this subsection (a).

18 (6) If the person complained against fails to
19 respond in accordance with the requirements of
20 subdivision (5) of this subsection (a), the failure to
21 respond shall be considered a waiver of the requirements
22 of this subsection (a) and nothing in this Section shall
23 preclude the Agency from proceeding pursuant to
24 subsection (b) of this Section.

25 (7) Within 30 days of the Agency's receipt of a
26 written response submitted by the person complained
27 against pursuant to subdivision (2) of this subsection
28 (a), if a meeting is not requested, or subdivision (5) of
29 this subsection (a), if a meeting is held, or within a
30 later time period as agreed to by the Agency and the
31 person complained against, the Agency shall issue and
32 serve, by certified mail, upon the person complained
33 against a written notice informing the person of its
34 acceptance, rejection, or proposed modification to the

1 proposed Compliance Commitment Agreement as contained
2 within the written response.

3 (8) Nothing in this subsection (a) is intended to
4 require the Agency to enter into Compliance Commitment
5 Agreements for any alleged violation that the Agency
6 believes cannot be resolved without the involvement of
7 the Office of the Attorney General or the State's
8 Attorney of the county in which the alleged violation
9 occurred, for, among other purposes, the imposition of
10 statutory penalties.

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

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

1 following fulfillment of the requirements of this
2 subsection (a).

3 (11) Nothing in this subsection (a) is intended to
4 preclude the person complained against from submitting to
5 the Agency, by certified mail, at any time, notification
6 that the person complained against consents to waiver of
7 the requirements of subsections (a) and (b) of this
8 Section.

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

1 Attorney of the county in which the alleged violations
2 occurred for alleged violations which remain the subject of
3 disagreement between the Agency and the person complained
4 against after the provisions of this subsection are
5 fulfilled.

6 (c) (1) For alleged violations which remain the subject
7 of disagreement between the Agency and the person
8 complained against following waiver, pursuant to
9 subdivision (10) of subsection (a) of this Section, or
10 fulfillment of the requirements of subsections (a) and
11 (b) of this Section, the Office of the Illinois Attorney
12 General or the State's Attorney of the county in which
13 the alleged violation occurred shall issue and serve upon
14 the person complained against a written notice, together
15 with a formal complaint, which shall specify the
16 provision of the Act or the rule or regulation or permit
17 or term or condition thereof under which such person is
18 said to be in violation, and a statement of the manner
19 in, and the extent to which such person is said to
20 violate the Act or such rule or regulation or permit or
21 term or condition thereof and shall require the person so
22 complained against to answer the charges of such formal
23 complaint at a hearing before the Board at a time not
24 less than 21 days after the date of notice by the Board,
25 except as provided in Section 34 of this Act. Such
26 complaint shall be accompanied by a notification to the
27 defendant that financing may be available, through the
28 Illinois Environmental Facilities Financing Act, to
29 correct such violation. A copy of such notice of such
30 hearings shall also be sent to any person that has
31 complained to the Agency respecting the respondent within
32 the six months preceding the date of the complaint, and
33 to any person in the county in which the offending
34 activity occurred that has requested notice of

1 enforcement proceedings; 21 days notice of such hearings
2 shall also be published in a newspaper of general
3 circulation in such county. The respondent may file a
4 written answer, and at such hearing the rules prescribed
5 in Sections 32 and 33 of this Act shall apply. In the
6 case of actual or threatened acts outside Illinois
7 contributing to environmental damage in Illinois, the
8 extraterritorial service-of-process provisions of
9 Sections 2-208 and 2-209 of the Code of Civil Procedure
10 shall apply.

11 With respect to notices served pursuant to this
12 subsection (c)(1) which involve hazardous material or
13 wastes in any manner, the Agency shall annually publish a
14 list of all such notices served. The list shall include
15 the date the investigation commenced, the date notice was
16 sent, the date the matter was referred to the Attorney
17 General, if applicable, and the current status of the
18 matter.

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

1 and shall hold a hearing in accordance with the
2 provisions of subdivision (1).

3 (3) Notwithstanding the provisions of subdivision
4 (1) of this subsection (c), if the Agency becomes aware
5 of a violation of this Act arising from, or as a result
6 of, voluntary pollution prevention activities, the Agency
7 shall not proceed with the written notice required by
8 subsection (a) of this Section unless:

9 (A) the person fails to take corrective action
10 or eliminate the reported violation within a
11 reasonable time; or

12 (B) the Agency believes that the violation
13 poses a substantial and imminent danger to the
14 public health or welfare or the environment. For
15 the purposes of this item (B), "substantial and
16 imminent danger" means a danger with a likelihood of
17 serious or irreversible harm.

18 (d) Any person may file with the Board a complaint,
19 meeting the requirements of subsection (c) of this Section,
20 against any person allegedly violating this Act or any rule
21 or regulation thereunder or any permit or term or condition
22 thereof. The complainant shall immediately serve a copy of
23 such complaint upon the person or persons named therein.
24 Unless the Board determines that such complaint is
25 duplicative ~~duplieiteus~~ or frivolous, it shall schedule a
26 hearing and serve written notice thereof upon the person or
27 persons named therein, in accord with subsection (c) of this
28 Section.

29 (e) In hearings before the Board under this Title the
30 burden shall be on the Agency or other complainant to show
31 either that the respondent has caused or threatened to cause
32 air or water pollution or that the respondent has violated or
33 threatens to violate any provision of this Act or any rule or
34 regulation of the Board or permit or term or condition

1 thereof. If such proof has been made, the burden shall be on
2 the respondent to show that compliance with the Board's
3 regulations would impose an arbitrary or unreasonable
4 hardship.

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

8 (Source: P.A. 88-145; 89-596, eff. 8-1-96.)

9 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

10 Sec. 39. Issuance of permits; procedures.

11 (a) When the Board has by regulation required a permit
12 for the construction, installation, or operation of any type
13 of facility, equipment, vehicle, vessel, or aircraft, the
14 applicant shall apply to the Agency for such permit and it
15 shall be the duty of the Agency to issue such a permit upon
16 proof by the applicant that the facility, equipment, vehicle,
17 vessel, or aircraft will not cause a violation of this Act or
18 of regulations hereunder. The Agency shall adopt such
19 procedures as are necessary to carry out its duties under
20 this Section. In granting permits the Agency may impose such
21 conditions as may be necessary to accomplish the purposes of
22 this Act, and as are not inconsistent with the regulations
23 promulgated by the Board hereunder. Except as otherwise
24 provided in this Act, a bond or other security shall not be
25 required as a condition for the issuance of a permit. If the
26 Agency denies any permit under this Section, the Agency shall
27 transmit to the applicant within the time limitations of this
28 Section specific, detailed statements as to the reasons the
29 permit application was denied. Such statements shall
30 include, but not be limited to the following:

31 (i) the Sections of this Act which may be violated
32 if the permit were granted;

33 (ii) the provision of the regulations, promulgated

1 under this Act, which may be violated if the permit were
2 granted;

3 (iii) the specific type of information, if any,
4 which the Agency deems the applicant did not provide the
5 Agency; and

6 (iv) a statement of specific reasons why the Act
7 and the regulations might not be met if the permit were
8 granted.

9 If there is no final action by the Agency within 90 days
10 after the filing of the application for permit, the applicant
11 may deem the permit issued; except that this time period
12 shall be extended to 180 days when (1) notice and opportunity
13 for public hearing are required by State or federal law or
14 regulation, (2) the application which was filed is for any
15 permit to develop a landfill subject to issuance pursuant to
16 this subsection, or (3) the application that was filed is for
17 a MSWLF unit required to issue public notice under subsection
18 (p) of Section 39. The 90-day and 180-day time periods for
19 the Agency to take final action do not apply to NPDES permit
20 applications under subsection (b) of this Section, to RCRA
21 permit applications under subsection (d) of this Section, or
22 to UIC permit applications under subsection (e) of this
23 Section.

24 The Agency shall publish notice of all final permit
25 determinations for development permits for MSWLF units and
26 for significant permit modifications for lateral expansions
27 for existing MSWLF units one time in a newspaper of general
28 circulation in the county in which the unit is or is proposed
29 to be located.

30 After January 1, 1994 and until July 1, 1998, operating
31 permits issued under this Section by the Agency for sources
32 of air pollution permitted to emit less than 25 tons per year
33 of any combination of regulated air pollutants, as defined in
34 Section 39.5 of this Act, shall be required to be renewed

1 only upon written request by the Agency consistent with
2 applicable provisions of this Act and regulations promulgated
3 hereunder. Such operating permits shall expire 180 days
4 after the date of such a request. The Board shall revise its
5 regulations for the existing State air pollution operating
6 permit program consistent with this provision by January 1,
7 1994.

8 After June 30, 1998, operating permits issued under this
9 Section by the Agency for sources of air pollution that are
10 not subject to Section 39.5 of this Act and are not required
11 to have a federally enforceable State operating permit shall
12 be required to be renewed only upon written request by the
13 Agency consistent with applicable provisions of this Act and
14 its rules. Such operating permits shall expire 180 days
15 after the date of such a request. Before July 1, 1998, the
16 Board shall revise its rules for the existing State air
17 pollution operating permit program consistent with this
18 paragraph and shall adopt rules that require a source to
19 demonstrate that it qualifies for a permit under this
20 paragraph.

21 (b) The Agency may issue NPDES permits exclusively under
22 this subsection for the discharge of contaminants from point
23 sources into navigable waters, all as defined in the Federal
24 Water Pollution Control Act, as now or hereafter amended,
25 within the jurisdiction of the State, or into any well.

26 All NPDES permits shall contain those terms and
27 conditions, including but not limited to schedules of
28 compliance, which may be required to accomplish the purposes
29 and provisions of this Act.

30 The Agency may issue general NPDES permits for discharges
31 from categories of point sources which are subject to the
32 same permit limitations and conditions. Such general permits
33 may be issued without individual applications and shall
34 conform to regulations promulgated under Section 402 of the

1 Federal Water Pollution Control Act, as now or hereafter
2 amended.

3 The Agency may include, among such conditions, effluent
4 limitations and other requirements established under this
5 Act, Board regulations, the Federal Water Pollution Control
6 Act, as now or hereafter amended, and regulations pursuant
7 thereto, and schedules for achieving compliance therewith at
8 the earliest reasonable date.

9 The Agency shall adopt filing requirements and procedures
10 which are necessary and appropriate for the issuance of NPDES
11 permits, and which are consistent with the Act or regulations
12 adopted by the Board, and with the Federal Water Pollution
13 Control Act, as now or hereafter amended, and regulations
14 pursuant thereto.

15 The Agency, subject to any conditions which may be
16 prescribed by Board regulations, may issue NPDES permits to
17 allow discharges beyond deadlines established by this Act or
18 by regulations of the Board without the requirement of a
19 variance, subject to the Federal Water Pollution Control Act,
20 as now or hereafter amended, and regulations pursuant
21 thereto.

22 (c) Except for those facilities owned or operated by
23 sanitary districts organized under the Metropolitan Water
24 Reclamation District Act, no permit for the development or
25 construction of a new pollution control facility may be
26 granted by the Agency unless the applicant submits proof to
27 the Agency that the location of the facility has been
28 approved by the County Board of the county if in an
29 unincorporated area, or the governing body of the
30 municipality when in an incorporated area, in which the
31 facility is to be located in accordance with Section 39.2 of
32 this Act.

33 In the event that siting approval granted pursuant to
34 Section 39.2 has been transferred to a subsequent owner or

1 operator, that subsequent owner or operator may apply to the
2 Agency for, and the Agency may grant, a development or
3 construction permit for the facility for which local siting
4 approval was granted. Upon application to the Agency for a
5 development or construction permit by that subsequent owner
6 or operator, the permit applicant shall cause written notice
7 of the permit application to be served upon the appropriate
8 county board or governing body of the municipality that
9 granted siting approval for that facility and upon any party
10 to the siting proceeding pursuant to which siting approval
11 was granted. In that event, the Agency shall conduct an
12 evaluation of the subsequent owner or operator's prior
13 experience in waste management operations in the manner
14 conducted under subsection (i) of Section 39 of this Act.

15 Beginning August 20, 1993, if the pollution control
16 facility consists of a hazardous or solid waste disposal
17 facility for which the proposed site is located in an
18 unincorporated area of a county with a population of less
19 than 100,000 and includes all or a portion of a parcel of
20 land that was, on April 1, 1993, adjacent to a municipality
21 having a population of less than 5,000, then the local siting
22 review required under this subsection (c) in conjunction with
23 any permit applied for after that date shall be performed by
24 the governing body of that adjacent municipality rather than
25 the county board of the county in which the proposed site is
26 located; and for the purposes of that local siting review,
27 any references in this Act to the county board shall be
28 deemed to mean the governing body of that adjacent
29 municipality; provided, however, that the provisions of this
30 paragraph shall not apply to any proposed site which was, on
31 April 1, 1993, owned in whole or in part by another
32 municipality.

33 In the case of a pollution control facility for which a
34 development permit was issued before November 12, 1981, if an

1 operating permit has not been issued by the Agency prior to
2 August 31, 1989 for any portion of the facility, then the
3 Agency may not issue or renew any development permit nor
4 issue an original operating permit for any portion of such
5 facility unless the applicant has submitted proof to the
6 Agency that the location of the facility has been approved by
7 the appropriate county board or municipal governing body
8 pursuant to Section 39.2 of this Act.

9 After January 1, 1994, if a solid waste disposal
10 facility, any portion for which an operating permit has been
11 issued by the Agency, has not accepted waste disposal for 5
12 or more consecutive calendar years, before that facility may
13 accept any new or additional waste for disposal, the owner
14 and operator must obtain a new operating permit under this
15 Act for that facility unless the owner and operator have
16 applied to the Agency for a permit authorizing the temporary
17 suspension of waste acceptance. The Agency may not issue a
18 new operation permit under this Act for the facility unless
19 the applicant has submitted proof to the Agency that the
20 location of the facility has been approved or re-approved by
21 the appropriate county board or municipal governing body
22 under Section 39.2 of this Act after the facility ceased
23 accepting waste.

24 Except for those facilities owned or operated by sanitary
25 districts organized under the Metropolitan Water Reclamation
26 District Act, and except for new pollution control facilities
27 governed by Section 39.2, and except for fossil fuel mining
28 facilities, the granting of a permit under this Act shall not
29 relieve the applicant from meeting and securing all necessary
30 zoning approvals from the unit of government having zoning
31 jurisdiction over the proposed facility.

32 Before beginning construction on any new sewage treatment
33 plant or sludge drying site to be owned or operated by a
34 sanitary district organized under the Metropolitan Water

1 Reclamation District Act for which a new permit (rather than
2 the renewal or amendment of an existing permit) is required,
3 such sanitary district shall hold a public hearing within the
4 municipality within which the proposed facility is to be
5 located, or within the nearest community if the proposed
6 facility is to be located within an unincorporated area, at
7 which information concerning the proposed facility shall be
8 made available to the public, and members of the public shall
9 be given the opportunity to express their views concerning
10 the proposed facility.

11 The Agency may issue a permit for a municipal waste
12 transfer station without requiring approval pursuant to
13 Section 39.2 provided that the following demonstration is
14 made:

15 (1) the municipal waste transfer station was in
16 existence on or before January 1, 1979 and was in
17 continuous operation from January 1, 1979 to January 1,
18 1993;

19 (2) the operator submitted a permit application to
20 the Agency to develop and operate the municipal waste
21 transfer station during April of 1994;

22 (3) the operator can demonstrate that the county
23 board of the county, if the municipal waste transfer
24 station is in an unincorporated area, or the governing
25 body of the municipality, if the station is in an
26 incorporated area, does not object to resumption of the
27 operation of the station; and

28 (4) the site has local zoning approval.

29 (d) The Agency may issue RCRA permits exclusively under
30 this subsection to persons owning or operating a facility for
31 the treatment, storage, or disposal of hazardous waste as
32 defined under this Act.

33 All RCRA permits shall contain those terms and
34 conditions, including but not limited to schedules of

1 compliance, which may be required to accomplish the purposes
2 and provisions of this Act. The Agency may include among
3 such conditions standards and other requirements established
4 under this Act, Board regulations, the Resource Conservation
5 and Recovery Act of 1976 (P.L. 94-580), as amended, and
6 regulations pursuant thereto, and may include schedules for
7 achieving compliance therewith as soon as possible. The
8 Agency shall require that a performance bond or other
9 security be provided as a condition for the issuance of a
10 RCRA permit.

11 In the case of a permit to operate a hazardous waste or
12 PCB incinerator as defined in subsection (k) of Section 44,
13 the Agency shall require, as a condition of the permit, that
14 the operator of the facility perform such analyses of the
15 waste to be incinerated as may be necessary and appropriate
16 to ensure the safe operation of the incinerator.

17 The Agency shall adopt filing requirements and procedures
18 which are necessary and appropriate for the issuance of RCRA
19 permits, and which are consistent with the Act or regulations
20 adopted by the Board, and with the Resource Conservation and
21 Recovery Act of 1976 (P.L. 94-580), as amended, and
22 regulations pursuant thereto.

23 The applicant shall make available to the public for
24 inspection all documents submitted by the applicant to the
25 Agency in furtherance of an application, with the exception
26 of trade secrets, at the office of the county board or
27 governing body of the municipality. Such documents may be
28 copied upon payment of the actual cost of reproduction during
29 regular business hours of the local office. The Agency shall
30 issue a written statement concurrent with its grant or denial
31 of the permit explaining the basis for its decision.

32 (e) The Agency may issue UIC permits exclusively under
33 this subsection to persons owning or operating a facility for
34 the underground injection of contaminants as defined under

1 this Act.

2 All UIC permits shall contain those terms and conditions,
3 including but not limited to schedules of compliance, which
4 may be required to accomplish the purposes and provisions of
5 this Act. The Agency may include among such conditions
6 standards and other requirements established under this Act,
7 Board regulations, the Safe Drinking Water Act (P.L. 93-523),
8 as amended, and regulations pursuant thereto, and may include
9 schedules for achieving compliance therewith. The Agency
10 shall require that a performance bond or other security be
11 provided as a condition for the issuance of a UIC permit.

12 The Agency shall adopt filing requirements and procedures
13 which are necessary and appropriate for the issuance of UIC
14 permits, and which are consistent with the Act or regulations
15 adopted by the Board, and with the Safe Drinking Water Act
16 (P.L. 93-523), as amended, and regulations pursuant thereto.

17 The applicant shall make available to the public for
18 inspection, all documents submitted by the applicant to the
19 Agency in furtherance of an application, with the exception
20 of trade secrets, at the office of the county board or
21 governing body of the municipality. Such documents may be
22 copied upon payment of the actual cost of reproduction during
23 regular business hours of the local office. The Agency shall
24 issue a written statement concurrent with its grant or denial
25 of the permit explaining the basis for its decision.

26 (f) In making any determination pursuant to Section 9.1
27 of this Act:

28 (1) The Agency shall have authority to make the
29 determination of any question required to be determined
30 by the Clean Air Act, as now or hereafter amended, this
31 Act, or the regulations of the Board, including the
32 determination of the Lowest Achievable Emission Rate,
33 Maximum Achievable Control Technology, or Best Available
34 Control Technology, consistent with the Board's

1 regulations, if any.

2 (2) The Agency shall, after conferring with the
3 applicant, give written notice to the applicant of its
4 proposed decision on the application including the terms
5 and conditions of the permit to be issued and the facts,
6 conduct or other basis upon which the Agency will rely to
7 support its proposed action.

8 (3) Following such notice, the Agency shall give
9 the applicant an opportunity for a hearing in accordance
10 with the provisions of Sections 10-25 through 10-60 of
11 the Illinois Administrative Procedure Act.

12 (g) The Agency shall include as conditions upon all
13 permits issued for hazardous waste disposal sites such
14 restrictions upon the future use of such sites as are
15 reasonably necessary to protect public health and the
16 environment, including permanent prohibition of the use of
17 such sites for purposes which may create an unreasonable risk
18 of injury to human health or to the environment. After
19 administrative and judicial challenges to such restrictions
20 have been exhausted, the Agency shall file such restrictions
21 of record in the Office of the Recorder of the county in
22 which the hazardous waste disposal site is located.

23 (h) A hazardous waste stream may not be deposited in a
24 permitted hazardous waste site unless specific authorization
25 is obtained from the Agency by the generator and disposal
26 site owner and operator for the deposit of that specific
27 hazardous waste stream. The Agency may grant specific
28 authorization for disposal of hazardous waste streams only
29 after the generator has reasonably demonstrated that,
30 considering technological feasibility and economic
31 reasonableness, the hazardous waste cannot be reasonably
32 recycled for reuse, nor incinerated or chemically, physically
33 or biologically treated so as to neutralize the hazardous
34 waste and render it nonhazardous. In granting authorization

1 under this Section, the Agency may impose such conditions as
2 may be necessary to accomplish the purposes of the Act and
3 are consistent with this Act and regulations promulgated by
4 the Board hereunder. If the Agency refuses to grant
5 authorization under this Section, the applicant may appeal as
6 if the Agency refused to grant a permit, pursuant to the
7 provisions of subsection (a) of Section 40 of this Act. For
8 purposes of this subsection (h), the term "generator" has the
9 meaning given in Section 3.205 ~~3-12~~ of this Act, unless: (1)
10 the hazardous waste is treated, incinerated, or partially
11 recycled for reuse prior to disposal, in which case the last
12 person who treats, incinerates, or partially recycles the
13 hazardous waste prior to disposal is the generator; or (2)
14 the hazardous waste is from a response action, in which case
15 the person performing the response action is the generator.
16 This subsection (h) does not apply to any hazardous waste
17 that is restricted from land disposal under 35 Ill. Adm. Code
18 728.

19 (i) Before issuing any RCRA permit or any permit for a
20 waste storage site, sanitary landfill, waste disposal site,
21 waste transfer station, waste treatment facility, waste
22 incinerator, or any waste-transportation operation, the
23 Agency shall conduct an evaluation of the prospective owner's
24 or operator's prior experience in waste management
25 operations. The Agency may deny such a permit if the
26 prospective owner or operator or any employee or officer of
27 the prospective owner or operator has a history of:

28 (1) repeated violations of federal, State, or local
29 laws, regulations, standards, or ordinances in the
30 operation of waste management facilities or sites; or

31 (2) conviction in this or another State of any
32 crime which is a felony under the laws of this State, or
33 conviction of a felony in a federal court; or

34 (3) proof of gross carelessness or incompetence in

1 handling, storing, processing, transporting or disposing
2 of waste.

3 (j) The issuance under this Act of a permit to engage in
4 the surface mining of any resources other than fossil fuels
5 shall not relieve the permittee from its duty to comply with
6 any applicable local law regulating the commencement,
7 location or operation of surface mining facilities.

8 (k) A development permit issued under subsection (a) of
9 Section 39 for any facility or site which is required to have
10 a permit under subsection (d) of Section 21 shall expire at
11 the end of 2 calendar years from the date upon which it was
12 issued, unless within that period the applicant has taken
13 action to develop the facility or the site. In the event that
14 review of the conditions of the development permit is sought
15 pursuant to Section 40 or 41, or permittee is prevented from
16 commencing development of the facility or site by any other
17 litigation beyond the permittee's control, such two-year
18 period shall be deemed to begin on the date upon which such
19 review process or litigation is concluded.

20 (l) No permit shall be issued by the Agency under this
21 Act for construction or operation of any facility or site
22 located within the boundaries of any setback zone established
23 pursuant to this Act, where such construction or operation is
24 prohibited.

25 (m) The Agency may issue permits to persons owning or
26 operating a facility for composting landscape waste. In
27 granting such permits, the Agency may impose such conditions
28 as may be necessary to accomplish the purposes of this Act,
29 and as are not inconsistent with applicable regulations
30 promulgated by the Board. Except as otherwise provided in
31 this Act, a bond or other security shall not be required as a
32 condition for the issuance of a permit. If the Agency denies
33 any permit pursuant to this subsection, the Agency shall
34 transmit to the applicant within the time limitations of this

1 subsection specific, detailed statements as to the reasons
2 the permit application was denied. Such statements shall
3 include but not be limited to the following:

4 (1) the Sections of this Act that may be violated
5 if the permit were granted;

6 (2) the specific regulations promulgated pursuant
7 to this Act that may be violated if the permit were
8 granted;

9 (3) the specific information, if any, the Agency
10 deems the applicant did not provide in its application to
11 the Agency; and

12 (4) a statement of specific reasons why the Act and
13 the regulations might be violated if the permit were
14 granted.

15 If no final action is taken by the Agency within 90 days
16 after the filing of the application for permit, the applicant
17 may deem the permit issued. Any applicant for a permit may
18 waive the 90 day limitation by filing a written statement
19 with the Agency.

20 The Agency shall issue permits for such facilities upon
21 receipt of an application that includes a legal description
22 of the site, a topographic map of the site drawn to the scale
23 of 200 feet to the inch or larger, a description of the
24 operation, including the area served, an estimate of the
25 volume of materials to be processed, and documentation that:

26 (1) the facility includes a setback of at least 200
27 feet from the nearest potable water supply well;

28 (2) the facility is located outside the boundary of
29 the 10-year floodplain or the site will be floodproofed;

30 (3) the facility is located so as to minimize
31 incompatibility with the character of the surrounding
32 area, including at least a 200 foot setback from any
33 residence, and in the case of a facility that is
34 developed or the permitted composting area of which is

1 expanded after November 17, 1991, the composting area is
2 located at least 1/8 mile from the nearest residence
3 (other than a residence located on the same property as
4 the facility);

5 (4) the design of the facility will prevent any
6 compost material from being placed within 5 feet of the
7 water table, will adequately control runoff from the
8 site, and will collect and manage any leachate that is
9 generated on the site;

10 (5) the operation of the facility will include
11 appropriate dust and odor control measures, limitations
12 on operating hours, appropriate noise control measures
13 for shredding, chipping and similar equipment, management
14 procedures for composting, containment and disposal of
15 non-compostable wastes, procedures to be used for
16 terminating operations at the site, and recordkeeping
17 sufficient to document the amount of materials received,
18 composted and otherwise disposed of; and

19 (6) the operation will be conducted in accordance
20 with any applicable rules adopted by the Board.

21 The Agency shall issue renewable permits of not longer
22 than 10 years in duration for the composting of landscape
23 wastes, as defined in Section 3.155 3-70 of this Act, based
24 on the above requirements.

25 The operator of any facility permitted under this
26 subsection (m) must submit a written annual statement to the
27 Agency on or before April 1 of each year that includes an
28 estimate of the amount of material, in tons, received for
29 composting.

30 (n) The Agency shall issue permits jointly with the
31 Department of Transportation for the dredging or deposit of
32 material in Lake Michigan in accordance with Section 18 of
33 the Rivers, Lakes, and Streams Act.

34 (o) (Blank.) ~~From--September-4, 1990-until-December-31,~~

1 1993, no permit shall be issued by the Agency for the
2 development or construction of any new facility intended to
3 be used for the incineration of any hazardous waste. This
4 subsection shall not apply to facilities intended for use for
5 combustion of potentially infectious medical waste, for use
6 as part of a State or federally designated clean-up action,
7 or for use solely for the conduct of research and the
8 development and demonstration of technologies for the
9 incineration of hazardous waste.

10 (p) (1) Any person submitting an application for a
11 permit for a new MSWLF unit or for a lateral expansion under
12 subsection (t) of Section 21 of this Act for an existing
13 MSWLF unit that has not received and is not subject to local
14 siting approval under Section 39.2 of this Act shall publish
15 notice of the application in a newspaper of general
16 circulation in the county in which the MSWLF unit is or is
17 proposed to be located. The notice must be published at
18 least 15 days before submission of the permit application to
19 the Agency. The notice shall state the name and address of
20 the applicant, the location of the MSWLF unit or proposed
21 MSWLF unit, the nature and size of the MSWLF unit or proposed
22 MSWLF unit, the nature of the activity proposed, the probable
23 life of the proposed activity, the date the permit
24 application will be submitted, and a statement that persons
25 may file written comments with the Agency concerning the
26 permit application within 30 days after the filing of the
27 permit application unless the time period to submit comments
28 is extended by the Agency.

29 When a permit applicant submits information to the Agency
30 to supplement a permit application being reviewed by the
31 Agency, the applicant shall not be required to reissue the
32 notice under this subsection.

33 (2) The Agency shall accept written comments concerning
34 the permit application that are postmarked no later than 30

1 days after the filing of the permit application, unless the
2 time period to accept comments is extended by the Agency.

3 (3) Each applicant for a permit described in part (1) of
4 this subsection shall file a copy of the permit application
5 with the county board or governing body of the municipality
6 in which the MSWLF unit is or is proposed to be located at
7 the same time the application is submitted to the Agency.
8 The permit application filed with the county board or
9 governing body of the municipality shall include all
10 documents submitted to or to be submitted to the Agency,
11 except trade secrets as determined under Section 7.1 of this
12 Act. The permit application and other documents on file with
13 the county board or governing body of the municipality shall
14 be made available for public inspection during regular
15 business hours at the office of the county board or the
16 governing body of the municipality and may be copied upon
17 payment of the actual cost of reproduction.

18 (Source: P.A. 89-487, eff. 6-21-96; 89-556, eff. 7-26-96;
19 90-14, eff. 7-1-97; 90-367, eff. 8-10-97; 90-537, eff.
20 11-26-97; 90-655, eff 7-30-98.)

21 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

22 Sec. 39.2. Local siting review.

23 (a) The county board of the county or the governing body
24 of the municipality, as determined by paragraph (c) of
25 Section 39 of this Act, shall approve or disapprove the
26 request for local siting approval for each pollution control
27 facility which is subject to such review. An applicant for
28 local siting approval shall submit sufficient details
29 describing the proposed facility to demonstrate compliance,
30 and local siting approval shall be granted only if the
31 proposed facility meets the following criteria:

32 (i) the facility is necessary to accommodate the
33 waste needs of the area it is intended to serve;

1 (ii) the facility is so designed, located and
2 proposed to be operated that the public health, safety
3 and welfare will be protected;

4 (iii) the facility is located so as to minimize
5 incompatibility with the character of the surrounding
6 area and to minimize the effect on the value of the
7 surrounding property;

8 (iv) (A) for a facility other than a sanitary
9 landfill or waste disposal site, the facility is located
10 outside the boundary of the 100 year flood plain or the
11 site is flood-proofed; (B) for a facility that is a
12 sanitary landfill or waste disposal site, the facility is
13 located outside the boundary of the 100-year floodplain,
14 or if the facility is a facility described in subsection
15 (b)(3) of Section 22.19a, the site is flood-proofed;

16 (v) the plan of operations for the facility is
17 designed to minimize the danger to the surrounding area
18 from fire, spills, or other operational accidents;

19 (vi) the traffic patterns to or from the facility
20 are so designed as to minimize the impact on existing
21 traffic flows;

22 (vii) if the facility will be treating, storing or
23 disposing of hazardous waste, an emergency response plan
24 exists for the facility which includes notification,
25 containment and evacuation procedures to be used in case
26 of an accidental release;

27 (viii) if the facility is to be located in a county
28 where the county board has adopted a solid waste
29 management plan consistent with the planning requirements
30 of the Local Solid Waste Disposal Act or the Solid Waste
31 Planning and Recycling Act, the facility is consistent
32 with that plan; and

33 (ix) if the facility will be located within a
34 regulated recharge area, any applicable requirements

1 specified by the Board for such areas have been met.

2 The county board or the governing body of the
3 municipality may also consider as evidence the previous
4 operating experience and past record of convictions or
5 admissions of violations of the applicant (and any subsidiary
6 or parent corporation) in the field of solid waste management
7 when considering criteria (ii) and (v) under this Section.

8 (b) No later than 14 days before the date on which the
9 county board or governing body of the municipality receives
10 ~~prior--to~~ a request for site location approval, the applicant
11 shall cause written notice of such request to be served
12 either in person or by registered mail, return receipt
13 requested, on the owners of all property within the subject
14 area not solely owned by the applicant, and on the owners of
15 all property within 250 feet in each direction of the lot
16 line of the subject property, said owners being such persons
17 or entities which appear from the authentic tax records of
18 the County in which such facility is to be located; provided,
19 that the number of all feet occupied by all public roads,
20 streets, alleys and other public ways shall be excluded in
21 computing the 250 feet requirement; provided further, that in
22 no event shall this requirement exceed 400 feet, including
23 public streets, alleys and other public ways.

24 Such written notice shall also be served upon members of
25 the General Assembly from the legislative district in which
26 the proposed facility is located and shall be published in a
27 newspaper of general circulation published in the county in
28 which the site is located.

29 Such notice shall state the name and address of the
30 applicant, the location of the proposed site, the nature and
31 size of the development, the nature of the activity proposed,
32 the probable life of the proposed activity, the date when the
33 request for site approval will be submitted, and a
34 description of the right of persons to comment on such

1 request as hereafter provided.

2 (c) An applicant shall file a copy of its request with
3 the county board of the county or the governing body of the
4 municipality in which the proposed site is located. The
5 request shall include (i) the substance of the applicant's
6 proposal and (ii) all documents, if any, submitted as of that
7 date to the Agency pertaining to the proposed facility,
8 except trade secrets as determined under Section 7.1 of this
9 Act. All such documents or other materials on file with the
10 county board or governing body of the municipality shall be
11 made available for public inspection at the office of the
12 county board or the governing body of the municipality and
13 may be copied upon payment of the actual cost of
14 reproduction.

15 Any person may file written comment with the county board
16 or governing body of the municipality concerning the
17 appropriateness of the proposed site for its intended
18 purpose. The county board or governing body of the
19 municipality shall consider any comment received or
20 postmarked not later than 30 days after the date of the last
21 public hearing.

22 (d) At least one public hearing is to be held by the
23 county board or governing body of the municipality no sooner
24 than 90 days but no later than 120 days after the date on
25 which it received ~~from--receipt--of~~ the request for site
26 approval. No later than 14 days prior to such hearing,
27 notice shall be published in a newspaper of general
28 circulation published in the county of the proposed site, and
29 delivered by certified mail to all members of the General
30 Assembly from the district in which the proposed site is
31 located, to the governing authority of every municipality
32 contiguous to the proposed site or contiguous to the
33 municipality in which the proposed site is to be located, to
34 the county board of the county where the proposed site is to

1 be located, if the proposed site is located within the
2 boundaries of a municipality, and to the Agency. Members or
3 representatives of the governing authority of a municipality
4 contiguous to the proposed site or contiguous to the
5 municipality in which the proposed site is to be located
6 and, if the proposed site is located in a municipality,
7 members or representatives of the county board of a county in
8 which the proposed site is to be located may appear at and
9 participate in public hearings held pursuant to this Section.
10 The public hearing shall develop a record sufficient to form
11 the basis of appeal of the decision in accordance with
12 Section 40.1 of this Act. The fact that a member of the
13 county board or governing body of the municipality has
14 publicly expressed an opinion on an issue related to a site
15 review proceeding shall not preclude the member from taking
16 part in the proceeding and voting on the issue.

17 (e) Decisions of the county board or governing body of
18 the municipality are to be in writing, specifying the reasons
19 for the decision, such reasons to be in conformance with
20 subsection (a) of this Section. In granting approval for a
21 site the county board or governing body of the municipality
22 may impose such conditions as may be reasonable and necessary
23 to accomplish the purposes of this Section and as are not
24 inconsistent with regulations promulgated by the Board. Such
25 decision shall be available for public inspection at the
26 office of the county board or governing body of the
27 municipality and may be copied upon payment of the actual
28 cost of reproduction. If there is no final action by the
29 county board or governing body of the municipality within 180
30 days after the date on which it received filing--of the
31 request for site approval, the applicant may deem the request
32 approved.

33 At any time prior to completion by the applicant of the
34 presentation of the applicant's factual evidence and an

1 opportunity for cross-questioning by the county board or
2 governing body of the municipality and any participants, the
3 applicant may file not more than one amended application upon
4 payment of additional fees pursuant to subsection (k); in
5 which case the time limitation for final action set forth in
6 this subsection (e) shall be extended for an additional
7 period of 90 days.

8 If, prior to making a final local siting decision, a
9 county board or governing body of a municipality has
10 negotiated and entered into a host agreement with the local
11 siting applicant, the terms and conditions of the host
12 agreement, whether written or oral, shall be disclosed and
13 made a part of the hearing record for that local siting
14 proceeding. In the case of an oral agreement, the disclosure
15 shall be made in the form of a written summary jointly
16 prepared and submitted by the county board or governing body
17 of the municipality and the siting applicant and shall
18 describe the terms and conditions of the oral agreement.

19 (e-5) Siting approval obtained pursuant to this Section
20 is transferable and may be transferred to a subsequent owner
21 or operator. In the event that siting approval has been
22 transferred to a subsequent owner or operator, that
23 subsequent owner or operator assumes and takes subject to any
24 and all conditions imposed upon the prior owner or operator
25 by the county board of the county or governing body of the
26 municipality pursuant to subsection (e). However, any such
27 conditions imposed pursuant to this Section may be modified
28 by agreement between the subsequent owner or operator and the
29 appropriate county board or governing body. Further, in the
30 event that siting approval obtained pursuant to this Section
31 has been transferred to a subsequent owner or operator, that
32 subsequent owner or operator assumes all rights and
33 obligations and takes the facility subject to any and all
34 terms and conditions of any existing host agreement between

1 the prior owner or operator and the appropriate county board
2 or governing body.

3 (f) A local siting approval granted under this Section
4 shall expire at the end of 2 calendar years from the date
5 upon which it was granted, unless the local siting approval
6 granted under this Section is for a sanitary landfill
7 operation, in which case the approval shall expire at the end
8 of 3 calendar years from the date upon which it was granted,
9 and unless within that period the applicant has made
10 application to the Agency for a permit to develop the site.
11 In the event that the local siting decision has been
12 appealed, such expiration period shall be deemed to begin on
13 the date upon which the appeal process is concluded.

14 Except as otherwise provided in this subsection, upon the
15 expiration of a development permit under subsection (k) of
16 Section 39, any associated local siting approval granted for
17 the facility under this Section shall also expire.

18 If a first development permit for a municipal waste
19 incineration facility expires under subsection (k) of Section
20 39 after September 30, 1989 due to circumstances beyond the
21 control of the applicant, any associated local siting
22 approval granted for the facility under this Section may be
23 used to fulfill the local siting approval requirement upon
24 application for a second development permit for the same
25 site, provided that the proposal in the new application is
26 materially the same, with respect to the criteria in
27 subsection (a) of this Section, as the proposal that received
28 the original siting approval, and application for the second
29 development permit is made before January 1, 1990.

30 (g) The siting approval procedures, criteria and appeal
31 procedures provided for in this Act for new pollution control
32 facilities shall be the exclusive siting procedures and rules
33 and appeal procedures for facilities subject to such
34 procedures. Local zoning or other local land use requirements

1 shall not be applicable to such siting decisions.

2 (h) Nothing in this Section shall apply to any existing
3 or new pollution control facility located within the
4 corporate limits of a municipality with a population of over
5 1,000,000.

6 (i) (Blank.) ~~The--Department--shall--make--a--study--of~~
7 ~~technical--considerations--relating--to--the--siting--of--new~~
8 ~~pollution--control--facilities.--Such--study--shall--include,--but~~
9 ~~need--not--be--limited--to,--a--determination--of--the--geologic--and~~
10 ~~hydrologic--conditions--in--the--State--most--suitable--for--the~~
11 ~~siting--of--such--facilities,--the--establishment--of--a--data--base~~
12 ~~on--such--conditions--in--Illinois,--and--recommendations--for--the~~
13 ~~establishment--of--technical--guidelines--and--criteria--to--be--used~~
14 ~~in--making--such--siting--decisions,--The--Department--shall--report~~
15 ~~such--study--and--recommendations--to--the--General--Assembly,--the~~
16 ~~Governor,--the--Board--and--the--public--no--later--than--October--1,--~~
17 ~~1984.~~

18 The Board shall adopt regulations establishing the
19 geologic and hydrologic siting criteria necessary to protect
20 usable groundwater resources which are to be followed by the
21 Agency in its review of permit applications for new pollution
22 control facilities. Such regulations, insofar as they apply
23 to new pollution control facilities authorized to store,
24 treat or dispose of any hazardous waste, shall be at least as
25 stringent as the requirements of the Resource Conservation
26 and Recovery Act and any State or federal regulations adopted
27 pursuant thereto.

28 (j) Any new pollution control facility which has never
29 obtained local siting approval under the provisions of this
30 Section shall be required to obtain such approval after a
31 final decision on an appeal of a permit denial.

32 (k) A county board or governing body of a municipality
33 may charge applicants for siting review under this Section a
34 reasonable fee to cover the reasonable and necessary costs

1 incurred by such county or municipality in the siting review
2 process.

3 (l) The governing Authority as determined by subsection
4 (c) of Section 39 of this Act may request the Department of
5 Transportation to perform traffic impact studies of proposed
6 or potential locations for required pollution control
7 facilities.

8 (m) An applicant may not file a request for local siting
9 approval which is substantially the same as a request which
10 was disapproved pursuant to a finding against the applicant
11 under any of criteria (i) through (ix) of subsection (a) of
12 this Section within the preceding 2 years.

13 (n) In any review proceeding of a decision of the county
14 board or governing body of a municipality made pursuant to
15 the local siting review process, the petitioner in the review
16 proceeding shall pay to the county or municipality the cost
17 of preparing and certifying the record of proceedings.
18 Should the petitioner in the review proceeding fail to make
19 payment, the provisions of Section 3-109 of the Code of Civil
20 Procedure shall apply.

21 In the event the petitioner is a citizens' group that
22 participated in the siting proceeding and is so located as to
23 be affected by the proposed facility, such petitioner shall
24 be exempt from paying the costs of preparing and certifying
25 the record.

26 (o) Notwithstanding any other provision of this Section,
27 a transfer station used exclusively for landscape waste,
28 where landscape waste is held no longer than 24 hours from
29 the time it was received, is not subject to the requirements
30 of local siting approval under this Section, but is subject
31 only to local zoning approval.

32 (Source: P.A. 90-217, eff. 1-1-98; 90-409, eff. 8-15-97;
33 90-503, eff. 8-19-97; 90-537, eff. 11-26-97; 90-655, eff.
34 7-30-98; 91-588, eff. 8-14-99.)

1 (415 ILCS 5/39.3) (from Ch. 111 1/2, par. 1039.3)

2 Sec. 39.3. Hazardous waste facilities.

3 (a) The provisions of this Section apply to any
4 application for a permit under the Solid Waste Rules of the
5 Board's Rules and Regulations to develop a new pollution
6 control facility for the disposal of hazardous waste, and to
7 any application to modify the development of an existing site
8 or facility which would allow the disposal of hazardous waste
9 for the first time. The requirements of this Section are in
10 addition to any other procedures as may be required by law.

11 (b) Any application for a permit under this Section
12 shall be made to the Agency, and shall be accompanied by
13 proof that notice of the application has been served upon the
14 Attorney General, the State's Attorney and the Chairman of
15 the County Board of the county in which the facility is
16 proposed to be located, each member of the General Assembly
17 from the legislative district in which the facility is
18 proposed to be located, and the clerk of each municipality,
19 any portion of which is within three miles of the boundary of
20 the facility. Upon the request of any person upon whom
21 notice is required to be served, the applicant shall promptly
22 furnish a copy of the application to the person making the
23 request.

24 (c) (i) Not more than 90 days after receipt of a
25 complete application for a permit under this Section, the
26 Agency shall give public notice of its preliminary
27 determination to either issue or deny the permit, and shall
28 give notice of the opportunity for a public hearing on that
29 preliminary determination under this Section. Upon the
30 request of the permit applicant, or of any other person who
31 is admitted as a party pursuant to subsection (d), the Agency
32 shall schedule a public hearing pursuant to subsection (e).

33 (ii) The Agency notice shall be published in a newspaper
34 of general circulation in the county in which the site is

1 proposed to be located, and shall be served upon the Attorney
2 General, the State's Attorney and the Chairman of the County
3 Board of the county in which the facility is proposed to be
4 located, each member of the General Assembly from the
5 legislative district in which the facility is proposed to be
6 located, and the clerk of each municipality, any portion of
7 which is within three miles of the boundary of the facility.

8 (iii) The contents, form, and manner of service of the
9 Agency notice shall conform to the requirements of Section
10 10-25 of the Illinois Administrative Procedure Act.

11 (d) Within 60 days after the date of the Agency notice
12 required by subsection (c) of this Section, any person who
13 may be adversely affected by an Agency decision on the permit
14 application may petition the Agency to intervene before the
15 Agency as a party. The petition to intervene shall contain a
16 short and plain statement identifying the petitioner and
17 stating the petitioner's interest. The petitioner shall
18 serve the petition upon the applicant for the permit and upon
19 any other persons who have petitioned to intervene. Unless
20 the Agency determines that the petition is duplicative
21 ~~duplicative~~ or frivolous, it shall admit the petitioner as a
22 party.

23 (e) (i) Not less than 60 days nor more than 180 days
24 after the date of the Agency notice required by subsection
25 (c) of this Section, the Agency shall commence the public
26 hearing required by this Section.

27 (ii) The public hearing and other proceedings required
28 by this Section shall be conducted in accordance with the
29 provisions concerning contested cases of the Illinois
30 Administrative Procedure Act.

31 (iii) The public hearing required by this Section may,
32 with the concurrence of the Agency, the permit applicant and
33 the County Board of the county or the governing body of the
34 municipality, be conducted jointly with the public hearing

1 required by Section 39.2 of this Act.

2 (iv) All documents submitted to the Agency in connection
3 with the public hearing shall be reproduced and filed at the
4 office of the county board or governing body of the
5 municipality and may be copied upon payment of the actual
6 cost of reproduction.

7 (f) Within sixty days of the completion of the public
8 hearing required by this Section the Agency shall render a
9 final decision either granting or denying the permit.

10 (g) The Agency shall adopt such procedural rules as may
11 be necessary and appropriate to carry out its duties under
12 this Section which are not inconsistent with the requirements
13 of this Section. In adopting such procedural rules the
14 Agency shall follow the requirements concerning rulemaking of
15 the Illinois Administrative Procedure Act.

16 (h) This Section shall not apply to permits issued by
17 the Agency pursuant to authority delegated from the United
18 States pursuant to the Resource Conservation and Recovery Act
19 of 1976, P.L. 94-580, as amended, or the Safe Drinking Water
20 Act, P.L. 93-523, as amended.

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

22 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

23 Sec. 40. Appeal of permit denial.

24 (a) (1) If the Agency refuses to grant or grants with
25 conditions a permit under Section 39 of this Act, the
26 applicant may, within 35 days after the date on which the
27 Agency served its decision on the applicant, petition for a
28 hearing before the Board to contest the decision of the
29 Agency. However, the 35-day period for petitioning for a
30 hearing may be extended for an additional a period of time
31 not to exceed 90 days by written notice provided to the Board
32 from the applicant and the Agency within the initial appeal
33 period. The Board shall give 21 day notice to any person in

1 the county where is located the facility in issue who has
2 requested notice of enforcement proceedings and to each
3 member of the General Assembly in whose legislative district
4 that installation or property is located; and shall publish
5 that 21 day notice in a newspaper of general circulation in
6 that county. The Agency shall appear as respondent in such
7 hearing. At such hearing the rules prescribed in Section 32
8 and subsection (a) of Section 33 of this Act shall apply, and
9 the burden of proof shall be on the petitioner. If, however,
10 the Agency issues an NPDES permit that imposes limits which
11 are based upon a criterion or denies a permit based upon
12 application of a criterion, then the Agency shall have the
13 burden of going forward with the basis for the derivation of
14 those limits or criterion which were derived under the
15 Board's rules.

16 (2) Except as provided in paragraph (a)(3), if there is
17 no final action by the Board within 120 days after the date
18 on which it received the petition, the petitioner may deem
19 the permit issued under this Act, provided, however, that
20 that period of 120 days shall not run for any period of time,
21 not to exceed 30 days, during which the Board is without
22 sufficient membership to constitute the quorum required by
23 subsection (a) of Section 5 of this Act, and provided further
24 that such 120 day period shall not be stayed for lack of
25 quorum beyond 30 days regardless of whether the lack of
26 quorum exists at the beginning of such 120 day period or
27 occurs during the running of such 120 day period.

28 (3) Paragraph (a)(2) shall not apply to any permit which
29 is subject to subsection (b), (d) or (e) of Section 39. If
30 there is no final action by the Board within 120 days after
31 the date on which it received the petition, the petitioner
32 shall be entitled to an Appellate Court order pursuant to
33 subsection (d) of Section 41 of this Act.

34 (b) If the Agency grants a RCRA permit for a hazardous

1 waste disposal site, a third party, other than the permit
2 applicant or Agency, may, within 35 days after the date on
3 which the Agency issued its decision, petition the Board
4 ~~within-35-days~~ for a hearing to contest the issuance of the
5 permit. Unless the Board determines that such petition is
6 duplicative ~~duplieiteus~~ or frivolous, or that the petitioner
7 is so located as to not be affected by the permitted
8 facility, the Board shall hear the petition in accordance
9 with the terms of subsection (a) of this Section and its
10 procedural rules governing denial appeals, such hearing to be
11 based exclusively on the record before the Agency. The
12 burden of proof shall be on the petitioner. The Agency and
13 the permit applicant shall be named co-respondents.

14 The provisions of this subsection do not apply to the
15 granting of permits issued for the disposal or utilization of
16 sludge from publicly-owned sewage works.

17 (c) Any party to an Agency proceeding conducted pursuant
18 to Section 39.3 of this Act may petition as of right to the
19 Board for review of the Agency's decision within 35 days from
20 the date of issuance of the Agency's decision, provided that
21 such appeal is not duplicative ~~duplieiteus~~ or frivolous.
22 However, the 35-day period for petitioning for a hearing may
23 be extended by the applicant for a period of time not to
24 exceed 90 days by written notice provided to the Board from
25 the applicant and the Agency within the initial appeal
26 period. If another person with standing to appeal wishes to
27 obtain an extension, there must be a written notice provided
28 to the Board by that person, the Agency, and the applicant,
29 within the initial appeal period. The decision of the Board
30 shall be based exclusively on the record compiled in the
31 Agency proceeding. In other respects the Board's review
32 shall be conducted in accordance with subsection (a) of this
33 Section and the Board's procedural rules governing permit
34 denial appeals.

1 (d) In reviewing the denial or any condition of a permit
2 issued by the Agency pursuant to rules and regulations
3 adopted under subsection (c) of Section 9.1 of this Act, the
4 decision of the Board shall be based exclusively on the
5 record before the Agency including the record of the hearing,
6 if any, held pursuant to paragraph (f)(3) of Section 39
7 unless the parties agree to supplement the record. The Board
8 shall, if it finds the Agency is in error, make a final
9 determination as to the substantive limitations of the permit
10 including a final determination of Lowest Achievable Emission
11 Rate or Best Available Control Technology.

12 (e) (1) If the Agency grants or denies a permit under
13 subsection (b) of Section 39 of this Act, a third party,
14 other than the permit applicant or Agency, may petition
15 the Board within 35 days from the date of issuance of the
16 Agency's decision, for a hearing to contest the decision
17 of the Agency.

18 (2) A petitioner shall include the following within
19 a petition submitted under subdivision (1) of this
20 subsection:

21 (A) a demonstration that the petitioner raised
22 the issues contained within the petition during the
23 public notice period or during the public hearing on
24 the NPDES permit application, if a public hearing
25 was held; and

26 (B) a demonstration that the petitioner is so
27 situated as to be affected by the permitted
28 facility.

29 (3) If the Board determines that the petition is
30 not duplicative ~~duplieiteus~~ or frivolous and contains a
31 satisfactory demonstration under subdivision (2) of this
32 subsection, the Board shall hear the petition (i) in
33 accordance with the terms of subsection (a) of this
34 Section and its procedural rules governing permit denial

1 appeals and (ii) exclusively on the basis of the record
2 before the Agency. The burden of proof shall be on the
3 petitioner. The Agency and permit applicant shall be
4 named co-respondents.

5 (f) Any person who files a petition to contest the
6 issuance of a permit by the Agency shall pay a filing fee.

7 (Source: P.A. 90-274, eff. 7-30-97.)

8 (415 ILCS 5/40.1) (from Ch. 111 1/2, par. 1040.1)

9 Sec. 40.1. Appeal of siting approval.

10 (a) If the county board or the governing body of the
11 municipality, as determined by paragraph (c) of Section 39 of
12 this Act, refuses to grant or grants with conditions approval
13 under Section 39.2 of this Act, the applicant may, within 35
14 days after the date on which the local siting authority
15 disapproved or conditionally approved siting, petition for a
16 hearing before the Board to contest the decision of the
17 county board or the governing body of the municipality. The
18 Board shall publish 21 day notice of the hearing on the
19 appeal in a newspaper of general circulation published in
20 that county. The county board or governing body of the
21 municipality shall appear as respondent in such hearing, and
22 such hearing shall be based exclusively on the record before
23 the county board or the governing body of the municipality.
24 At such hearing the rules prescribed in Sections 32 and 33
25 (a) of this Act shall apply, and the burden of proof shall be
26 on the petitioner; however, no new or additional evidence in
27 support of or in opposition to any finding, order,
28 determination or decision of the appropriate county board or
29 governing body of the municipality shall be heard by the
30 Board. In making its orders and determinations under this
31 Section the Board shall include in its consideration the
32 written decision and reasons for the decision of the county
33 board or the governing body of the municipality, the

1 transcribed record of the hearing held pursuant to subsection
2 (d) of Section 39.2, and the fundamental fairness of the
3 procedures used by the county board or the governing body of
4 the municipality in reaching its decision. The Board shall
5 transmit a copy of its decision to the office of the county
6 board or governing body of the municipality where it shall be
7 available for public inspection and copied upon payment of
8 the actual cost of reproduction. If there is no final action
9 by the Board within 120 days after the date on which it
10 received the petition, the petitioner may deem the site
11 location approved; provided, however, that that period of 120
12 days shall not run for any period of time, not to exceed 30
13 days, during which the Board is without sufficient membership
14 to constitute the quorum required by subsection (a) of
15 Section 5 of this Act, and provided further, that such 120
16 day period shall not be stayed for lack of quorum beyond 30
17 days regardless of whether the lack of quorum exists at the
18 beginning of such 120 day period or occurs during the running
19 of such 120 day period.

20 (b) If the county board or the governing body of the
21 municipality as determined by paragraph (c) of Section 39 of
22 this Act, grants approval under Section 39.2 of this Act, a
23 third party other than the applicant who participated in the
24 public hearing conducted by the county board or governing
25 body of the municipality may, ~~petition the~~ Board within 35
26 days after the date on which the local siting authority
27 granted siting approval, petition the Board for a hearing to
28 contest the approval of the county board or the governing
29 body of the municipality. Unless the Board determines that
30 such petition is duplicative ~~duplicate~~ or frivolous, or
31 that the petitioner is so located as to not be affected by
32 the proposed facility, the Board shall hear the petition in
33 accordance with the terms of subsection (a) of this Section
34 and its procedural rules governing denial appeals, such

1 hearing to be based exclusively on the record before county
2 board or the governing body of the municipality. The burden
3 of proof shall be on the petitioner. The county board or the
4 governing body of the municipality and the applicant shall be
5 named as co-respondents.

6 The Board shall transmit a copy of its decision to the
7 office of the county board or governing body of the
8 municipality where it shall be available for public
9 inspection and may be copied upon payment of the actual cost
10 of reproduction.

11 (c) Any person who files a petition to contest a
12 decision of the county board or governing body of the
13 municipality shall pay a filing fee.

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

15 (415 ILCS 5/40.2) (from Ch. 111 1/2, par. 1040.2)

16 Sec. 40.2. Application of review process.

17 (a) Subsection (a) of Section 40 does not apply to any
18 permit which is subject to Section 39.5. If the Agency
19 refuses to grant or grants with conditions a CAAPP permit,
20 makes a determination of incompleteness regarding a submitted
21 CAAPP application, or fails to act on an application for a
22 CAAPP permit, permit renewal, or permit revision within the
23 time specified in paragraph 5(j) of Section 39.5 of this Act,
24 the applicant, any person who participated in the public
25 comment process pursuant to subsection 8 of Section 39.5 of
26 this Act, or any other person who could obtain judicial
27 review ~~a--hearing-before-the-Board~~ pursuant to Section 41(a)
28 of this Act, may, within 35 days after final permit action,
29 petition for a hearing before the Board to contest the
30 decision of the Agency. However, the 35-day period for
31 petitioning for a hearing may be extended by the applicant
32 for an additional a period of time not to exceed 90 days by
33 written notice provided to the Board from the applicant and

1 the Agency within the initial appeal period. If another
2 person with standing to appeal wishes to obtain an extension,
3 there must be a written notice provided to the Board by that
4 person, the Agency, and the applicant, within the initial
5 appeal period. Notwithstanding the preceding requirements,
6 petitions for a hearing before the Board under this
7 subsection may be filed after the 35-day period, only if such
8 petitions are based solely on grounds arising after the
9 35-day period expires. Such petitions shall be filed within
10 35 days after the new grounds for review arise. If the final
11 permit action being challenged is the Agency's failure to
12 take final action, a petition for a hearing before the Board
13 shall be filed before the Agency denies or issues the final
14 permit.

15 The Agency shall appear as respondent in such hearing.
16 At such hearing the rules prescribed in Sections 32 and 33(a)
17 of this Act shall apply, and the burden of proof shall be on
18 the petitioner.

19 (b) The Agency's failure to take final action within 90
20 days of receipt of an application requesting minor permit
21 modification procedures (or 180 days for modifications
22 subject to group processing requirements), pursuant to
23 subsection 14 of Section 39.5, will be subject to this
24 Section and Section 41 of this Act.

25 (c) If there is no final action by the Board within 120
26 days after the date on which it received the petition, the
27 permit shall not be deemed issued; rather, the petitioner
28 shall be entitled to an Appellate Court order pursuant to
29 Section 41(d) of this Act. The period of 120 days shall not
30 run for any period of time, not to exceed 30 days, during
31 which the Board is without sufficient membership to
32 constitute the quorum required by subsection (a) of Section 5
33 of this Act; the 120 day period shall not be stayed for lack
34 of quorum beyond 30 days, regardless of whether the lack of

1 quorum exists at the beginning of the 120 day period or
2 occurs during the running of the 120 day period.

3 (d) Any person who files a petition to contest the final
4 permit action by the Agency under this Section shall pay a
5 filing fee.

6 (e) The Agency shall notify USEPA, in writing, of any
7 petition for hearing brought under this Section involving a
8 provision or denial of a Phase II acid rain permit within 30
9 days of the filing of the petition. USEPA may intervene as a
10 matter of right in any such hearing. The Agency shall notify
11 USEPA, in writing, of any determination or order in a hearing
12 brought under this Section that interprets, voids, or
13 otherwise relates to any portion of a Phase II acid rain
14 permit.

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

16 (415 ILCS 5/45) (from Ch. 111 1/2, par. 1045)

17 Sec. 45. Injunctive and other relief.

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

33 (b) Any person adversely affected in fact by a violation

1 of this Act, any rule or regulation adopted under this Act,
2 or any permit or term or condition of a permit, or of
3 regulations-adopted-thereunder may sue for injunctive relief
4 against such violation. However, except as provided in
5 subsection (d), no action shall be brought under this Section
6 until 30 days after the plaintiff has been denied relief by
7 the Board in a proceeding brought under subsection (d) ~~(b)~~ of
8 Section 31 of this Act. The prevailing party shall be
9 awarded costs and reasonable attorneys' fees.

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

20 (d) If the State brings an action under this Act against
21 a person with an interest in real property upon which the
22 person is alleged to have allowed open dumping or open
23 burning by a third party in violation of this Act, which
24 action seeks to compel the defendant to remove the waste or
25 otherwise clean up the site, the defendant may, in the manner
26 provided by law for third-party complaints, bring in as a
27 third-party defendant a person who with actual knowledge
28 caused or contributed to the illegal open dumping or open
29 burning, or who is or may be liable for all or part of the
30 removal and cleanup costs. The court may include any of the
31 parties which it determines to have, with actual knowledge,
32 allowed, caused or contributed to the illegal open dumping or
33 open burning in any order that it may issue to compel removal
34 of the waste and cleanup of the site, and may apportion the

1 removal and cleanup costs among such parties, as it deems
2 appropriate. However, a person may not seek to recover any
3 fines or civil penalties imposed upon him under this Act from
4 a third-party defendant in an action brought under this
5 subsection.

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

7 (415 ILCS 5/49) (from Ch. 111 1/2, par. 1049)

8 Sec. 49. Proceedings governed by Act; compliance as
9 defense.

10 (a) (Blank.) ~~Until the Board and the Agency established~~
11 ~~by this Act has been appointed and taken office, the~~
12 ~~functions assigned to the Board and to the Agency shall be~~
13 ~~performed by the members of the existing Air Pollution~~
14 ~~Control Board and Sanitary Water Board and by the Department~~
15 ~~of Public Health.~~

16 (b) All proceedings respecting acts done before the
17 effective date of this Act shall be determined in accordance
18 with the law and regulations in force at the time such acts
19 occurred. All proceedings instituted for actions taken after
20 the effective date of this Act (July 1, 1970) shall be
21 governed by this Act.

22 (c) (Blank.) ~~All rules and regulations of the Air~~
23 ~~Pollution Control Board, the Sanitary Water Board, or the~~
24 ~~Department of Public Health relating to subjects embraced~~
25 ~~within this Act shall remain in full force and effect until~~
26 ~~repealed, amended, or superseded by regulations under this~~
27 ~~Act.~~

28 (d) (Blank.) ~~All orders entered, permits or~~
29 ~~certifications granted, and pending proceedings instituted by~~
30 ~~the Air Pollution Control Board, the Sanitary Water Board, or~~
31 ~~the Department of Public Health relating to subjects embraced~~
32 ~~within this Act shall remain in full force and effect until~~
33 ~~superseded by actions taken under this Act.~~

1 (e) Compliance with the rules and regulations
 2 promulgated by the Board under this Act shall constitute a
 3 prima facie defense to any action, legal, equitable, or
 4 criminal, or an administrative proceeding for a violation of
 5 this Act, brought by any person.

6 (Source: P.A. 76-2429.)

7 (415 ILCS 5/55) (from Ch. 111 1/2, par. 1055)

8 Sec. 55. Prohibited activities.

9 (a) No person shall:

10 (1) Cause or allow the open dumping of any used or
 11 waste tire.

12 (2) Cause or allow the open burning of any used or
 13 waste tire.

14 (3) Except at a tire storage site which contains
 15 more than 50 used tires, cause or allow the storage of
 16 any used tire unless the tire is altered, reprocessed,
 17 converted, covered, or otherwise prevented from
 18 accumulating water.

19 (4) Cause or allow the operation of a tire storage
 20 site except in compliance with Board regulations.

21 (5) Abandon, dump or dispose of any used or waste
 22 tire on private or public property, except in a sanitary
 23 landfill approved by the Agency pursuant to regulations
 24 adopted by the Board.

25 (6) Fail to submit required reports, tire removal
 26 agreements, or Board regulations.

27 (b) (Blank.) Beginning-July-17-1994-through-December-317
 28 19947--no--person--shall--knowingly--mix--any--whole--used--or--waste
 29 tire--with--municipal--waste7--and--no--owner--or--operator--of--a
 30 sanitary--landfill--shall--accept--any--whole--used--or--waste--tire
 31 for--final--disposal7--except--that--such--tires--when--separated
 32 from--other--waste--may--be--accepted--if:--(1)--the--sanitary
 33 landfill--provides--and--maintains--a--means--for--shredding7

1 ~~slitting or chopping such tires and so treats all such--tires~~
2 ~~prior to disposal; and (2) the sanitary landfill implements a~~
3 ~~program to actively seek alternative uses for the tire scraps~~
4 ~~so as to minimize the need for on-site disposal, including at~~
5 ~~a--minimum participation in the Illinois Industrial Materials~~
6 ~~Exchange Service to communicate the availability of the--tire~~
7 ~~scraps,--and consultation with the Department of Commerce and~~
8 ~~Community Affairs regarding the status of regional--marketing~~
9 ~~of--tire--scraps--to--facilities--for--reuse, reprocessing or~~
10 ~~converting.--Such alternative uses may also--include--on-site~~
11 ~~practices such as lining of roadways with tire scraps.~~

12 (b-1) Beginning January 1, 1995, no person shall
13 knowingly mix any used or waste tire, either whole or cut,
14 with municipal waste, and no owner or operator of a sanitary
15 landfill shall accept any used or waste tire for final
16 disposal; except that used or waste tires, when separated
17 from other waste, may be accepted if: (1) the sanitary
18 landfill provides and maintains a means for shredding,
19 slitting, or chopping whole tires and so treats whole tires
20 and, if approved by the Agency in a permit issued under this
21 Act, uses the used or waste tires for alternative uses, which
22 may include on-site practices such as lining of roadways with
23 tire scraps, alternative daily cover, or use in a leachate
24 collection system or (2) the sanitary landfill, by its
25 notification to the Illinois Industrial Materials Exchange
26 Service, makes available the used or waste tire to an
27 appropriate facility for reuse, reprocessing, or converting,
28 including use as an alternate energy fuel. If, within 30
29 days after notification to the Illinois Industrial Materials
30 Exchange Service of the availability of waste tires, no
31 specific request for the used or waste tires is received by
32 the sanitary landfill, and the sanitary landfill determines
33 it has no alternative use for those used or waste tires, the
34 sanitary landfill may dispose of slit, chopped, or shredded

1 used or waste tires in the sanitary landfill. In the event
2 the physical condition of a used or waste tire makes
3 shredding, slitting, chopping, reuse, reprocessing, or other
4 alternative use of the used or waste tire impractical or
5 infeasible, then the sanitary landfill, after authorization
6 by the Agency, may accept the used or waste tire for
7 disposal.

8 Sanitary landfills and facilities for reuse,
9 reprocessing, or converting, including use as alternative
10 fuel, shall (i) notify the Illinois Industrial Materials
11 Exchange Service of the availability of and demand for used
12 or waste tires and (ii) consult with the Department of
13 Commerce and Community Affairs regarding the status of
14 marketing of waste tires to facilities for reuse.

15 (c) On or before January 1, 1990, any person who
16 operates a tire storage site or a tire disposal site which
17 contains more than 50 used or waste tires shall give notice
18 of such activity to the Agency. Any person engaging in such
19 activity for the first time after January 1, 1990, shall give
20 notice to the Agency within 30 days after the date of
21 commencement of the activity. The form of such notice shall
22 be specified by the Agency and shall be limited to
23 information regarding the following:

24 (1) the name and address of the owner and operator;

25 (2) the name, address and location of the
26 operation;

27 (3) the type of operations involving used and waste
28 tires (storage, disposal, conversion or processing); and

29 (4) the number of used and waste tires present at
30 the location.

31 (d) Beginning January 1, 1992, no person shall cause or
32 allow the operation of:

33 (1) a tire storage site which contains more than 50
34 used tires, unless the owner or operator, by January 1,

1 1992 (or the January 1 following commencement of
2 operation, whichever is later) and January 1 of each year
3 thereafter, (i) registers the site with the Agency, (ii)
4 certifies to the Agency that the site complies with any
5 applicable standards adopted by the Board pursuant to
6 Section 55.2, (iii) reports to the Agency the number of
7 tires accumulated, the status of vector controls, and the
8 actions taken to handle and process the tires, and (iv)
9 pays the fee required under subsection (b) of Section
10 55.6; or

11 (2) a tire disposal site, unless the owner or
12 operator (i) has received approval from the Agency after
13 filing a tire removal agreement pursuant to Section 55.4,
14 or (ii) has entered into a written agreement to
15 participate in a consensual removal action under Section
16 55.3.

17 The Agency shall provide written forms for the annual
18 registration and certification required under this subsection
19 (d).

20 (e) No person shall cause or allow the storage,
21 disposal, treatment or processing of any used or waste tire
22 in violation of any regulation or standard adopted by the
23 Board.

24 (f) No person shall arrange for the transportation of
25 used or waste tires away from the site of generation with a
26 person known to openly dump such tires.

27 (g) No person shall engage in any operation as a used or
28 waste tire transporter except in compliance with Board
29 regulations.

30 (h) No person shall cause or allow the combustion of any
31 used or waste tire in an enclosed device unless a permit has
32 been issued by the Agency authorizing such combustion
33 pursuant to regulations adopted by the Board for the control
34 of air pollution and consistent with the provisions of

1 Section 9.4 of this Act.

2 (i) No person shall cause or allow the use of pesticides
3 to treat tires except as prescribed by Board regulations.

4 (j) No person shall fail to comply with the terms of a
5 tire removal agreement approved by the Agency pursuant to
6 Section 55.4.

7 (Source: P.A. 88-690, eff. 1-24-95; 89-445, eff. 2-7-96.)

8 (415 ILCS 5/56.1) (from Ch. 111 1/2, par. 1056.1)

9 Sec. 56.1. Acts prohibited.

10 (A) No person shall:

11 (a) Cause or allow the disposal of any potentially
12 infectious medical waste. Sharps may be disposed in any
13 landfill permitted by the Agency under Section 21 of this Act
14 to accept municipal waste for disposal, if both:

15 (1) the infectious potential has been eliminated
16 from the sharps by treatment; and

17 (2) the sharps are packaged in accordance with
18 Board regulations.‡

19 ~~{A}--Board-regulations;-or~~

20 ~~{B}--subsection-(b){2},-until-Board-regulations~~
21 ~~relating-to-the-packaging-of-potentially--infectious~~
22 ~~medical-waste-are-adopted-and-effective.~~

23 (b) Cause or allow the delivery of any potentially
24 infectious medical waste for transport, storage, treatment,
25 or transfer except in accordance with Board regulations.‡

26 ~~{1}--Board-regulations;-or~~

27 ~~{2}--the-following,-until-Board-regulations-relating~~
28 ~~to--the-packaging-of-potentially-infectious-medical-waste~~
29 ~~are-adopted-and-effective:~~

30 ~~{A}--All-potentially-infectious--medical--waste~~
31 ~~shall--be--placed--in-a-container-or-containers-that~~
32 ~~are-(i)-rigid;--(ii)-leak-resistant;--(iii)-impervious~~
33 ~~to--moisture;--(iv)--of--a--strength--sufficient--to~~

1 prevent-tearing-or-bursting-under-normal--conditions
2 of--use--and--handling;--and--(v)--sealed-to-prevent
3 leakage-during-transport.

4 (B)--In--addition--to---the---requirements---of
5 subsection---(b)(2)(A),---sharps---and---sharps---with
6 residual-fluids-shall-be-packaged-in-packaging--that
7 is-puncture-resistant.

8 (C)--Oversized--potentially--infectious-medical
9 waste-need-not-be-placed-in-containers.

10 (c) Beginning July 1, 1992, cause or allow the delivery
11 of any potentially infectious medical waste to a person or
12 facility for storage, treatment, or transfer that does not
13 have a permit issued by the agency to receive potentially
14 infectious medical waste, unless no permit is required under
15 subsection (g)(1).

16 (d) Beginning July 1, 1992, cause or allow the delivery
17 or transfer of any potentially infectious medical waste for
18 transport unless:

19 (1) the transporter has a permit issued by the
20 Agency to transport potentially infectious medical waste,
21 or the transporter is exempt from the permit requirement
22 set forth in subsection (f)(1).

23 (2) a potentially infectious medical waste manifest
24 is completed for the waste if a manifest is required
25 under subsection (h).

26 (e) Cause or allow the acceptance of any potentially
27 infectious medical waste for purposes of transport, storage,
28 treatment, or transfer except in accordance with Board
29 regulations.‡

30 (1)--Board-regulations;--or

31 (2)--The-following,-until-Board-regulations-relating
32 to-the-packaging-and-storage--of--potentially--infectious
33 medical-waste-are-adopted-and-effective‡

34 (A)--All--potentially--infectious-medical-waste

1 shall-be-placed-in-a-container--or--containers--that
 2 are-(i)-rigid;--(ii)-leak-resistant;--(iii)-impervious
 3 to--moisture;---(iv)--of--a--strength--sufficient--to
 4 prevent--tearing-or-bursting-under-normal-conditions
 5 of-use-and--handling;---and--(v)--sealed--to--prevent
 6 leakage-during-transport.

7 (B)--In---addition---to---the---requirements---of
 8 subsection--(b)(2)(A),--sharps---and---sharps---with
 9 residual--fluids-shall-be-packaged-in-packaging-that
 10 is-puncture-resistant.

11 (C)--Oversized-potentially--infectious--medical
 12 waste-need-not-be-placed-in-containers.

13 (D)--Any---person---who---stores---potentially
 14 infectious--medical--waste--prior--to--treatment--or
 15 disposal-on-site-or-transport-off-site--must--comply
 16 with-all-of-the-following-storage-requirements:

17 (i)--Store---the---potentially--infectious
 18 medical-waste-in-a--manner--and--location--that
 19 maintains--the--integrity--of-the-packaging-and
 20 provides-protection-from-water,--rain,--and-wind.

21 (ii)--Maintain-the-potentially--infectious
 22 medical--waste--in-a-nonputrescent-state,--using
 23 refrigeration-when-necessary.

24 (iii)--Lock--the--outdoor--storage---areas
 25 containing-potentially-infectious-medical-waste
 26 to-prevent-unauthorized-access.

27 (iv)--Limit---access--to--on-site--storage
 28 areas-to-authorized-employees.

29 (v)--Store--the---potentially---infectious
 30 medical---waste---in---a--manner--that--affords
 31 protection-from-animals-and-does-not-provide--a
 32 breeding-place-or-a-food-source-for-insects-and
 33 rodents.

34 (f) Beginning July 1, 1992, conduct any potentially

1 infectious medical waste transportation operation:

2 (1) Without a permit issued by the Agency to
3 transport potentially infectious medical waste. No permit
4 is required under this provision (f)(1) for:

5 (A) a person transporting potentially
6 infectious medical waste generated solely by that
7 person's activities;

8 (B) noncommercial transportation of less than
9 50 pounds of potentially infectious medical waste at
10 any one time; or

11 (C) the U.S. Postal Service.

12 (2) In violation of any condition of any permit
13 issued by the Agency under this Act.

14 (3) In violation of any regulation adopted by the
15 Board.

16 (4) In violation of any order adopted by the Board
17 under this Act.

18 (g) Beginning July 1, 1992, conduct any potentially
19 infectious medical waste treatment, storage, or transfer
20 operation:

21 (1) without a permit issued by the Agency that
22 specifically authorizes the treatment, storage, or transfer
23 of potentially infectious medical waste. No permit is
24 required under this subsection (g) for any:

25 (A) Person conducting a potentially infectious
26 medical waste treatment, storage, or transfer
27 operation for potentially infectious medical waste
28 generated by the person's own activities that are
29 treated, stored, or transferred within the site
30 where the potentially infectious medical waste is
31 generated.

32 (B) Hospital that treats, stores, or transfers
33 only potentially infectious medical waste generated
34 by its own activities or by members of its medical

1 staff.

2 (2) in violation of any condition of any permit
3 issued by the Agency under this Act.

4 (3) in violation of any regulation adopted by the
5 Board.

6 (4) In violation of any order adopted by the Board
7 under this Act.

8 (h) Transport potentially infectious medical waste
9 unless the transporter carries a completed potentially
10 infectious medical waste manifest. No manifest is required
11 for the transportation of:

12 (1) potentially infectious medical waste being
13 transported by generators who generated the waste by
14 their own activities, when the potentially infectious
15 medical waste is transported within or between sites or
16 facilities owned, controlled, or operated by that person;

17 (2) less than 50 pounds of potentially infectious
18 medical waste at any one time for a noncommercial
19 transportation activity; or

20 (3) potentially infectious medical waste by the
21 U.S. Postal Service.

22 (i) Offer for transportation, transport, deliver,
23 receive or accept potentially infectious medical waste for
24 which a manifest is required, unless the manifest indicates
25 that the fee required under Section 56.4 of this Act has
26 been paid.

27 (j) Beginning January 1, 1994, conduct a potentially
28 infectious medical waste treatment operation at an
29 incinerator in existence on the effective date of this Title
30 in violation of emission standards established for these
31 incinerators under Section 129 of the Clean Air Act (42 USC
32 7429), as amended.

33 (B) ~~(k)~~ In making its orders and determinations relative
34 to penalties, if any, to be imposed for violating subdivision

1 ~~(A)(a) of this~~ Section 56.1~~(a)-of-this-Act~~, the Board, in
2 addition to the factors in Sections 33(c) and 42(h) of this
3 Act, or the Court shall take into consideration whether the
4 owner or operator of the landfill reasonably relied on
5 written statements from the person generating or treating the
6 waste that the waste is not potentially infectious medical
7 waste.

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

9 (415 ILCS 5/56.2) (from Ch. 111 1/2, par. 1056.2)

10 Sec. 56.2. Regulations.

11 (a) No later than July 1, 1993, the Board shall adopt
12 regulations in accordance with Title VII of this Act
13 prescribing design and operating standards and criteria for
14 all potentially infectious medical waste treatment, storage,
15 and transfer facilities. At a minimum, these regulations
16 shall require treatment of potentially infectious medical
17 waste at a facility that:

18 (1) eliminates the infectious potential of the
19 waste;

20 (2) prevents compaction and rupture of containers
21 during handling operations;

22 (3) disposes of treatment residuals in accordance
23 with this Act and regulations adopted thereunder;

24 (4) provides for quality assurance programs;

25 (5) provides for periodic testing using biological
26 testing, where appropriate, that demonstrate proper
27 treatment of the waste;

28 (6) provides for assurances that clearly
29 demonstrate that potentially infectious medical waste has
30 been properly treated; and

31 (7) is in compliance with all Federal and State
32 laws and regulations pertaining to environmental
33 protection.

1 (b) ~~Until the effective date of the Board regulations~~
2 ~~adopted under subsection (a), each applicant for a~~
3 ~~potentially infectious medical waste treatment permit shall~~
4 ~~prove that the facility will not cause a violation of the Act~~
5 ~~or of regulations adopted thereunder, and prove that the~~
6 ~~facility meets the requirements set forth in subsections~~
7 ~~(a)(1) through (a)(7).~~ After the effective date of the Board
8 regulations adopted under subsection (a), each applicant for
9 a potentially infectious medical waste treatment permit shall
10 prove that the facility will not cause a violation of the Act
11 or of regulations adopted thereunder.

12 (c) No later than July 1, 1993, the Board shall adopt
13 regulations in accordance with Title VII of this Act
14 prescribing standards and criteria for transporting,
15 packaging, segregating, labeling, and marking potentially
16 infectious medical waste.

17 (d) In accord with Title VII of this Act, no later than
18 January 1, 1992, the Board shall repeal Subpart I of 35 Ill.
19 Adm. Code 809.

20 (e) No later than January 1, 1992, the Board shall adopt
21 rules that are identical in substance to the list of
22 etiologic agents identified as Class 4 agents as set forth in
23 "Classification of Etiological Agents on the Basis of Hazard,
24 1974", published by the Centers for Disease Control. If the
25 Centers for Disease Control amends the listing of etiologic
26 agents identified as Class 4 agents as set forth in
27 "Classification of Etiological Agents on the Basis of Hazard,
28 1974", the Board shall adopt rules that are identical in
29 substance to the amended list within 180 days after the
30 Centers for Disease Control's amendment. The provisions and
31 requirements of Title VII of this Act shall not apply to
32 rules adopted under this subsection (e). Section 5 of the
33 Illinois Administrative Procedure Act relating to the
34 procedures for rulemaking shall not apply to rules adopted

1 under this subsection (e).

2 (f) In accord with Title VII of this Act, the Board may
3 adopt regulations to promote the purposes of this Title. The
4 regulations prescribed in subsection (a), (c), and (e) shall
5 not limit the generality of this authority.

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

7 (415 ILCS 5/57.7)

8 Sec. 57.7. Leaking underground storage tanks; physical
9 soil classification, groundwater investigation, site
10 classification, and corrective action.

11 (a) Physical soil classification and groundwater
12 investigation.

13 (1) Prior to conducting any physical soil
14 classification and groundwater investigation activities
15 required by statute or regulation, the owner or operator
16 shall prepare and submit to the Agency for the Agency's
17 approval or modification:

18 (A) a physical soil classification and
19 groundwater investigation plan designed to
20 determine site classification, in accordance
21 with subsection (b) of this Section, as High
22 Priority, Low Priority, or No Further Action.

23 (B) a request for payment of costs
24 associated with eligible early action costs as
25 provided in Section 57.6(b). However, for
26 purposes of payment for early action costs,
27 fill materials shall not be removed in an
28 amount in excess of 4 feet from the outside
29 dimensions of the tank.

30 (2) If the owner or operator intends to seek
31 payment from the Fund, prior to conducting any physical
32 soil classification and groundwater investigation
33 activities required by statute or regulation, the owner

1 or operator shall submit to the Agency for the Agency's
2 approval or modification a physical soil classification
3 and groundwater investigation budget which includes, but
4 is not limited to, an accounting of all costs associated
5 with the implementation and completion of the physical
6 soil classification and groundwater investigation plan.

7 (3) Within 30 days of completion of the physical
8 soil classification or groundwater investigation report
9 the owner or operator shall submit to the Agency:

10 (A) all physical soil classification and
11 groundwater investigation results; and

12 (B) a certification by a Licensed Professional
13 Engineer of the site's classification as High
14 Priority, Low Priority, or No Further Action in
15 accordance with subsection (b) of this Section as
16 High Priority, Low Priority, or No Further Action.

17 (b) Site Classification.

18 (1) After evaluation of the physical soil
19 classification and groundwater investigation results,
20 when required, and general site information, the site
21 shall be classified as "No Further Action", "Low
22 Priority", or "High Priority" based on the requirements
23 of this Section. Site classification shall be determined
24 by a Licensed Professional Engineer in accordance with
25 the requirements of this Title and the Licensed
26 Professional Engineer shall submit a certification to the
27 Agency of the site classification. The Agency has the
28 authority to audit site classifications and reject or
29 modify any site classification inconsistent with the
30 requirements of this Title.

31 (2) Sites shall be classified as No Further Action
32 if the criteria in subparagraph (A) are satisfied:

33 (A)(i) The site is located in an area
34 designated D, E, F and G on the Illinois Geological

1 Survey Circular (1984) titled "Potential for
2 Contamination of Shallow Aquifers in Illinois," by
3 Berg, Richard C., et al.;

4 (ii) A site evaluation under the direction of
5 a Licensed Professional Engineer verifies the
6 physical soil classification conditions are
7 consistent with those indicated on the Illinois
8 Geological Survey Circular (1984) titled "Potential
9 for Contamination of Shallow Aquifers in Illinois,"
10 by Berg, Richard C., et al.; and

11 (iii) The conditions identified in subsections
12 (b)(3)(B), (C), (D), and (E) do not exist.

13 (B) Groundwater investigation monitoring may
14 be required to confirm that a site meets the
15 criteria of a No Further Action site. The Board
16 shall adopt rules setting forth the criteria under
17 which the Agency may exercise its discretionary
18 authority to require investigations and the minimum
19 field requirements for conducting investigations.

20 (3) Sites shall be classified as High Priority if
21 any of the following are met:

22 (A) The site is located in an area designated
23 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
24 or C5 on the Illinois Geological Survey Circular
25 (1984) titled "Potential for Contamination of
26 Shallow Aquifers in Illinois," by Berg, Richard C.,
27 et al.; a site evaluation under the direction of a
28 Licensed Professional Engineer verifies the physical
29 soil classifications conditions are consistent with
30 those indicated on the Illinois Geological Survey
31 Circular (1984) entitled "Potential for
32 Contamination of Shallow Aquifers in Illinois," by
33 Berg, Richard C., et al.; and the results of the
34 physical soil classification and groundwater

1 investigation indicate that an applicable indicator
2 contaminant groundwater quality standard or
3 groundwater objective has been exceeded at the
4 property boundary line or 200 feet from the
5 excavation, whichever is less as a consequence of
6 the underground storage tank release.

7 (B) The underground storage tank is within the
8 minimum or maximum setback zone of a potable water
9 supply well or regulated recharge area of a potable
10 water supply well.

11 (C) There is evidence that, through natural or
12 manmade pathways, migration of petroleum or vapors
13 threaten human health or human safety or may cause
14 explosions in basements, crawl spaces, utility
15 conduits, storm or sanitary sewers, vaults or other
16 confined spaces.

17 (D) Class III special resource groundwater
18 exists within 200 feet of the excavation.

19 (E) A surface water body is adversely affected
20 by the presence of a visible sheen or free product
21 layer as the result of an underground storage tank
22 release.

23 (4) Sites shall be classified as Low Priority if
24 all of the following are met:

25 (A) The site does not meet any of the criteria
26 for classification as a High Priority Site.

27 (B) (i) The site is located in area designated
28 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
29 C5 on the Illinois Geological Survey Circular (1984)
30 entitled "Potential for Contamination of Shallow
31 Aquifers in Illinois," by Berg, Richard C., et al.;
32 and

33 (ii) a site evaluation under the direction of
34 a Licensed Professional Engineer verifies the

1 physical soil classification conditions are
2 consistent with those indicated on the Illinois
3 Geological Survey Circular (1984) titled "Potential
4 for Contamination of Shallow Aquifers in Illinois,"
5 by Berg, Richard C., et al.; and

6 (iii) the results of the physical soil
7 classification and groundwater investigation do not
8 indicate an applicable indicator contaminant
9 groundwater quality standard or groundwater
10 objective has been exceeded at the property boundary
11 line or 200 feet from the underground storage tank,
12 whichever is less.

13 (5) In the event the results of the physical soil
14 classification and any required groundwater investigation
15 reveal that the actual site geologic characteristics are
16 different than those indicated by the Illinois Geological
17 Survey Circular (1984) titled "Potential for
18 Contamination of Shallow Aquifers in Illinois" by Berg,
19 Richard C., et al., classification of the site shall be
20 determined using the actual site geologic
21 characteristics.

22 (6) For purposes of physical soil classification,
23 the Board is authorized to prescribe by regulation
24 alternatives to use of the Illinois Geological Survey
25 Circular (1984) titled "Potential for Contamination of
26 Shallow Aquifers in Illinois" by Berg, Richard C., et al.

27 (c) Corrective Action.

28 (1) High Priority Site.

29 (A) Prior to performance of any corrective
30 action, beyond that required by Section 57.6 and
31 subsection (a) of Section 57.7 of this Act, the
32 owner or operator shall prepare and submit to the
33 Agency for the Agency's approval or modification a
34 corrective action plan designed to mitigate any

1 threat to human health, human safety or the
2 environment resulting from the underground storage
3 tank release.

4 (B) If the owner or operator intends to seek
5 payment from the Fund, prior to performance of any
6 corrective action beyond that required by Section
7 57.6 and subsection (a) of Section 57.7, the owner
8 or operator shall submit to the Agency for the
9 Agency's approval or modification a corrective
10 action plan budget which includes, but is not
11 limited to, an accounting of all costs associated
12 with the implementation and completion of the
13 corrective action plan.

14 (C) The corrective action plan shall do all of
15 the following:

16 (i) Provide that applicable indicator
17 contaminant groundwater quality standards or
18 groundwater objectives will not be exceeded in
19 groundwater at the property boundary line or
20 200 feet from the excavation, whichever is
21 less, or other level if approved by the Agency,
22 for any contaminant identified in the
23 groundwater investigation after complete
24 performance of the corrective action plan.

25 (ii) Provide that Class III special
26 resource groundwater quality standards for
27 Class III special resource groundwater within
28 200 feet of the excavation will not be exceeded
29 as a result of the underground storage tank
30 release for any indicator contaminant
31 identified in the groundwater investigation
32 after complete performance of the corrective
33 action plan.

34 (iii) Remediate threats due to the

1 presence or migration, through natural or
2 manmade pathways, of petroleum in
3 concentrations sufficient to harm human health
4 or human safety or to cause explosions in
5 basements, crawl spaces, utility conduits,
6 storm or sanitary sewers, vaults or other
7 confined spaces.

8 (iv) Remediate threats to a potable water
9 supply.

10 (v) Remediate threats to a surface water
11 body.

12 (D) Within 30 days of completion of the
13 corrective action, the owner or operator shall
14 submit to the Agency such a completion report that
15 includes a description of the corrective action plan
16 and a description of the corrective action work
17 performed and all analytical or sampling results
18 derived from performance of the corrective action
19 plan.

20 (E) The Agency shall issue to the owner or
21 operator a no further remediation letter in
22 accordance with Section 57.10 if all of the
23 following are met:

24 (i) The corrective action completion
25 report demonstrates that: (a) applicable
26 indicator contaminant groundwater quality
27 standards or groundwater objectives are not
28 exceeded at the property boundary line or 200
29 feet from the excavation, whichever is less, as
30 a result of the underground storage tank
31 release for any indicator contaminant
32 identified in the groundwater investigation;
33 (b) Class III special use resource groundwater
34 quality standards, for Class III special use

1 resource groundwater within 200 feet of the
2 underground storage tank, are not exceeded as a
3 result of the underground storage tank release
4 for any contaminant identified in the
5 groundwater investigation; (c) the underground
6 storage tank release does not threaten human
7 health or human safety due to the presence or
8 migration, through natural or manmade pathways,
9 of petroleum or hazardous substances in
10 concentrations sufficient to harm human health
11 or human safety or to cause explosions in
12 basements, crawl spaces, utility conduits,
13 storm or sanitary sewers, vaults or other
14 confined spaces; (d) the underground storage
15 tank release does not threaten any surface
16 water body; and (e) the underground storage
17 tank release does not threaten any potable
18 water supply.

19 (ii) The owner or operator submits to the
20 Agency a certification from a Licensed
21 Professional Engineer that the work described
22 in the approved corrective action plan has been
23 completed and that the information presented in
24 the corrective action completion report is
25 accurate and complete.

26 (2) Low Priority Site.

27 (A) Corrective action at a low priority site
28 must include groundwater monitoring consistent with
29 part (B) of this paragraph (2).

30 (B) Prior to implementation of groundwater
31 monitoring, the owner or operator shall prepare and
32 submit to the Agency a groundwater monitoring plan
33 and, if the owner or operator intends to seek
34 payment under this Title, an associated budget which

1 includes, at a minimum, all of the following:

2 (i) Placement of groundwater monitoring
3 wells at the property line, or at 200 feet from
4 the excavation which ever is closer, designed
5 to provide the greatest likelihood of detecting
6 migration of groundwater contamination.

7 (ii) Quarterly groundwater sampling for a
8 period of one year, semi-annual sampling for
9 the second year and annual groundwater sampling
10 for one subsequent year for all indicator
11 contaminants identified during the groundwater
12 investigation.

13 (iii) The annual submittal to the Agency
14 of a summary of groundwater sampling results.

15 (C) If at any time groundwater sampling
16 results indicate a confirmed exceedence of
17 applicable indicator contaminant groundwater quality
18 standards or groundwater objectives as a result of
19 the underground storage tank release, the site may
20 be reclassified as a High Priority Site by the
21 Agency at any time before the Agency's final
22 approval of a Low Priority groundwater monitoring
23 completion report. Agency review and approval shall
24 be in accordance with paragraph (4) of subsection
25 (c) of this Section. If the owner or operator elects
26 to appeal an Agency action to disapprove, modify, or
27 reject by operation of law a Low Priority
28 groundwater monitoring completion report, the Agency
29 shall indicate to the Board in conjunction with such
30 appeal whether it intends to reclassify the site as
31 High Priority. If a site is reclassified as a High
32 Priority Site, the owner or operator shall submit a
33 corrective action plan and budget to the Agency
34 within 120 days of the confirmed exceedence and

1 shall initiate compliance with all corrective action
2 requirements for a High Priority Site.

3 (D) If, throughout the implementation of the
4 groundwater monitoring plan, the groundwater
5 sampling results do not confirm an exceedence of
6 applicable indicator contaminant groundwater quality
7 standards or groundwater objectives as a result of
8 the underground storage tank release, the owner or
9 operator shall submit to the Agency a certification
10 of a Licensed Professional Engineer so stating.

11 (E) Unless the Agency takes action under
12 subsection (b)(2)(C) to reclassify a site as high
13 priority, upon receipt of a certification by a
14 Licensed Professional Engineer submitted pursuant to
15 paragraph (2) of subsection (c) of this Section, the
16 Agency shall issue to the owner or operator a no
17 further remediation letter in accordance with
18 Section 57.10.

19 (3) No Further Action Site.

20 (A) No Further Action sites require no
21 remediation beyond that required in Section 57.6 and
22 subsection (a) of this Section if the owner or
23 operator has submitted to the Agency a certification
24 by a Licensed Professional Engineer that the site
25 meets all of the criteria for classification as No
26 Further Action in subsection (b) of this Section.

27 (B) Unless the Agency takes action to reject
28 or modify a site classification under subsection (b)
29 of this Section or the site classification is
30 rejected by operation of law under item (4)(B) of
31 subsection (c) of this Section, upon receipt of a
32 certification by a Licensed Professional Engineer
33 submitted pursuant to part (A) of paragraph (3) of
34 subsection (c) of this Section, the Agency shall

1 issue to the owner or operator a no further
2 remediation letter in accordance with Section 57.10.
3 (4) Agency review and approval.

4 (A) Agency approval of any plan and associated
5 budget, as described in this item (4), shall be
6 considered final approval for purposes of seeking
7 and obtaining payment from the Underground Storage
8 Tank Fund if the costs associated with the
9 completion of any such plan are less than or equal
10 to the amounts approved in such budget.

11 (B) In the event the Agency fails to approve,
12 disapprove, or modify any plan or report submitted
13 pursuant to this Title in writing within 120 days of
14 the receipt by the Agency, the plan or report shall
15 be considered to be rejected by operation of law for
16 purposes of this Title and rejected for purposes of
17 payment from the Leaking Underground Storage Tank
18 Fund.

19 (i) For purposes of those plans as
20 identified in subparagraph (E) of this
21 subsection (c)(4), the Agency's review may be
22 an audit procedure. Such review or audit shall
23 be consistent with the procedure for such
24 review or audit as promulgated by the Board
25 under item (7) of subsection (b) of Section
26 57.14. The Agency has the authority to
27 establish an auditing program to verify
28 compliance of such plans with the provisions of
29 this Title.

30 (ii) For purposes of those plans
31 submitted pursuant to Part (E) (iii) of this
32 paragraph (4) for which payment from the Fund
33 is not being sought, the Agency need not take
34 action on such plan until 120 days after it

1 receives the corrective action completion
2 report required under Section 57(c)(1)(D). In
3 the event the Agency approved the plan, it
4 shall proceed under the provisions of Section
5 57(c)(4).

6 (C) In approving any plan submitted pursuant
7 to Part (E) of this paragraph (4), the Agency shall
8 determine, by a procedure promulgated by the Board
9 under item (7) of subsection (b) of Section 57.14,
10 that the costs associated with the plan are
11 reasonable, will be incurred in the performance of
12 corrective action, and will not be used for
13 corrective action activities in excess of those
14 required to meet the minimum requirements of this
15 title.

16 (D) For any plan or report received after
17 ~~September 13, the effective date of this amendatory~~
18 ~~Act of 1993,~~ any action by the Agency to disapprove
19 or modify a plan submitted pursuant to this Title
20 shall be provided to the owner or operator in
21 writing within 120 days of the receipt by the Agency
22 or, in the case of a corrective action plan for
23 which payment is not being sought, within 120 days
24 of receipt of the corrective action completion
25 report, and shall be accompanied by:

26 (i) an explanation of the Sections of
27 this Act which may be violated if the plans
28 were approved;

29 (ii) an explanation of the provisions of
30 the regulations, promulgated under this Act,
31 which may be violated if the plan were
32 approved;

33 (iii) an explanation of the specific type
34 of information, if any, which the Agency deems

1 the applicant did not provide the Agency; and
2 (iv) a statement of specific reasons why
3 the Act and the regulations might not be met if
4 the plan were approved.

5 Any action by the Agency to disapprove or
6 modify a plan or report or the rejection of any plan
7 or report by operation of law shall be subject to
8 appeal to the Board in accordance with the
9 procedures of Section 40. If the owner or operator
10 elects to incorporate modifications required by the
11 Agency rather than appeal, an amended plan shall be
12 submitted to the Agency within 35 days of receipt of
13 the Agency's written notification.

14 (E) For purposes of this Title, the term
15 "plan" shall include:

16 (i) Any physical soil classification and
17 groundwater investigation plan submitted
18 pursuant to item (1)(A) of subsection (a) of
19 this Section, or budget under item (2) of
20 subsection (a) of this Section;

21 (ii) Any groundwater monitoring plan or
22 budget submitted pursuant to subsection
23 (c)(2)(B) of this Section;

24 (iii) Any corrective action plan
25 submitted pursuant to subsection (c)(1)(A) of
26 this Section; or

27 (iv) Any corrective action plan budget
28 submitted pursuant to subsection (c)(1)(B) of
29 this Section.

30 (d) For purposes of this Title, the term "indicator
31 contaminant" shall mean, unless and until the Board
32 promulgates regulations to the contrary, the following: (i)
33 if an underground storage tank contains gasoline, the
34 indicator parameter shall be BTEX and Benzene; (ii) if the

1 tank contained petroleum products consisting of middle
2 distillate or heavy ends, then the indicator parameter shall
3 be determined by a scan of PNA's taken from the location
4 where contamination is most likely to be present; and (iii)
5 if the tank contained used oil, then the indicator
6 contaminant shall be those chemical constituents which
7 indicate the type of petroleum stored in an underground
8 storage tank. All references in this Title to groundwater
9 objectives shall mean Class I groundwater standards or
10 objectives as applicable.

11 (e) (1) Notwithstanding the provisions of this Section,
12 an owner or operator may proceed to conduct physical soil
13 classification, groundwater investigation, site
14 classification or other corrective action prior to the
15 submittal or approval of an otherwise required plan. If
16 the owner or operator elects to so proceed, an applicable
17 plan shall be filed with the Agency at any time. Such
18 plan shall detail the steps taken to determine the type
19 of corrective action which was necessary at the site
20 along with the corrective action taken or to be taken, in
21 addition to costs associated with activities to date and
22 anticipated costs.

23 (2) Upon receipt of a plan submitted after
24 activities have commenced at a site, the Agency shall
25 proceed to review in the same manner as required under
26 this Title. In the event the Agency disapproves all or
27 part of the costs, the owner or operator may appeal such
28 decision to the Board. The owner or operator shall not
29 be eligible to be reimbursed for such disapproved costs
30 unless and until the Board determines that such costs
31 were eligible for payment.

32 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
33 1-1-96; 89-457, eff. 5-22-96.)

1 (415 ILCS 5/57.8)

2 Sec. 57.8. Underground Storage Tank Fund; payment;
3 options for State payment; deferred correction election to
4 commence corrective action upon availability of funds. If an
5 owner or operator is eligible to access the Underground
6 Storage Tank Fund pursuant to an Office of State Fire Marshal
7 eligibility/deductible final determination letter issued in
8 accordance with Section 57.9, the owner or operator may
9 submit a complete application for final or partial payment to
10 the Agency for activities taken in response to a confirmed
11 release. An owner or operator may submit a request for
12 partial or final payment regarding a site no more frequently
13 than once every 90 days.

14 (a) Payment after completion of corrective action
15 measures. The owner or operator may submit an application for
16 payment for activities performed at a site after completion
17 of the requirements of Sections 57.6 and 57.7, or after
18 completion of any other required activities at the
19 underground storage tank site.

20 (1) In the case of any approved plan and budget for
21 which payment is being sought, the Agency shall make a
22 payment determination within 120 days of receipt of the
23 application. Such determination shall be considered a
24 final decision. The Agency's review shall be limited to
25 generally accepted auditing and accounting practices. In
26 no case shall the Agency conduct additional review of any
27 plan which was completed within the budget, beyond
28 auditing for adherence to the corrective action measures
29 in the proposal. If the Agency fails to approve the
30 payment application within 120 days, such application
31 shall be deemed approved by operation of law and the
32 Agency shall proceed to reimburse the owner or operator
33 the amount requested in the payment application.
34 However, in no event shall the Agency reimburse the owner

1 or operator an amount greater than the amount approved in
2 the plan.

3 (2) If sufficient funds are available in the
4 Underground Storage Tank Fund, the Agency shall, within
5 60 days, forward to the Office of the State Comptroller a
6 voucher in the amount approved under the payment
7 application.

8 (3) In the case of insufficient funds, the Agency
9 shall form a priority list for payment and shall notify
10 persons in such priority list monthly of the availability
11 of funds and when payment shall be made. Payment shall
12 be made to the owner or operator at such time as
13 sufficient funds become available for the costs
14 associated with corrective action and costs expended for
15 activities performed where no proposal is required, if
16 applicable. Such priority list shall be available to any
17 owner or operator upon request. Priority for payment
18 shall be determined by the date the Agency receives a
19 complete request for partial or final payment. Upon
20 receipt of notification from the Agency that the
21 requirements of this Title have been met, the Comptroller
22 shall make payment to the owner or operator of the amount
23 approved by the Agency, if sufficient money exists in the
24 Fund. If there is insufficient money in the Fund, then
25 payment shall not be made. If the owner or operator
26 appeals a final Agency payment determination and it is
27 determined that the owner or operator is eligible for
28 payment or additional payment, the priority date for the
29 payment or additional payment shall be the same as the
30 priority date assigned to the original request for
31 partial or final payment.

32 (4) Any deductible, as determined pursuant to the
33 Office of the State Fire Marshal's eligibility and
34 deductibility final determination in accordance with

1 Section 57.9, shall be subtracted from any payment
2 invoice paid to an eligible owner or operator. Only one
3 deductible shall apply per underground storage tank site.

4 (5) In the event that costs are or will be incurred
5 in addition to those approved by the Agency, or after
6 payment, the owner or operator may submit successive
7 plans containing amended budgets. The requirements of
8 Section 57.7 shall apply to any amended plans.

9 (6) For purposes of this Section, a complete
10 application shall consist of:

11 (A) A certification from a Licensed
12 Professional Engineer as required under this Title
13 and acknowledged by the owner or operator.

14 (B) A statement of the amount approved in the
15 plan and the amount actually sought for payment
16 along with a certified statement that the amount so
17 sought shall be expended in conformance with the
18 approved budget.

19 (C) A copy of the Office of the State Fire
20 Marshal's eligibility and deductibility
21 determination.

22 (D) Proof that approval of the payment
23 requested will not result in the limitations set
24 forth in subsection (g) of this Section being
25 exceeded.

26 (E) A federal taxpayer identification number
27 and legal status disclosure certification on a form
28 prescribed and provided by the Agency.

29 (b) Commencement of corrective action upon availability
30 of funds. The Board shall adopt regulations setting forth
31 procedures based on risk to human health or the environment
32 under which the owner or operator who has received approval
33 for any budget plan submitted pursuant to Section 57.7, and
34 who is eligible for payment from the Underground Storage Tank

1 Fund pursuant to an Office of the State Fire Marshal
2 eligibility and deductibility determination, may elect to
3 defer site classification, low priority groundwater
4 monitoring, or remediation activities until funds are
5 available in an amount equal to the amount approved in the
6 budget plan. The regulations shall establish criteria based
7 on risk to human health or the environment to be used for
8 determining on a site-by-site basis whether deferral is
9 appropriate. The regulations also shall establish the
10 minimum investigatory requirements for determining whether
11 the risk based criteria are present at a site considering
12 deferral and procedures for the notification of owners or
13 operators of insufficient funds, Agency review of request for
14 deferral, notification of Agency final decisions, returning
15 deferred sites to active status, and earmarking of funds for
16 payment.

17 (c) When the owner or operator requests indemnification
18 for payment of costs incurred as a result of a release of
19 petroleum from an underground storage tank, if the owner or
20 operator has satisfied the requirements of subsection (a) of
21 this Section, the Agency shall forward a copy of the request
22 to the Attorney General. The Attorney General shall review
23 and approve the request for indemnification if:

24 (1) there is a legally enforceable judgment entered
25 against the owner or operator and such judgment was
26 entered due to harm caused by a release of petroleum from
27 an underground storage tank and such judgment was not
28 entered as a result of fraud; or

29 (2) a settlement with a third party due to a
30 release of petroleum from an underground storage tank is
31 reasonable.

32 (d) Notwithstanding any other provision of this Title,
33 the Agency shall not approve payment to an owner or operator
34 from the Fund for costs of corrective action or

1 indemnification incurred during a calendar year in excess of
2 the following aggregate amounts based on the number of
3 petroleum underground storage tanks owned or operated by such
4 owner or operator in Illinois.

5 Amount	Number of Tanks
6 \$1,000,000.....	fewer than 101
7 \$2,000,000.....	101 or more

8 (1) Costs incurred in excess of the aggregate
9 amounts set forth in paragraph (1) of this subsection
10 shall not be eligible for payment in subsequent years.

11 (2) For purposes of this subsection, requests
12 submitted by any of the agencies, departments, boards,
13 committees or commissions of the State of Illinois shall
14 be acted upon as claims from a single owner or operator.

15 (3) For purposes of this subsection, owner or
16 operator includes (i) any subsidiary, parent, or joint
17 stock company of the owner or operator and (ii) any
18 company owned by any parent, subsidiary, or joint stock
19 company of the owner or operator.

20 (e) Costs of corrective action or indemnification
21 incurred by an owner or operator which have been paid to an
22 owner or operator under a policy of insurance, another
23 written agreement, or a court order are not eligible for
24 payment under this Section. An owner or operator who
25 receives payment under a policy of insurance, another written
26 agreement, or a court order shall reimburse the State to the
27 extent such payment covers costs for which payment was
28 received from the Fund. Any monies received by the State
29 under this subsection (e) shall be deposited into the Fund.

30 (f) (Blank.) ~~Until the Board adopts regulations pursuant~~
31 ~~to Section 57-14, handling charges are eligible for payment~~
32 ~~only if they are equal to or less than the amount determined~~
33 ~~by the following table:~~

34 ~~Subcontract or field-----Eligible Handling Charges~~

1	Purchase-Cost-----as-a-Percentage-of-Cost
2	\$0---\$5,000.....12%
3	\$5,001---\$15,000.....\$600+10%-of-amt.-over-\$5,000
4	\$15,001---\$50,000.....\$1600+8%-of-amt.-over-\$15,000
5	\$50,001---\$100,000.....\$4400+5%-of-amt.-over-\$50,000
6	\$100,001---\$1,000,000.....\$6900+2%-of-amt.-over-\$100,000

7 (g) The Agency shall not approve any payment from the
 8 Fund to pay an owner or operator:

9 (1) for costs of corrective action incurred by such
 10 owner or operator in an amount in excess of \$1,000,000
 11 per occurrence; and

12 (2) for costs of indemnification of such owner or
 13 operator in an amount in excess of \$1,000,000 per
 14 occurrence.

15 (h) Payment of any amount from the Fund for corrective
 16 action or indemnification shall be subject to the State
 17 acquiring by subrogation the rights of any owner, operator,
 18 or other person to recover the costs of corrective action or
 19 indemnification for which the Fund has compensated such
 20 owner, operator, or person from the person responsible or
 21 liable for the release.

22 (i) If the Agency refuses to pay or authorizes only a
 23 partial payment, the affected owner or operator may petition
 24 the Board for a hearing in the manner provided for the review
 25 of permit decisions in Section 40 of this Act.

26 (j) Costs of corrective action or indemnification
 27 incurred by an owner or operator prior to July 28, 1989,
 28 shall not be eligible for payment or reimbursement under this
 29 Section.

30 (k) The Agency shall not pay costs of corrective action
 31 or indemnification incurred before providing notification of
 32 the release of petroleum in accordance with the provisions of
 33 this Title.

34 (l) Corrective action does not include legal defense

1 costs. Legal defense costs include legal costs for seeking
2 payment under this Title unless the owner or operator
3 prevails before the Board in which case the Board may
4 authorize payment of legal fees.

5 (m) The Agency may apportion payment of costs for plans
6 submitted under Section 57.7(c)(4)(E)(iii) if:

7 (1) the owner or operator was deemed eligible to
8 access the Fund for payment of corrective action costs
9 for some, but not all, of the underground storage tanks
10 at the site; and

11 (2) the owner or operator failed to justify all
12 costs attributable to each underground storage tank at
13 the site.

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

15 (415 ILCS 5/57.13)

16 Sec. 57.13. Underground Storage Tank Program; transition.

17 (a) If a release is reported to the proper State
18 authority on or after September 13, ~~the effective date of~~
19 ~~this amendatory Act of~~ 1993, the owner or operator shall
20 comply with the requirements of this Title.

21 (b) If a release is reported to the proper State
22 authority prior to September 13, ~~the effective date of this~~
23 ~~amendatory Act of~~ 1993, the owner or operator of an
24 underground storage tank may elect to proceed in accordance
25 with the requirements of this Title by submitting a written
26 statement to the Agency of such election. If the owner or
27 operator elects to proceed under the requirements of this
28 Title all costs incurred in connection with the incident
29 prior to notification shall be reimbursable in the same
30 manner as was allowable under the then existing law.
31 Completion of corrective action shall then follow the
32 provisions of this Title.

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

1 (415 ILCS 5/58.7)

2 Sec. 58.7. Review and approvals.

3 (a) Requirements. All plans and reports that are
4 submitted pursuant to this Title shall be submitted for
5 review or approval in accordance with this Section.

6 (b) Review and evaluation by the Agency.

7 (1) Except for sites excluded under subdivision
8 (a)(2) of Section 58.1, the Agency shall, subject to
9 available resources, agree to provide review and
10 evaluation services for activities carried out pursuant
11 to this Title for which the RA requested the services in
12 writing. As a condition for providing such services, the
13 Agency may require that the RA for a site:

14 (A) Conform with the procedures of this Title;

15 (B) Allow for or otherwise arrange site visits
16 or other site evaluation by the Agency when so
17 requested;

18 (C) Agree to perform the Remedial Action Plan
19 ~~work-plan~~ as approved under this Title;

20 (D) Agree to pay any reasonable costs incurred
21 and documented by the Agency in providing such
22 services;

23 (E) Make an advance partial payment to the
24 Agency for such anticipated services in an amount,
25 acceptable to the Agency, but not to exceed \$5,000
26 or one-half of the total anticipated costs of the
27 Agency, whichever sum is less; and

28 (F) Demonstrate, if necessary, authority to
29 act on behalf of or in lieu of the owner or
30 operator.

31 (2) Any moneys received by the State for costs
32 incurred by the Agency in performing review or evaluation
33 services for actions conducted pursuant to this Title
34 shall be deposited in the Hazardous Waste Fund.

1 (3) An RA requesting services under subdivision
2 (b)(1) of this Section may, at any time, notify the
3 Agency, in writing, that Agency services previously
4 requested are no longer wanted. Within 180 days after
5 receipt of the notice, the Agency shall provide the RA
6 with a final invoice for services provided until the date
7 of such notifications.

8 (4) The Agency may invoice or otherwise request or
9 demand payment from a RA for costs incurred by the Agency
10 in performing review or evaluation services for actions
11 by the RA at sites only if:

12 (A) The Agency has incurred costs in
13 performing response actions, other than review or
14 evaluation services, due to the failure of the RA to
15 take response action in accordance with a notice
16 issued pursuant to this Act;

17 (B) The RA has agreed in writing to the
18 payment of such costs;

19 (C) The RA has been ordered to pay such costs
20 by the Board or a court of competent jurisdiction
21 pursuant to this Act; or

22 (D) The RA has requested or has consented to
23 Agency review or evaluation services under
24 subdivision (b)(1) of this Section.

25 (5) The Agency may, subject to available resources,
26 agree to provide review and evaluation services for
27 response actions if there is a written agreement among
28 parties to a legal action or if a notice to perform a
29 response action has been issued by the Agency.

30 (c) Review and evaluation by a Licensed Professional
31 Engineer. A RA may elect to contract with a Licensed
32 Professional Engineer who will perform review and evaluation
33 services on behalf of and under the direction of the Agency
34 relative to the site activities.

1 (1) Prior to entering into the contract with the
2 Review and Evaluation Licensed Professional Engineer
3 (RELPE), the RA shall notify the Agency of the RELPE to
4 be selected. The Agency and the RA shall discuss the
5 potential terms of the contract.

6 (2) At a minimum, the contract with the RELPE
7 shall provide that the RELPE will submit any reports
8 directly to the Agency, will take his or her directions
9 for work assignments from the Agency, and will perform
10 the assigned work on behalf of the Agency.

11 (3) Reasonable costs incurred by the Agency shall
12 be paid by the RA directly to the Agency in accordance
13 with the terms of the review and evaluation services
14 agreement entered into under subdivision (b)(1) of
15 Section 58.7.

16 (4) In no event shall the RELPE acting on behalf of
17 the Agency be an employee of the RA or the owner or
18 operator of the site or be an employee of any other
19 person the RA has contracted to provide services relative
20 to the site.

21 (d) Review and approval. All reviews required under
22 this Title shall be carried out by the Agency or a RELPE,
23 both under the direction of a Licensed Professional Engineer.

24 (1) All review activities conducted by the Agency
25 or a RELPE shall be carried out in conformance with this
26 Title and rules promulgated under Section 58.11.

27 (2) Specific plans, reports, and activities which
28 the Agency or a RELPE may review include:

29 (A) Site Investigation Reports and related
30 activities;

31 (B) Remediation Objectives Reports;

32 (C) Remedial Action Plans and related
33 activities; and

34 (D) Remedial Action Completion Reports and

1 related activities.

2 (3) Only the Agency shall have the authority to
3 approve, disapprove, or approve with conditions a plan
4 or report as a result of the review process including
5 those plans and reports reviewed by a RELPE. If the
6 Agency disapproves a plan or report or approves a plan or
7 report with conditions, the written notification required
8 by subdivision (d)(4) of this Section shall contain the
9 following information, as applicable:

10 (A) An explanation of the Sections of this
11 Title that may be violated if the plan or report was
12 approved;

13 (B) An explanation of the provisions of the
14 rules promulgated under this Title that may be
15 violated if the plan or report was approved;

16 (C) An explanation of the specific type of
17 information, if any, that the Agency deems the
18 applicant did not provide the Agency;

19 (D) A statement of specific reasons why the
20 Title and regulations might not be met if the plan
21 or report were approved; and

22 (E) An explanation of the reasons for
23 conditions if conditions are required.

24 (4) Upon approving, disapproving, or approving with
25 conditions a plan or report, the Agency shall notify the
26 RA in writing of its decision. In the case of approval
27 or approval with conditions of a Remedial Action
28 Completion Report, the Agency shall prepare a No Further
29 Remediation Letter that meets the requirements of Section
30 58.10 and send a copy of the letter to the RA.

31 (5) All reviews undertaken by the Agency or a RELPE
32 shall be completed and the decisions communicated to the
33 RA within 60 days of the request for review or approval.
34 The RA may waive the deadline upon a request from the

1 Agency. If the Agency disapproves or approves with
2 conditions a plan or report or fails to issue a final
3 decision within the 60 day period and the RA has not
4 agreed to a waiver of the deadline, the RA may, within 35
5 days, file an appeal to the Board. Appeals to the Board
6 shall be in the manner provided for the review of permit
7 decisions in Section 40 of this Act.

8 (e) Standard of review. In making determinations, the
9 following factors, and additional factors as may be adopted
10 by the Board in accordance with Section 58.11, shall be
11 considered by the Agency when reviewing or approving plans,
12 reports, and related activities, or the RELPE, when reviewing
13 plans, reports, and related activities:

14 (1) Site Investigation Reports and related
15 activities: Whether investigations have been conducted
16 and the results compiled in accordance with the
17 appropriate procedures and whether the interpretations
18 and conclusions reached are supported by the information
19 gathered. In making the determination, the following
20 factors shall be considered:

21 (A) The adequacy of the description of the
22 site and site characteristics that were used to
23 evaluate the site;

24 (B) The adequacy of the investigation of
25 potential pathways and risks to receptors identified
26 at the site; and

27 (C) The appropriateness of the sampling and
28 analysis used.

29 (2) Remediation Objectives Reports: Whether the
30 remediation objectives are consistent with the
31 requirements of the applicable method for selecting or
32 determining remediation objectives under Section 58.5.
33 In making the determination, the following factors shall
34 be considered:

1 (A) If the objectives were based on the
2 determination of area background levels under
3 subsection (b) of Section 58.5, whether the review
4 of current and historic conditions at or in the
5 immediate vicinity of the site has been thorough and
6 whether the site sampling and analysis has been
7 performed in a manner resulting in accurate
8 determinations;

9 (B) If the objectives were calculated on the
10 basis of predetermined equations using site specific
11 data, whether the calculations were accurately
12 performed and whether the site specific data reflect
13 actual site conditions; and

14 (C) If the objectives were determined using a
15 site specific risk assessment procedure, whether the
16 procedure used is nationally recognized and
17 accepted, whether the calculations were accurately
18 performed, and whether the site specific data
19 reflect actual site conditions.

20 (3) Remedial Action Plans and related activities:
21 Whether the plan will result in compliance with this
22 Title, and rules adopted under it and attainment of the
23 applicable remediation objectives. In making the
24 determination, the following factors shall be considered:

25 (A) The likelihood that the plan will result
26 in the attainment of the applicable remediation
27 objectives;

28 (B) Whether the activities proposed are
29 consistent with generally accepted engineering
30 practices; and

31 (C) The management of risk relative to any
32 remaining contamination, including but not limited
33 to, provisions for the long-term enforcement,
34 operation, and maintenance of institutional and

1 engineering controls, if relied on.

2 (4) Remedial Action Completion Reports and related
3 activities: Whether the remedial activities have been
4 completed in accordance with the approved Remedial Action
5 Plan and whether the applicable remediation objectives
6 have been attained.

7 (f) All plans and reports submitted for review shall
8 include a Licensed Professional Engineer's certification that
9 all investigations and remedial activities were carried out
10 under his or her direction and, to the best of his or her
11 knowledge and belief, the work described in the plan or
12 report has been completed in accordance with generally
13 accepted engineering practices, and the information presented
14 is accurate and complete.

15 (g) In accordance with Section 58.11, the Agency shall
16 propose and the Board shall adopt rules to carry out the
17 purposes of this Section. At a minimum, the rules shall
18 detail the types of services the Agency may provide in
19 response to requests under subdivision (b)(1) of this Section
20 and the recordkeeping it will utilize in documenting to the
21 RA the costs incurred by the Agency in providing such
22 services. ~~Until the Board adopts the rules, the Agency may~~
23 ~~continue to offer services of the type offered under~~
24 ~~subsections (m) and (n) of Section 22.2 of this Act prior to~~
25 ~~their repeal.~~

26 (h) Public participation.

27 (1) The Agency shall develop guidance to assist
28 RA's in the implementation of a community relations plan
29 to address activity at sites undergoing remedial action
30 pursuant to this Title.

31 (2) The RA may elect to enter into a services
32 agreement with the Agency for Agency assistance in
33 community outreach efforts.

34 (3) The Agency shall maintain a registry listing

1 those sites undergoing remedial action pursuant to this
2 Title.

3 (4) Notwithstanding any provisions of this Section,
4 the RA of a site undergoing remedial activity pursuant to
5 this Title may elect to initiate a community outreach
6 effort for the site.

7 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
8 89-626, eff. 8-9-96.)

9 (415 ILCS 5/58.8)

10 Sec. 58.8. Duty to record.

11 (a) The RA receiving a No Further Remediation Letter
12 from the Agency pursuant to Section 58.10, shall submit the
13 letter to the Office of the Recorder or the Registrar of
14 Titles of the county in which the site is located within 45
15 days of receipt of the letter. The Office of the Recorder or
16 the Registrar of Titles shall accept and record that letter
17 in accordance with Illinois law so that it forms a permanent
18 part of the chain of title for the site.

19 (b) A No Further Remediation Letter shall not become
20 effective until officially recorded in accordance with
21 subsection (a) of this Section. The RA shall obtain and
22 submit to the Agency a certified copy of the No Further
23 Remediation Letter as recorded.

24 (c) At no time shall any site for which a land use
25 limitation has been imposed as a result of remediation
26 activities under this Title be used in a manner inconsistent
27 with the land use limitation unless further investigation or
28 remedial action has been conducted that documents the
29 attainment of objectives appropriate for the new land use and
30 a new No Further Remediation Letter obtained and recorded in
31 accordance with this Title.

32 (d) In the event that a No Further Remediation Letter
33 issues by operation of law pursuant to Section 58.10, the RA

1 may, for purposes of this Section, file an affidavit stating
2 that the letter issued by operation of law. Upon receipt of
3 the No Further Remediation Letter from the Agency, the RA
4 shall comply with the requirements of subsections (a) and (b)
5 of this Section.

6 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96.)

7 (415 ILCS 5/58.14)

8 Sec. 58.14. Environmental Remediation Tax Credit review.

9 (a) Prior to applying for the Environmental Remediation
10 Tax Credit under Section 201 of the Illinois Income Tax Act,
11 Remediation Applicants shall first submit to the Agency an
12 application for review of remediation costs. The application
13 and review process shall be conducted in accordance with the
14 requirements of this Section and the rules adopted under
15 subsection (g). A preliminary review of the estimated
16 remediation costs for development and implementation of the
17 Remedial Action Plan may be obtained in accordance with
18 subsection (d).

19 (b) No application for review shall be submitted until a
20 No Further Remediation Letter has been issued by the Agency
21 and recorded in the chain of title for the site in accordance
22 with Section 58.10. The Agency shall review the application
23 to determine whether the costs submitted are remediation
24 costs, and whether the costs incurred are reasonable. The
25 application shall be on forms prescribed and provided by the
26 Agency. At a minimum, the application shall include the
27 following:

28 (1) information identifying the Remediation
29 Applicant and the site for which the tax credit is being
30 sought and the date of acceptance of the site into the
31 Site Remediation Program;

32 (2) a copy of the No Further Remediation Letter
33 with official verification that the letter has been

1 recorded in the chain of title for the site and a
2 demonstration that the site for which the application is
3 submitted is the same site as the one for which the No
4 Further Remediation Letter is issued;

5 (3) a demonstration that the release of the
6 regulated substances of concern for which the No Further
7 Remediation Letter was issued were not caused or
8 contributed to in any material respect by the Remediation
9 Applicant. After the Pollution Control Board rules are
10 adopted pursuant to the Illinois Administrative Procedure
11 Act for the administration and enforcement of Section
12 58.9 of the Environmental Protection Act, determinations
13 as to credit availability shall be made consistent with
14 those rules;

15 (4) an itemization and documentation, including
16 receipts, of the remediation costs incurred;

17 (5) a demonstration that the costs incurred are
18 remediation costs as defined in this Act and its rules;

19 (6) a demonstration that the costs submitted for
20 review were incurred by the Remediation Applicant who
21 received the No Further Remediation Letter;

22 (7) an application fee in the amount set forth in
23 subsection (e) for each site for which review of
24 remediation costs is requested and, if applicable,
25 certification from the Department of Commerce and
26 Community Affairs that the site is located in an
27 enterprise zone;

28 (8) any other information deemed appropriate by the
29 Agency.

30 (c) Within 60 days after receipt by the Agency of an
31 application meeting the requirements of subsection (b), the
32 Agency shall issue a letter to the applicant approving,
33 disapproving, or modifying the remediation costs submitted in
34 the application. If the remediation costs are approved as

1 submitted, the Agency's letter shall state the amount of the
2 remediation costs to be applied toward the Environmental
3 Remediation Tax Credit. If an application is disapproved or
4 approved with modification of remediation costs, the Agency's
5 letter shall set forth the reasons for the disapproval or
6 modification and state the amount of the remediation costs,
7 if any, to be applied toward the Environmental Remediation
8 Tax Credit.

9 If a preliminary review of a budget plan has been
10 obtained under subsection (d), the Remediation Applicant may
11 submit, with the application and supporting documentation
12 under subsection (b), a copy of the Agency's final
13 determination accompanied by a certification that the actual
14 remediation costs incurred for the development and
15 implementation of the Remedial Action Plan are equal to or
16 less than the costs approved in the Agency's final
17 determination on the budget plan. The certification shall be
18 signed by the Remediation Applicant and notarized. Based on
19 that submission, the Agency shall not be required to conduct
20 further review of the costs incurred for development and
21 implementation of the Remedial Action Plan and may approve
22 costs as submitted.

23 Within 35 days after receipt of an Agency letter
24 disapproving or modifying an application for approval of
25 remediation costs, the Remediation Applicant may appeal the
26 Agency's decision to the Board in the manner provided for the
27 review of permits in Section 40 of this Act.

28 (d) (1) A Remediation Applicant may obtain a preliminary
29 review of estimated remediation costs for the development
30 and implementation of the Remedial Action Plan by
31 submitting a budget plan along with the Remedial Action
32 Plan. The budget plan shall be set forth on forms
33 prescribed and provided by the Agency and shall include
34 but shall not be limited to line item estimates of the

1 costs associated with each line item (such as personnel,
2 equipment, and materials) that the Remediation Applicant
3 anticipates will be incurred for the development and
4 implementation of the Remedial Action Plan. The Agency
5 shall review the budget plan along with the Remedial
6 Action Plan to determine whether the estimated costs
7 submitted are remediation costs and whether the costs
8 estimated for the activities are reasonable.

9 (2) If the Remedial Action Plan is amended by the
10 Remediation Applicant or as a result of Agency action,
11 the corresponding budget plan shall be revised
12 accordingly and resubmitted for Agency review.

13 (3) The budget plan shall be accompanied by the
14 applicable fee as set forth in subsection (e).

15 (4) Submittal of a budget plan shall be deemed an
16 automatic 60-day waiver of the Remedial Action Plan
17 review deadlines set forth in this Section and its rules.

18 (5) Within the applicable period of review, the
19 Agency shall issue a letter to the Remediation Applicant
20 approving, disapproving, or modifying the estimated
21 remediation costs submitted in the budget plan. If a
22 budget plan is disapproved or approved with modification
23 of estimated remediation costs, the Agency's letter shall
24 set forth the reasons for the disapproval or
25 modification.

26 (6) Within 35 days after receipt of an Agency
27 letter disapproving or modifying a budget plan, the
28 Remediation Applicant may appeal the Agency's decision to
29 the Board in the manner provided for the review of
30 permits in Section 40 of this Act.

31 (e) The fees for reviews conducted under this Section
32 are in addition to any other fees or payments for Agency
33 services rendered pursuant to the Site Remediation Program
34 and shall be as follows:

1 (1) The fee for an application for review of
2 remediation costs shall be \$1,000 for each site reviewed.

3 (2) The fee for the review of the budget plan
4 submitted under subsection (d) shall be \$500 for each
5 site reviewed.

6 (3) In the case of a Remediation Applicant
7 submitting for review total remediation costs of \$100,000
8 or less for a site located within an enterprise zone (as
9 set forth in paragraph (i) of subsection (1) of Section
10 201 of the Illinois Income Tax Act), the fee for an
11 application for review of remediation costs shall be \$250
12 for each site reviewed. For those sites, there shall be
13 no fee for review of a budget plan under subsection (d).

14 The application fee shall be made payable to the State of
15 Illinois, for deposit into the Hazardous Waste Fund.

16 Pursuant to appropriation, the Agency shall use the fees
17 collected under this subsection for development and
18 administration of the review program.

19 (f) The Agency shall have the authority to enter into
20 any contracts or agreements that may be necessary to carry
21 out its duties and responsibilities under this Section.

22 (g) Within 6 months after July 21, ~~the effective date of~~
23 ~~this amendatory Act of~~ 1997, the Agency shall propose rules
24 prescribing procedures and standards for its administration
25 of this Section. Within 6 months after receipt of the
26 Agency's proposed rules, the Board shall adopt on second
27 notice, pursuant to Sections 27 and 28 of this Act and the
28 Illinois Administrative Procedure Act, rules that are
29 consistent with this Section. Prior to the effective date of
30 rules adopted under this Section, the Agency may conduct
31 reviews of applications under this Section and the Agency is
32 further authorized to distribute guidance documents on costs
33 that are eligible or ineligible as remediation costs.

34 (Source: P.A. 90-123, eff. 7-21-97; 90-792, eff. 1-1-99.)

1 (415 ILCS 5/58.17)

2 Sec. 58.17. Environmental Land Use Control. No later

3 than 2 months after July 7, 2000 ~~the effective date of this~~

4 ~~amendatory Act of the 91st General Assembly~~, the Agency,

5 after consideration of the recommendations of the Regulations

6 and Site Remediation Advisory Committee, shall propose rules

7 creating an instrument to be known as the Environmental Land

8 Use Control (ELUC). Within 6 months after receipt of the

9 Agency's proposed rules, the Board shall adopt, pursuant to

10 Sections 27 and 28 of this Act, rules creating the ELUC that

11 establish land use limitations or obligations on the use of

12 real property when necessary to manage risk to human health

13 or the environment arising from contamination left in place

14 pursuant to the procedures set forth in Section 58.5 of this

15 Act or 35 Ill. Adm. Code 742. The rules shall include

16 provisions addressing establishment, content, recording,

17 duration, and enforcement of ELUCs.

18 (Source: P.A. 91-909, eff. 7-7-00.)

- 19 (415 ILCS 5/4.1 rep.)
- 20 (415 ILCS 5/5.1 rep.)
- 21 (415 ILCS 5/12.1 rep.)
- 22 (415 ILCS 5/22.20 rep.)
- 23 (415 ILCS 5/22.41 rep.)
- 24 (415 ILCS 5/22.42 rep.)
- 25 (415 ILCS 5/50 rep.)

26 Section 10. The Environmental Protection Act is amended

27 by repealing Sections 4.1, 5.1, 12.1, 22.20, 22.41, 22.42,

28 and 50.

29 Section 15. The Employment of Illinois Workers on Public

30 Works Act is amended by changing Section 1 as follows:

31 (30 ILCS 570/1) (from Ch. 48, par. 2201)

1 Sec. 1. For the purposes of Article 2 of this Act, the
2 following words have the meanings ascribed to them in this
3 Section.

4 (1) "Illinois laborer" refers to any person who has
5 resided in Illinois for at least 30 days and intends to
6 become or remain an Illinois resident.

7 (2) "A period of excessive unemployment" means any month
8 immediately following 2 consecutive calendar months during
9 which the level of unemployment in the State of Illinois has
10 exceeded 5% as measured by the United States Bureau of Labor
11 Statistics in its monthly publication of employment and
12 unemployment figures.

13 (3) "Hazardous waste" has the definition ascribed to it
14 in Section 3.220 3-15 of the Illinois Environmental
15 Protection Act, approved June 29, 1970, as amended.

16 (Source: P.A. 86-1015.)

17 Section 20. The Counties Code is amended by changing
18 Section 5-15002 as follows:

19 (55 ILCS 5/5-15002) (from Ch. 34, par. 5-15002)

20 Sec. 5-15002. Definitions. When used in this Division
21 the term "waterworks system" means and includes a waterworks
22 system in its entirety, or any integral part thereof,
23 including mains, hydrants, meters, valves, standpipes,
24 storage tanks, pumps, tanks, intakes, wells, impounding
25 reservoirs, machinery, purification plants, softening
26 apparatus, and all other elements useful in connection with a
27 water supply or water distribution system.

28 The term "sewerage system" means and includes any or all
29 of the following: Sewerage treatment plant or plants,
30 collecting, intercepting, and outlet sewers, lateral sewers
31 and drains, including combined storm water and sanitary
32 drains, force mains, conduits, pumping stations, ejector

1 stations, and all other appurtenances, extensions and
2 improvements necessary, useful or convenient for the
3 collection, treatment and disposal in a sanitary manner of
4 storm water, sanitary sewage and industrial wastes.

5 The term "combined waterworks and sewerage system" means
6 and includes a waterworks and sewerage system, as hereinabove
7 defined, which any county shall determine to operate in
8 combination.

9 The term "waste management" means the process of storage,
10 treatment or disposal, but not the hauling or transport, of
11 "waste" as defined in Section 3.535 3-53 of the Environmental
12 Protection Act, but excluding "hazardous waste" as defined in
13 that Act.

14 (Source: P.A. 86-962; 87-650.)

15 Section 25. The Illinois Municipal Code is amended by
16 changing Section 11-31-1 as follows:

17 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

18 Sec. 11-31-1. Demolition, repair, enclosure, or
19 remediation.

20 (a) The corporate authorities of each municipality may
21 demolish, repair, or enclose or cause the demolition, repair,
22 or enclosure of dangerous and unsafe buildings or uncompleted
23 and abandoned buildings within the territory of the
24 municipality and may remove or cause the removal of garbage,
25 debris, and other hazardous, noxious, or unhealthy substances
26 or materials from those buildings. In any county having
27 adopted by referendum or otherwise a county health department
28 as provided by Division 5-25 of the Counties Code or its
29 predecessor, the county board of that county may exercise
30 those powers with regard to dangerous and unsafe buildings or
31 uncompleted and abandoned buildings within the territory of
32 any city, village, or incorporated town having less than

1 50,000 population.

2 The corporate authorities shall apply to the circuit
3 court of the county in which the building is located (i) for
4 an order authorizing action to be taken with respect to a
5 building if the owner or owners of the building, including
6 the lien holders of record, after at least 15 days' written
7 notice by mail so to do, have failed to put the building in a
8 safe condition or to demolish it or (ii) for an order
9 requiring the owner or owners of record to demolish, repair,
10 or enclose the building or to remove garbage, debris, and
11 other hazardous, noxious, or unhealthy substances or
12 materials from the building. It is not a defense to the
13 cause of action that the building is boarded up or otherwise
14 enclosed, although the court may order the defendant to have
15 the building boarded up or otherwise enclosed. Where, upon
16 diligent search, the identity or whereabouts of the owner or
17 owners of the building, including the lien holders of record,
18 is not ascertainable, notice mailed to the person or persons
19 in whose name the real estate was last assessed is sufficient
20 notice under this Section.

21 The hearing upon the application to the circuit court
22 shall be expedited by the court and shall be given precedence
23 over all other suits. Any person entitled to bring an action
24 under subsection (b) shall have the right to intervene in an
25 action brought under this Section.

26 The cost of the demolition, repair, enclosure, or removal
27 incurred by the municipality, by an intervenor, or by a lien
28 holder of record, including court costs, attorney's fees, and
29 other costs related to the enforcement of this Section, is
30 recoverable from the owner or owners of the real estate or
31 the previous owner or both if the property was transferred
32 during the 15 day notice period and is a lien on the real
33 estate; the lien is superior to all prior existing liens and
34 encumbrances, except taxes, if, within 180 days after the

1 repair, demolition, enclosure, or removal, the municipality,
2 the lien holder of record, or the intervenor who incurred the
3 cost and expense shall file a notice of lien for the cost and
4 expense incurred in the office of the recorder in the county
5 in which the real estate is located or in the office of the
6 registrar of titles of the county if the real estate affected
7 is registered under the Registered Titles (Torrens) Act.

8 The notice must consist of a sworn statement setting out
9 (1) a description of the real estate sufficient for its
10 identification, (2) the amount of money representing the cost
11 and expense incurred, and (3) the date or dates when the cost
12 and expense was incurred by the municipality, the lien holder
13 of record, or the intervenor. Upon payment of the cost and
14 expense by the owner of or persons interested in the property
15 after the notice of lien has been filed, the lien shall be
16 released by the municipality, the person in whose name the
17 lien has been filed, or the assignee of the lien, and the
18 release may be filed of record as in the case of filing
19 notice of lien. Unless the lien is enforced under subsection
20 (c), the lien may be enforced by foreclosure proceedings as
21 in the case of mortgage foreclosures under Article XV of the
22 Code of Civil Procedure or mechanics' lien foreclosures. An
23 action to foreclose this lien may be commenced at any time
24 after the date of filing of the notice of lien. The costs of
25 foreclosure incurred by the municipality, including court
26 costs, reasonable attorney's fees, advances to preserve the
27 property, and other costs related to the enforcement of this
28 subsection, plus statutory interest, are a lien on the real
29 estate and are recoverable by the municipality from the owner
30 or owners of the real estate.

31 All liens arising under this subsection (a) shall be
32 assignable. The assignee of the lien shall have the same
33 power to enforce the lien as the assigning party, except that
34 the lien may not be enforced under subsection (c).

1 If the appropriate official of any municipality
2 determines that any dangerous and unsafe building or
3 uncompleted and abandoned building within its territory
4 fulfills the requirements for an action by the municipality
5 under the Abandoned Housing Rehabilitation Act, the
6 municipality may petition under that Act in a proceeding
7 brought under this subsection.

8 (b) Any owner or tenant of real property within 1200
9 feet in any direction of any dangerous or unsafe building
10 located within the territory of a municipality with a
11 population of 500,000 or more may file with the appropriate
12 municipal authority a request that the municipality apply to
13 the circuit court of the county in which the building is
14 located for an order permitting the demolition, removal of
15 garbage, debris, and other noxious or unhealthy substances
16 and materials from, or repair or enclosure of the building in
17 the manner prescribed in subsection (a) of this Section. If
18 the municipality fails to institute an action in circuit
19 court within 90 days after the filing of the request, the
20 owner or tenant of real property within 1200 feet in any
21 direction of the building may institute an action in circuit
22 court seeking an order compelling the owner or owners of
23 record to demolish, remove garbage, debris, and other noxious
24 or unhealthy substances and materials from, repair or enclose
25 or to cause to be demolished, have garbage, debris, and other
26 noxious or unhealthy substances and materials removed from,
27 repaired, or enclosed the building in question. A private
28 owner or tenant who institutes an action under the preceding
29 sentence shall not be required to pay any fee to the clerk of
30 the circuit court. The cost of repair, removal, demolition,
31 or enclosure shall be borne by the owner or owners of record
32 of the building. In the event the owner or owners of record
33 fail to demolish, remove garbage, debris, and other noxious
34 or unhealthy substances and materials from, repair, or

1 enclose the building within 90 days of the date the court
2 entered its order, the owner or tenant who instituted the
3 action may request that the court join the municipality as a
4 party to the action. The court may order the municipality to
5 demolish, remove materials from, repair, or enclose the
6 building, or cause that action to be taken upon the request
7 of any owner or tenant who instituted the action or upon the
8 municipality's request. The municipality may file, and the
9 court may approve, a plan for rehabilitating the building in
10 question. A court order authorizing the municipality to
11 demolish, remove materials from, repair, or enclose a
12 building, or cause that action to be taken, shall not
13 preclude the court from adjudging the owner or owners of
14 record of the building in contempt of court due to the
15 failure to comply with the order to demolish, remove garbage,
16 debris, and other noxious or unhealthy substances and
17 materials from, repair, or enclose the building.

18 If a municipality or a person or persons other than the
19 owner or owners of record pay the cost of demolition, removal
20 of garbage, debris, and other noxious or unhealthy substances
21 and materials, repair, or enclosure pursuant to a court
22 order, the cost, including court costs, attorney's fees, and
23 other costs related to the enforcement of this subsection, is
24 recoverable from the owner or owners of the real estate and
25 is a lien on the real estate; the lien is superior to all
26 prior existing liens and encumbrances, except taxes, if,
27 within 180 days after the repair, removal, demolition, or
28 enclosure, the municipality or the person or persons who paid
29 the costs of demolition, removal, repair, or enclosure shall
30 file a notice of lien of the cost and expense incurred in the
31 office of the recorder in the county in which the real estate
32 is located or in the office of the registrar of the county if
33 the real estate affected is registered under the Registered
34 Titles (Torrens) Act. The notice shall be in a form as is

1 provided in subsection (a). An owner or tenant who
2 institutes an action in circuit court seeking an order to
3 compel the owner or owners of record to demolish, remove
4 materials from, repair, or enclose any dangerous or unsafe
5 building, or to cause that action to be taken under this
6 subsection may recover court costs and reasonable attorney's
7 fees for instituting the action from the owner or owners of
8 record of the building. Upon payment of the costs and
9 expenses by the owner or a person interested in the
10 property after the notice of lien has been filed, the lien
11 shall be released by the municipality or the person in whose
12 name the lien has been filed or his or her assignee, and the
13 release may be filed of record as in the case of filing a
14 notice of lien. Unless the lien is enforced under subsection
15 (c), the lien may be enforced by foreclosure proceedings as
16 in the case of mortgage foreclosures under Article XV of the
17 Code of Civil Procedure or mechanics' lien foreclosures. An
18 action to foreclose this lien may be commenced at any time
19 after the date of filing of the notice of lien. The costs of
20 foreclosure incurred by the municipality, including court
21 costs, reasonable attorneys' fees, advances to preserve the
22 property, and other costs related to the enforcement of this
23 subsection, plus statutory interest, are a lien on the real
24 estate and are recoverable by the municipality from the owner
25 or owners of the real estate.

26 All liens arising under the terms of this subsection (b)
27 shall be assignable. The assignee of the lien shall have the
28 same power to enforce the lien as the assigning party, except
29 that the lien may not be enforced under subsection (c).

30 (c) In any case where a municipality has obtained a lien
31 under subsection (a), (b), or (f), the municipality may
32 enforce the lien under this subsection (c) in the same
33 proceeding in which the lien is authorized.

34 A municipality desiring to enforce a lien under this

1 subsection (c) shall petition the court to retain
2 jurisdiction for foreclosure proceedings under this
3 subsection. Notice of the petition shall be served, by
4 certified or registered mail, on all persons who were served
5 notice under subsection (a), (b), or (f). The court shall
6 conduct a hearing on the petition not less than 15 days after
7 the notice is served. If the court determines that the
8 requirements of this subsection (c) have been satisfied, it
9 shall grant the petition and retain jurisdiction over the
10 matter until the foreclosure proceeding is completed. The
11 costs of foreclosure incurred by the municipality, including
12 court costs, reasonable attorneys' fees, advances to preserve
13 the property, and other costs related to the enforcement of
14 this subsection, plus statutory interest, are a lien on the
15 real estate and are recoverable by the municipality from the
16 owner or owners of the real estate. If the court denies the
17 petition, the municipality may enforce the lien in a separate
18 action as provided in subsection (a), (b), or (f).

19 All persons designated in Section 15-1501 of the Code of
20 Civil Procedure as necessary parties in a mortgage
21 foreclosure action shall be joined as parties before issuance
22 of an order of foreclosure. Persons designated in Section
23 15-1501 of the Code of Civil Procedure as permissible parties
24 may also be joined as parties in the action.

25 The provisions of Article XV of the Code of Civil
26 Procedure applicable to mortgage foreclosures shall apply to
27 the foreclosure of a lien under this subsection (c), except
28 to the extent that those provisions are inconsistent with
29 this subsection. For purposes of foreclosures of liens
30 under this subsection, however, the redemption period
31 described in subsection (b) of Section 15-1603 of the Code of
32 Civil Procedure shall end 60 days after the date of entry of
33 the order of foreclosure.

34 (d) In addition to any other remedy provided by law, the

1 corporate authorities of any municipality may petition the
2 circuit court to have property declared abandoned under this
3 subsection (d) if:

4 (1) the property has been tax delinquent for 2 or
5 more years or bills for water service for the property
6 have been outstanding for 2 or more years;

7 (2) the property is unoccupied by persons legally
8 in possession; and

9 (3) the property contains a dangerous or unsafe
10 building.

11 All persons having an interest of record in the property,
12 including tax purchasers and beneficial owners of any
13 Illinois land trust having title to the property, shall be
14 named as defendants in the petition and shall be served with
15 process. In addition, service shall be had under Section
16 2-206 of the Code of Civil Procedure as in other cases
17 affecting property.

18 The municipality, however, may proceed under this
19 subsection in a proceeding brought under subsection (a) or
20 (b). Notice of the petition shall be served by certified or
21 registered mail on all persons who were served notice under
22 subsection (a) or (b).

23 If the municipality proves that the conditions described
24 in this subsection exist and the owner of record of the
25 property does not enter an appearance in the action, or, if
26 title to the property is held by an Illinois land trust, if
27 neither the owner of record nor the owner of the beneficial
28 interest of the trust enters an appearance, the court shall
29 declare the property abandoned.

30 If that determination is made, notice shall be sent by
31 certified or registered mail to all persons having an
32 interest of record in the property, including tax purchasers
33 and beneficial owners of any Illinois land trust having title
34 to the property, stating that title to the property will be

1 transferred to the municipality unless, within 30 days of the
2 notice, the owner of record enters an appearance in the
3 action, or unless any other person having an interest in the
4 property files with the court a request to demolish the
5 dangerous or unsafe building or to put the building in safe
6 condition.

7 If the owner of record enters an appearance in the action
8 within the 30 day period, the court shall vacate its order
9 declaring the property abandoned. In that case, the
10 municipality may amend its complaint in order to initiate
11 proceedings under subsection (a).

12 If a request to demolish or repair the building is filed
13 within the 30 day period, the court shall grant permission to
14 the requesting party to demolish the building within 30 days
15 or to restore the building to safe condition within 60 days
16 after the request is granted. An extension of that period
17 for up to 60 additional days may be given for good cause. If
18 more than one person with an interest in the property files a
19 timely request, preference shall be given to the person with
20 the lien or other interest of the highest priority.

21 If the requesting party proves to the court that the
22 building has been demolished or put in a safe condition
23 within the period of time granted by the court, the court
24 shall issue a quitclaim judicial deed for the property to the
25 requesting party, conveying only the interest of the owner of
26 record, upon proof of payment to the municipality of all
27 costs incurred by the municipality in connection with the
28 action, including but not limited to court costs, attorney's
29 fees, administrative costs, the costs, if any, associated
30 with building enclosure or removal, and receiver's
31 certificates. The interest in the property so conveyed shall
32 be subject to all liens and encumbrances on the property. In
33 addition, if the interest is conveyed to a person holding a
34 certificate of purchase for the property under the Property

1 Tax Code, the conveyance shall be subject to the rights of
2 redemption of all persons entitled to redeem under that Act,
3 including the original owner of record.

4 If no person with an interest in the property files a
5 timely request or if the requesting party fails to demolish
6 the building or put the building in safe condition within the
7 time specified by the court, the municipality may petition
8 the court to issue a judicial deed for the property to the
9 municipality. A conveyance by judicial deed shall operate to
10 extinguish all existing ownership interests in, liens on, and
11 other interest in the property, including tax liens, and
12 shall extinguish the rights and interests of any and all
13 holders of a bona fide certificate of purchase of the
14 property for delinquent taxes. Any such bona fide
15 certificate of purchase holder shall be entitled to a sale in
16 error as prescribed under Section 21-310 of the Property Tax
17 Code.

18 (e) Each municipality may use the provisions of this
19 subsection to expedite the removal of certain buildings that
20 are a continuing hazard to the community in which they are
21 located.

22 If a residential or commercial building is 3 stories or
23 less in height as defined by the municipality's building
24 code, and the corporate official designated to be in charge
25 of enforcing the municipality's building code determines that
26 the building is open and vacant and an immediate and
27 continuing hazard to the community in which the building is
28 located, then the official shall be authorized to post a
29 notice not less than 2 feet by 2 feet in size on the front of
30 the building. The notice shall be dated as of the date of
31 the posting and shall state that unless the building is
32 demolished, repaired, or enclosed, and unless any garbage,
33 debris, and other hazardous, noxious, or unhealthy substances
34 or materials are removed so that an immediate and continuing

1 hazard to the community no longer exists, then the building
2 may be demolished, repaired, or enclosed, or any garbage,
3 debris, and other hazardous, noxious, or unhealthy substances
4 or materials may be removed, by the municipality.

5 Not later than 30 days following the posting of the
6 notice, the municipality shall do all of the following:

7 (1) Cause to be sent, by certified mail, return
8 receipt requested, a Notice to Remediate to all owners
9 of record of the property, the beneficial owners of any
10 Illinois land trust having title to the property, and all
11 lienholders of record in the property, stating the intent
12 of the municipality to demolish, repair, or enclose the
13 building or remove any garbage, debris, or other
14 hazardous, noxious, or unhealthy substances or materials
15 if that action is not taken by the owner or owners.

16 (2) Cause to be published, in a newspaper published
17 or circulated in the municipality where the building is
18 located, a notice setting forth (i) the permanent tax
19 index number and the address of the building, (ii) a
20 statement that the property is open and vacant and
21 constitutes an immediate and continuing hazard to the
22 community, and (iii) a statement that the municipality
23 intends to demolish, repair, or enclose the building or
24 remove any garbage, debris, or other hazardous, noxious,
25 or unhealthy substances or materials if the owner or
26 owners or lienholders of record fail to do so. This
27 notice shall be published for 3 consecutive days.

28 (3) Cause to be recorded the Notice to Remediate
29 mailed under paragraph (1) in the office of the recorder
30 in the county in which the real estate is located or in
31 the office of the registrar of titles of the county if
32 the real estate is registered under the Registered Title
33 (Torrens) Act.

34 Any person or persons with a current legal or equitable

1 interest in the property objecting to the proposed actions of
2 the corporate authorities may file his or her objection in an
3 appropriate form in a court of competent jurisdiction.

4 If the building is not demolished, repaired, or enclosed,
5 or the garbage, debris, or other hazardous, noxious, or
6 unhealthy substances or materials are not removed, within 30
7 days of mailing the notice to the owners of record, the
8 beneficial owners of any Illinois land trust having title to
9 the property, and all lienholders of record in the property,
10 or within 30 days of the last day of publication of the
11 notice, whichever is later, the corporate authorities shall
12 have the power to demolish, repair, or enclose the building
13 or to remove any garbage, debris, or other hazardous,
14 noxious, or unhealthy substances or materials.

15 The municipality may proceed to demolish, repair, or
16 enclose a building or remove any garbage, debris, or other
17 hazardous, noxious, or unhealthy substances or materials
18 under this subsection within a 120-day period following the
19 date of the mailing of the notice if the appropriate official
20 determines that the demolition, repair, enclosure, or removal
21 of any garbage, debris, or other hazardous, noxious, or
22 unhealthy substances or materials is necessary to remedy the
23 immediate and continuing hazard. If, however, before the
24 municipality proceeds with any of the actions authorized by
25 this subsection, any person with a legal or equitable
26 interest in the property has sought a hearing under this
27 subsection before a court and has served a copy of the
28 complaint on the chief executive officer of the municipality,
29 then the municipality shall not proceed with the demolition,
30 repair, enclosure, or removal of garbage, debris, or other
31 substances until the court determines that that action is
32 necessary to remedy the hazard and issues an order
33 authorizing the municipality to do so.

34 Following the demolition, repair, or enclosure of a

1 building, or the removal of garbage, debris, or other
2 hazardous, noxious, or unhealthy substances or materials
3 under this subsection, the municipality may file a notice of
4 lien against the real estate for the cost of the demolition,
5 repair, enclosure, or removal within 180 days after the
6 repair, demolition, enclosure, or removal occurred, for the
7 cost and expense incurred, in the office of the recorder in
8 the county in which the real estate is located or in the
9 office of the registrar of titles of the county if the real
10 estate affected is registered under the Registered Titles
11 (Torrens) Act; this lien has priority over the interests of
12 those parties named in the Notice to Remediate mailed under
13 paragraph (1), but not over the interests of third party
14 purchasers or encumbrancers for value who obtained their
15 interests in the property before obtaining actual or
16 constructive notice of the lien. The notice of lien shall
17 consist of a sworn statement setting forth (i) a description
18 of the real estate, such as the address or other description
19 of the property, sufficient for its identification; (ii) the
20 expenses incurred by the municipality in undertaking the
21 remedial actions authorized under this subsection; (iii) the
22 date or dates the expenses were incurred by the municipality;
23 (iv) a statement by the corporate official responsible for
24 enforcing the building code that the building was open and
25 vacant and constituted an immediate and continuing hazard to
26 the community; (v) a statement by the corporate official that
27 the required sign was posted on the building, that notice was
28 sent by certified mail to the owners of record, and that
29 notice was published in accordance with this subsection; and
30 (vi) a statement as to when and where the notice was
31 published. The lien authorized by this subsection may
32 thereafter be released or enforced by the municipality as
33 provided in subsection (a).

34 (f) The corporate authorities of each municipality may

1 remove or cause the removal of, or otherwise environmentally
2 remediate hazardous substances and petroleum products on, in,
3 or under any abandoned and unsafe property within the
4 territory of a municipality. In addition, where preliminary
5 evidence indicates the presence or likely presence of a
6 hazardous substance or a petroleum product or a release or a
7 substantial threat of a release of a hazardous substance or a
8 petroleum product on, in, or under the property, the
9 corporate authorities of the municipality may inspect the
10 property and test for the presence or release of hazardous
11 substances and petroleum products. In any county having
12 adopted by referendum or otherwise a county health department
13 as provided by Division 5-25 of the Counties Code or its
14 predecessor, the county board of that county may exercise the
15 above-described powers with regard to property within the
16 territory of any city, village, or incorporated town having
17 less than 50,000 population.

18 For purposes of this subsection (f):

19 (1) "property" or "real estate" means all real
20 property, whether or not improved by a structure;

21 (2) "abandoned" means;

22 (A) the property has been tax delinquent for 2
23 or more years;

24 (B) the property is unoccupied by persons
25 legally in possession; and

26 (3) "unsafe" means property that presents an actual
27 or imminent threat to public health and safety caused by
28 the release of hazardous substances; and

29 (4) "hazardous substances" means the same as in
30 Section 3.215 ~~3-14~~ of the Environmental Protection Act.

31 The corporate authorities shall apply to the circuit
32 court of the county in which the property is located (i) for
33 an order allowing the municipality to enter the property and
34 inspect and test substances on, in, or under the property; or

1 (ii) for an order authorizing the corporate authorities to
2 take action with respect to remediation of the property if
3 conditions on the property, based on the inspection and
4 testing authorized in paragraph (i), indicate the presence of
5 hazardous substances or petroleum products. Remediation
6 shall be deemed complete for purposes of paragraph (ii) above
7 when the property satisfies Tier I, II, or III remediation
8 objectives for the property's most recent usage, as
9 established by the Environmental Protection Act, and the
10 rules and regulations promulgated thereunder. Where, upon
11 diligent search, the identity or whereabouts of the owner or
12 owners of the property, including the lien holders of record,
13 is not ascertainable, notice mailed to the person or persons
14 in whose name the real estate was last assessed is sufficient
15 notice under this Section.

16 The court shall grant an order authorizing testing under
17 paragraph (i) above upon a showing of preliminary evidence
18 indicating the presence or likely presence of a hazardous
19 substance or a petroleum product or a release of or a
20 substantial threat of a release of a hazardous substance or a
21 petroleum product on, in, or under abandoned property. The
22 preliminary evidence may include, but is not limited to,
23 evidence of prior use, visual site inspection, or records of
24 prior environmental investigations. The testing authorized
25 by paragraph (i) above shall include any type of
26 investigation which is necessary for an environmental
27 professional to determine the environmental condition of the
28 property, including but not limited to performance of soil
29 borings and groundwater monitoring. The court shall grant a
30 remediation order under paragraph (ii) above where testing of
31 the property indicates that it fails to meet the applicable
32 remediation objectives. The hearing upon the application to
33 the circuit court shall be expedited by the court and shall
34 be given precedence over all other suits.

1 The cost of the inspection, testing, or remediation
2 incurred by the municipality or by a lien holder of record,
3 including court costs, attorney's fees, and other costs
4 related to the enforcement of this Section, is a lien on the
5 real estate; except that in any instances where a
6 municipality incurs costs of inspection and testing but finds
7 no hazardous substances or petroleum products on the property
8 that present an actual or imminent threat to public health
9 and safety, such costs are not recoverable from the owners
10 nor are such costs a lien on the real estate. The lien is
11 superior to all prior existing liens and encumbrances, except
12 taxes and any lien obtained under subsection (a) or (e), if,
13 within 180 days after the completion of the inspection,
14 testing, or remediation, the municipality or the lien holder
15 of record who incurred the cost and expense shall file a
16 notice of lien for the cost and expense incurred in the
17 office of the recorder in the county in which the real estate
18 is located or in the office of the registrar of titles of the
19 county if the real estate affected is registered under the
20 Registered Titles (Torrens) Act.

21 The notice must consist of a sworn statement setting out
22 (i) a description of the real estate sufficient for its
23 identification, (ii) the amount of money representing the
24 cost and expense incurred, and (iii) the date or dates when
25 the cost and expense was incurred by the municipality or the
26 lien holder of record. Upon payment of the lien amount by
27 the owner of or persons interested in the property after the
28 notice of lien has been filed, a release of lien shall be
29 issued by the municipality, the person in whose name the lien
30 has been filed, or the assignee of the lien, and the release
31 may be filed of record as in the case of filing notice of
32 lien.

33 The lien may be enforced under subsection (c) or by
34 foreclosure proceedings as in the case of mortgage

1 foreclosures under Article XV of the Code of Civil Procedure
2 or mechanics' lien foreclosures; provided that where the lien
3 is enforced by foreclosure under subsection (c) or under
4 either statute, the municipality may not proceed against the
5 other assets of the owner or owners of the real estate for
6 any costs that otherwise would be recoverable under this
7 Section but that remain unsatisfied after foreclosure except
8 where such additional recovery is authorized by separate
9 environmental laws. An action to foreclose this lien may be
10 commenced at any time after the date of filing of the notice
11 of lien. The costs of foreclosure incurred by the
12 municipality, including court costs, reasonable attorney's
13 fees, advances to preserve the property, and other costs
14 related to the enforcement of this subsection, plus statutory
15 interest, are a lien on the real estate.

16 All liens arising under this subsection (f) shall be
17 assignable. The assignee of the lien shall have the same
18 power to enforce the lien as the assigning party, except that
19 the lien may not be enforced under subsection (c).

20 (g) In any case where a municipality has obtained a lien
21 under subsection (a), the municipality may also bring an
22 action for a money judgment against the owner or owners of
23 the real estate in the amount of the lien in the same manner
24 as provided for bringing causes of action in Article II of
25 the Code of Civil Procedure and, upon obtaining a judgment,
26 file a judgment lien against all of the real estate of the
27 owner or owners and enforce that lien as provided for in
28 Article XII of the Code of Civil Procedure.

29 (Source: P.A. 91-162, eff. 7-16-99; 91-177, eff. 1-1-00;
30 91-357, eff. 7-29-99; 91-542, eff. 1-1-00; 91-561, eff.
31 1-1-00; 92-16, eff. 6-28-01.)

32 Section 30. The Conservation District Act is amended by
33 changing Section 19 as follows:

1 (70 ILCS 410/19) (from Ch. 96 1/2, par. 7129)

2 Sec. 19. Landfills.

3 (a) No land that is owned or acquired by a conservation
4 district may be used for the development or operation of any
5 new pollution control facility, as those terms are defined in
6 Section 3.330 3-32 of the Environmental Protection Act.

7 (b) A conservation district may not transfer any land or
8 interest in land owned or acquired by the district to any
9 other entity which the district has reason to know intends to
10 construct, expand or operate thereon any sanitary landfill or
11 regulated waste treatment, disposal or storage facility or
12 develop or operate thereon any new pollution control
13 facility, as that term is defined in Section 3.330 3-32 of
14 the Environmental Protection Act.

15 A conservation district that wishes to transfer any land
16 or interest in land owned or acquired by the district to any
17 other entity must impose, as a condition of the transfer, a
18 covenant prohibiting the development thereon or operation of
19 any new pollution control facility, as that term is defined
20 in Section 3.330 3-32 of the Environmental Protection Act.

21 (Source: P.A. 87-554; 88-681, eff. 12-22-94.)

22 Section 35. The Downstate Forest Preserve District Act
23 is amended by changing Section 18.6c as follows:

24 (70 ILCS 805/18.6c) (from Ch. 96 1/2, par. 6340c)

25 Sec. 18.6c. Landfills.

26 (a) No land that is owned or acquired by a forest
27 preserve district may be used for the development or
28 operation of any new pollution control facility, as that term
29 is defined in Section 3.330 3-32 of the Environmental
30 Protection Act.

31 (b) A forest preserve district may not transfer any land
32 or interest in land owned or acquired by the district to any

1 other entity which the district has reason to know intends to
2 construct, expand or operate thereon any sanitary landfill or
3 regulated waste treatment, disposal or storage facility or
4 develop or operate thereon any new pollution control
5 facility, as that term is defined in Section 3.330 3-32 of
6 the Environmental Protection Act.

7 A forest preserve district that wishes to transfer any
8 land or interest in land owned or acquired by the district to
9 any other entity must impose, as a condition of the transfer,
10 a covenant prohibiting the development thereon or operation
11 of any new pollution control facility, as that term is
12 defined in Section 3.330 3-32 of the Environmental Protection
13 Act.

14 (Source: P.A. 87-554; 88-681, eff. 12-22-94.)

15 Section 40. The Public Utilities Act is amended by
16 changing Section 8-403.1 as follows:

17 (220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 8-403.1)

18 Sec. 8-403.1. Electricity purchased from qualified solid
19 waste energy facility; tax credit; distributions for economic
20 development.

21 (a) It is hereby declared to be the policy of this State
22 to encourage the development of alternate energy production
23 facilities in order to conserve our energy resources and to
24 provide for their most efficient use.

25 (b) For the purpose of this Section and Section 9-215.1,
26 "qualified solid waste energy facility" means a facility
27 determined by the Illinois Commerce Commission to qualify as
28 such under the Local Solid Waste Disposal Act, to use methane
29 gas generated from landfills as its primary fuel, and to
30 possess characteristics that would enable it to qualify as a
31 cogeneration or small power production facility under federal
32 law.

1 (c) In furtherance of the policy declared in this
2 Section, the Illinois Commerce Commission shall require
3 electric utilities to enter into long-term contracts to
4 purchase electricity from qualified solid waste energy
5 facilities located in the electric utility's service area,
6 for a period beginning on the date that the facility begins
7 generating electricity and having a duration of not less than
8 10 years in the case of facilities fueled by
9 landfill-generated methane, or 20 years in the case of
10 facilities fueled by methane generated from a landfill owned
11 by a forest preserve district. The purchase rate contained
12 in such contracts shall be equal to the average amount per
13 kilowatt-hour paid from time to time by the unit or units of
14 local government in which the electricity generating
15 facilities are located, excluding amounts paid for street
16 lighting and pumping service.

17 (d) Whenever a public utility is required to purchase
18 electricity pursuant to subsection (c) above, it shall be
19 entitled to credits in respect of its obligations to remit to
20 the State taxes it has collected under the Electricity Excise
21 Tax Law equal to the amounts, if any, by which payments for
22 such electricity exceed (i) the then current rate at which
23 the utility must purchase the output of qualified facilities
24 pursuant to the federal Public Utility Regulatory Policies
25 Act of 1978, less (ii) any costs, expenses, losses, damages
26 or other amounts incurred by the utility, or for which it
27 becomes liable, arising out of its failure to obtain such
28 electricity from such other sources. The amount of any such
29 credit shall, in the first instance, be determined by the
30 utility, which shall make a monthly report of such credits to
31 the Illinois Commerce Commission and, on its monthly tax
32 return, to the Illinois Department of Revenue. Under no
33 circumstances shall a utility be required to purchase
34 electricity from a qualified solid waste energy facility at

1 the rate prescribed in subsection (c) of this Section if such
2 purchase would result in estimated tax credits that exceed,
3 on a monthly basis, the utility's estimated obligation to
4 remit to the State taxes it has collected under the
5 Electricity Excise Tax Law. The owner or operator shall
6 negotiate facility operating conditions with the purchasing
7 utility in accordance with that utility's posted standard
8 terms and conditions for small power producers. If the
9 Department of Revenue disputes the amount of any such credit,
10 such dispute shall be decided by the Illinois Commerce
11 Commission. Whenever a qualified solid waste energy facility
12 has paid or otherwise satisfied in full the capital costs or
13 indebtedness incurred in developing and implementing the
14 qualified facility, the qualified facility shall reimburse
15 the Public Utility Fund and the General Revenue Fund in the
16 State treasury for the actual reduction in payments to those
17 Funds caused by this subsection (d) in a manner to be
18 determined by the Illinois Commerce Commission and based on
19 the manner in which revenues for those Funds were reduced.

20 (e) The Illinois Commerce Commission shall not require
21 an electric utility to purchase electricity from any
22 qualified solid waste energy facility which is owned or
23 operated by an entity that is primarily engaged in the
24 business of producing or selling electricity, gas, or useful
25 thermal energy from a source other than one or more qualified
26 solid waste energy facilities.

27 (f) This Section does not require an electric utility to
28 construct additional facilities unless those facilities are
29 paid for by the owner or operator of the affected qualified
30 solid waste energy facility.

31 (g) The Illinois Commerce Commission shall require that:
32 (1) electric utilities use the electricity purchased from a
33 qualified solid waste energy facility to displace electricity
34 generated from nuclear power or coal mined and purchased

1 outside the boundaries of the State of Illinois before
2 displacing electricity generated from coal mined and
3 purchased within the State of Illinois, to the extent
4 possible, and (2) electric utilities report annually to the
5 Commission on the extent of such displacements.

6 (h) Nothing in this Section is intended to cause an
7 electric utility that is required to purchase power hereunder
8 to incur any economic loss as a result of its purchase. All
9 amounts paid for power which a utility is required to
10 purchase pursuant to subparagraph (c) shall be deemed to be
11 costs prudently incurred for purposes of computing charges
12 under rates authorized by Section 9-220 of this Act. Tax
13 credits provided for herein shall be reflected in charges
14 made pursuant to rates so authorized to the extent such
15 credits are based upon a cost which is also reflected in such
16 charges.

17 (i) Beginning in February 1999 and through January 2009,
18 each qualified solid waste energy facility that sells
19 electricity to an electric utility at the purchase rate
20 described in subsection (c) shall file with the Department of
21 Revenue on or before the 15th of each month a form,
22 prescribed by the Department of Revenue, that states the
23 number of kilowatt hours of electricity for which payment was
24 received at that purchase rate from electric utilities in
25 Illinois during the immediately preceding month. This form
26 shall be accompanied by a payment from the qualified solid
27 waste energy facility in an amount equal to six-tenths of a
28 mill (\$0.0006) per kilowatt hour of electricity stated on the
29 form. Beginning on the effective date of this amendatory Act
30 of the 92nd General Assembly, a qualified solid waste energy
31 facility must file the form required under this subsection
32 (i) before the 15th of each month regardless of whether the
33 facility received any payment in the previous month.
34 Payments received by the Department of Revenue shall be

1 deposited into the Municipal Economic Development Fund, a
2 trust fund created outside the State treasury. The State
3 Treasurer may invest the moneys in the Fund in any investment
4 authorized by the Public Funds Investment Act, and investment
5 income shall be deposited into and become part of the Fund.
6 Moneys in the Fund shall be used by the State Treasurer as
7 provided in subsection (j). The obligation of a qualified
8 solid waste energy facility to make payments into the
9 Municipal Economic Development Fund shall terminate upon
10 either: (1) expiration or termination of a facility's
11 contract to sell electricity to an electric utility at the
12 purchase rate described in subsection (c); or (2) entry of an
13 enforceable, final, and non-appealable order by a court of
14 competent jurisdiction that Public Act 89-448 is invalid.
15 Payments by a qualified solid waste energy facility into the
16 Municipal Economic Development Fund do not relieve the
17 qualified solid waste energy facility of its obligation to
18 reimburse the Public Utility Fund and the General Revenue
19 Fund for the actual reduction in payments to those Funds as a
20 result of credits received by electric utilities under
21 subsection (d).

22 A qualified solid waste energy facility that fails to
23 timely file the requisite form and payment as required by
24 this subsection (i) shall be subject to penalties and
25 interest in conformance with the provisions of the Illinois
26 Uniform Penalty and Interest Act.

27 Every qualified solid waste energy facility subject to
28 the provisions of this subsection (i) shall keep and maintain
29 records and books of its sales pursuant to subsection (c),
30 including payments received from those sales and the
31 corresponding tax payments made in accordance with this
32 subsection (i), and for purposes of enforcement of this
33 subsection (i) all such books and records shall be subject to
34 inspection by the Department of Revenue or its duly

1 authorized agents or employees.

2 When a qualified solid waste energy facility fails to
3 file the form or make the payment required under this
4 subsection (i), the Department of Revenue, to the extent that
5 it is practical, may enforce the payment obligation in a
6 manner consistent with Section 5 of the Retailers' Occupation
7 Tax Act, and if necessary may impose and enforce a tax lien
8 in a manner consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f,
9 5g, and 5i of the Retailers' Occupation Tax Act. No tax lien
10 may be imposed or enforced, however, unless a qualified solid
11 waste energy facility fails to make the payment required
12 under this subsection (i). Only to the extent necessary and
13 for the purpose of enforcing this subsection (i), the
14 Department of Revenue may secure necessary information from a
15 qualified solid waste energy facility in a manner consistent
16 with Section 10 of the Retailers' Occupation Tax Act.

17 All information received by the Department of Revenue in
18 its administration and enforcement of this subsection (i)
19 shall be confidential in a manner consistent with Section 11
20 of the Retailers' Occupation Tax Act. The Department of
21 Revenue may adopt rules to implement the provisions of this
22 subsection (i).

23 For purposes of implementing the maximum aggregate
24 distribution provisions in subsections (j) and (k), when a
25 qualified solid waste energy facility makes a late payment to
26 the Department of Revenue for deposit into the Municipal
27 Economic Development Fund, that payment and deposit shall be
28 attributed to the month and corresponding quarter in which
29 the payment should have been made, and the Treasurer shall
30 make retroactive distributions or refunds, as the case may
31 be, whenever such late payments so require.

32 (j) The State Treasurer, without appropriation, must
33 make distributions immediately after January 15, April 15,
34 July 15, and October 15 of each year, up to maximum aggregate

1 distributions of \$500,000 for the distributions made in the 4
2 quarters beginning with the April distribution and ending
3 with the January distribution, from the Municipal Economic
4 Development Fund to each city, village, or incorporated town
5 that has within its boundaries an incinerator that: (1) uses
6 or, on the effective date of Public Act 90-813, used
7 municipal waste as its primary fuel to generate electricity;
8 (2) was determined by the Illinois Commerce Commission to
9 qualify as a qualified solid waste energy facility prior to
10 the effective date of Public Act 89-448; and (3) commenced
11 operation prior to January 1, 1998. Total distributions in
12 the aggregate to all qualified cities, villages, and
13 incorporated towns in the 4 quarters beginning with the April
14 distribution and ending with the January distribution shall
15 not exceed \$500,000. The amount of each distribution shall
16 be determined pro rata based on the population of the city,
17 village, or incorporated town compared to the total
18 population of all cities, villages, and incorporated towns
19 eligible to receive a distribution. Distributions received by
20 a city, village, or incorporated town must be held in a
21 separate account and may be used only to promote and enhance
22 industrial, commercial, residential, service, transportation,
23 and recreational activities and facilities within its
24 boundaries, thereby enhancing the employment opportunities,
25 public health and general welfare, and economic development
26 within the community, including administrative expenditures
27 exclusively to further these activities. These funds,
28 however, shall not be used by the city, village, or
29 incorporated town, directly or indirectly, to purchase,
30 lease, operate, or in any way subsidize the operation of any
31 incinerator, and these funds shall not be paid, directly or
32 indirectly, by the city, village, or incorporated town to the
33 owner, operator, lessee, shareholder, or bondholder of any
34 incinerator. Moreover, these funds shall not be used to pay

1 attorneys fees in any litigation relating to the validity of
2 Public Act 89-448. Nothing in this Section prevents a city,
3 village, or incorporated town from using other corporate
4 funds for any legitimate purpose. For purposes of this
5 subsection, the term "municipal waste" has the meaning
6 ascribed to it in Section 3.290 ~~3-21~~ of the Environmental
7 Protection Act.

8 (k) If maximum aggregate distributions of \$500,000 under
9 subsection (j) have been made after the January distribution
10 from the Municipal Economic Development Fund, then the
11 balance in the Fund shall be refunded to the qualified solid
12 waste energy facilities that made payments that were
13 deposited into the Fund during the previous 12-month period.
14 The refunds shall be prorated based upon the facility's
15 payments in relation to total payments for that 12-month
16 period.

17 (l) Beginning January 1, 2000, and each January 1
18 thereafter, each city, village, or incorporated town that
19 received distributions from the Municipal Economic
20 Development Fund, continued to hold any of those
21 distributions, or made expenditures from those distributions
22 during the immediately preceding year shall submit to a
23 financial and compliance and program audit of those
24 distributions performed by the Auditor General at no cost to
25 the city, village, or incorporated town that received the
26 distributions. The audit should be completed by June 30 or
27 as soon thereafter as possible. The audit shall be submitted
28 to the State Treasurer and those officers enumerated in
29 Section 3-14 of the Illinois State Auditing Act. If the
30 Auditor General finds that distributions have been expended
31 in violation of this Section, the Auditor General shall refer
32 the matter to the Attorney General. The Attorney General may
33 recover, in a civil action, 3 times the amount of any
34 distributions illegally expended. For purposes of this

1 subsection, the terms "financial audit," "compliance audit",
2 and "program audit" have the meanings ascribed to them in
3 Sections 1-13 and 1-15 of the Illinois State Auditing Act.

4 (Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01.)

5 Section 45. The Hazardous Waste Crane and Hoisting
6 Equipment Operators Licensing Act is amended by changing
7 Section 3 as follows:

8 (225 ILCS 220/3) (from Ch. 111, par. 7703)

9 Sec. 3. For the purposes of this Act, unless the context
10 otherwise requires:

11 (a) "Agency" means the Environmental Protection Agency.

12 (b) "Crane" means any hoisting equipment that lifts and
13 rotates or moves a load horizontally or vertically,
14 including: hydraulic back hoes, hydraulic cranes, friction
15 cranes, derricks, jib hoists, gantry, bridge cranes, floating
16 cranes of any type and air-borne hoisting equipment.

17 (c) "Hoist" includes, but is not limited to, a material
18 hoist (construction elevator), air tugger (one drum),
19 multi-drum hoist, overhead hoist, sideboom, A-Frame boom
20 truck or behind the cab truck mounted boom.

21 (d) "Director" means the Director of the Environmental
22 Protection Agency.

23 (e) "Hazardous waste" means a hazardous waste as defined
24 in Section 3.220 3-15 of the Environmental Protection Act,
25 except asbestos.

26 (f) "Facility" means a pollution control facility as
27 defined in Section 3.330 3-32 of the Environmental Protection
28 Act, or a site undergoing cleanup pursuant to either the
29 federal Comprehensive Environmental Response, Compensation
30 and Liability Act of 1980, as amended, or Section 22.2 of the
31 Illinois Environmental Protection Act.

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

1 Section 50. The Hazardous Waste Laborers Licensing Act
2 is amended by changing Section 3 as follows:

3 (225 ILCS 221/3) (from Ch. 111, par. 7803)

4 Sec. 3. For the purposes of this Act, unless the context
5 otherwise requires:

6 (a) "Agency" means the Environmental Protection Agency.

7 (b) "Director" means the Director of the Environmental
8 Protection Agency.

9 (c) "Laborer" means a person who (1) erects, moves,
10 services and dismantles scaffolds and barricades at a
11 facility; (2) constructs, erects, removes and dismantles
12 enclosures, chambers or decontamination units required for
13 the removal or containment of hazardous waste at a facility;
14 (3) labels, bags, cartons or otherwise packages hazardous
15 waste for disposal; and (4) cleans up the work site and
16 performs other work incidental to the removal, abatement or
17 encapsulation of hazardous waste.

18 (d) "Hazardous waste" means a hazardous waste as defined
19 in Section 3.220 3-15 of the Environmental Protection Act,
20 except asbestos.

21 (e) "Facility" means a pollution control facility as
22 defined in Section 3.330 3-32 of the Environmental Protection
23 Act, or a site undergoing cleanup pursuant to either the
24 federal Comprehensive Environmental Response, Compensation
25 and Liability Act of 1980, as amended, or Section 22.2 of the
26 Illinois Environmental Protection Act.

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

28 Section 55. The Environmental Toxicology Act is amended
29 by changing Section 3 as follows:

30 (415 ILCS 75/3) (from Ch. 111 1/2, par. 983)

31 Sec. 3. Definitions. As used in this Act, unless the

1 context otherwise requires;

2 (a) "Department" means the Illinois Department of Public
3 Health;

4 (b) "Director" means the Director of the Illinois
5 Department of Public Health;

6 (c) "Program" means the Environmental Toxicology program
7 as established by this Act;

8 (d) "Exposure" means contact with a hazardous substance;

9 (e) "Hazardous Substance" means chemical compounds,
10 elements, or combinations of chemicals which, because of
11 quantity concentration, physical characteristics or
12 toxicological characteristics may pose a substantial present
13 or potential hazard to human health and includes, but is not
14 limited to, any substance defined as a hazardous substance in
15 Section 3.215 of ~~3--0f~~ the "Environmental Protection Act",
16 approved June 29, 1970, as amended;

17 (f) "Initial Assessment" means a review and evaluation
18 of site history and hazardous substances involved, potential
19 for population exposure, the nature of any health related
20 complaints and any known patterns in disease occurrence;

21 (g) "Comprehensive Health Study" means a detailed
22 analysis which may include: a review of available
23 environmental, morbidity and mortality data; environmental
24 and biological sampling; detailed review of scientific
25 literature; exposure analysis; population surveys; or any
26 other scientific or epidemiologic methods deemed necessary to
27 adequately evaluate the health status of the population at
28 risk and any potential relationship to environmental factors;

29 (h) "Superfund Site" means any hazardous waste site
30 designated for cleanup on the National Priorities List as
31 mandated by the Comprehensive Environmental Response,
32 Compensation, and Liability Act of 1980 (P.L. 96-510), as
33 amended;

34 (i) "State Remedial Action Priority List" means a list

1 compiled by the Illinois Environmental Protection Agency
2 which identifies sites that appear to present significant
3 risk to the public health, welfare or environment.

4 (Source: P.A. 84-987.)

5 Section 60. The Toxic Pollution Prevention Act is
6 amended by changing Section 3 as follows:

7 (415 ILCS 85/3) (from Ch. 111 1/2, par. 7953)

8 Sec. 3. Definitions. As used in this Act:

9 "Agency" means the Illinois Environmental Protection
10 Agency.

11 "Center" means the Waste Management and Research Center.

12 "Person" means any individual, partnership,
13 co-partnership, firm, company, corporation, association,
14 joint stock company, trust, political subdivision, State
15 agency, or any other legal entity, or its legal
16 representative, agent or assigns.

17 "Release" means emission to the air, discharge to surface
18 waters or off-site wastewater treatment facilities, or
19 on-site release to the land, including but not limited to
20 landfills, surface impoundments and injection wells.

21 "Toxic substance" means any substance listed by the
22 Agency pursuant to Section 4 of this Act.

23 "Toxic pollution prevention" means in-plant practices
24 that reduce, avoid or eliminate: (i) the use of toxic
25 substances, (ii) the generation of toxic constituents in
26 wastes, (iii) the disposal or release of toxic substances
27 into the environment, or (iv) the development or manufacture
28 of products with toxic constituents, through the application
29 of any of the following techniques:

30 (1) input substitution, which refers to replacing a
31 toxic substance or raw material used in a production
32 process with a nontoxic or less toxic substance;

1 (2) product reformulation, which refers to
2 substituting for an existing end product an end product
3 which is nontoxic or less toxic upon use, release or
4 disposal;

5 (3) production process redesign or modification,
6 which refers to developing and using production processes
7 of a different design than those currently used;

8 (4) production process modernization, which refers
9 to upgrading or replacing existing production process
10 equipment or methods with other equipment or methods
11 based on the same production process;

12 (5) improved operation and maintenance of existing
13 production process equipment and methods, which refers to
14 modifying or adding to existing equipment or methods,
15 including but not limited to such techniques as improved
16 housekeeping practices, system adjustments, product and
17 process inspections, and production process control
18 equipment or methods;

19 (6) recycling, reuse or extended use of toxic
20 substances by using equipment or methods which become an
21 integral part of the production process, including but
22 not limited to filtration and other closed loop methods.

23 However, "toxic pollution prevention" shall not include
24 or in any way be inferred to promote or require incineration,
25 transfer from one medium of release to another, off-site or
26 out of process waste recycling, or end of pipe treatment of
27 toxic substances.

28 "Trade secret" means any information concerning
29 production processes employed or substances manufactured,
30 processed or otherwise used within a facility which the
31 Agency determines to satisfy the criteria established under
32 Section 3.490 3-48 of the Environmental Protection Act, and
33 to which specific trade secret status has been granted by the
34 Agency.

1 (Source: P.A. 90-490, eff. 8-17-97.)

2 Section 65. The Litter Control Act is amended by
3 changing Sections 3 and 4 as follows

4 (415 ILCS 105/3) (from Ch. 38, par. 86-3)

5 Sec. 3. As used in this Act, unless the context
6 otherwise requires:

7 (a) "Litter" means any discarded, used or unconsumed
8 substance or waste. "Litter" may include, but is not limited
9 to, any garbage, trash, refuse, debris, rubbish, grass
10 clippings or other lawn or garden waste, newspaper,
11 magazines, glass, metal, plastic or paper containers or other
12 packaging construction material, abandoned vehicle (as
13 defined in the Illinois Vehicle Code), motor vehicle parts,
14 furniture, oil, carcass of a dead animal, any nauseous or
15 offensive matter of any kind, any object likely to injure any
16 person or create a traffic hazard, potentially infectious
17 medical waste as defined in Section 3.360 3-84 of the
18 Environmental Protection Act, or anything else of an
19 unsightly or unsanitary nature, which has been discarded,
20 abandoned or otherwise disposed of improperly.

21 (b) "Motor vehicle" has the meaning ascribed to that
22 term in Section 1-146 of the Illinois Vehicle Code.

23 (c) "Person" means any individual, partnership,
24 copartnership, firm, company, corporation, association, joint
25 stock company, trust, estate, or any other legal entity, or
26 their legal representative, agent or assigns.

27 (Source: P.A. 90-89, eff. 1-1-98.)

28 (415 ILCS 105/4) (from Ch. 38, par. 86-4)

29 Sec. 4. No person shall dump, deposit, drop, throw,
30 discard, leave, cause or permit the dumping, depositing,
31 dropping, throwing, discarding or leaving of litter upon any

1 public or private property in this State, or upon or into any
2 river, lake, pond, or other stream or body of water in this
3 State, unless:

4 (a) the property has been designated by the State or any
5 of its agencies, political subdivisions, units of local
6 government or school districts for the disposal of litter,
7 and the litter is disposed of on that property in accordance
8 with the applicable rules and regulations of the Pollution
9 Control Board;

10 (b) the litter is placed into a receptacle or other
11 container intended by the owner or tenant in lawful
12 possession of that property for the deposit of litter;

13 (c) the person is the owner or tenant in lawful
14 possession of the property or has first obtained the consent
15 of the owner or tenant in lawful possession, or unless the
16 act is done under the personal direction of the owner or
17 tenant and does not create a public health or safety hazard,
18 a public nuisance, or a fire hazard;

19 (d) the person is acting under the direction of proper
20 public officials during special cleanup days; or

21 (e) the person is lawfully acting in or reacting to an
22 emergency situation where health and safety is threatened,
23 and removes and properly disposes of such litter, including,
24 but not limited to, potentially infectious medical waste as
25 defined in Section 3.360 3-84 of the Environmental Protection
26 Act, when the emergency situation no longer exists.

27 (Source: P.A. 88-415; 88-670, eff. 12-2-94.)

28 Section 70. The Illinois Vehicle Code is amended by
29 changing Sections 11-1413 and 12-606 as follows:

30 (625 ILCS 5/11-1413) (from Ch. 95 1/2, par. 11-1413)

31 Sec. 11-1413. Depositing material on highway prohibited.

32 (a) No person shall throw, spill or deposit upon any

1 highway any bottle, glass, nails, tacks, wire, cans, or any
2 litter (as defined in Section 3 of the Litter Control Act).

3 (b) Any person who violates subsection (a) upon any
4 highway shall immediately remove such material or cause it to
5 be removed.

6 (c) Any person removing a wrecked or damaged vehicle
7 from a highway shall remove any glass or other debris, except
8 any hazardous substance as defined in Section 3.215 3-14 of
9 the Environmental Protection Act, hazardous waste as defined
10 in Section 3.220 3-15 of the Environmental Protection Act,
11 and potentially infectious medical waste as defined in
12 Section 3.360 3-84 of the Environmental Protection Act,
13 dropped upon the highway from such vehicle.

14 (Source: P.A. 87-190; 88-415; 88-670, eff. 12-2-94.)

15 (625 ILCS 5/12-606) (from Ch. 95 1/2, par. 12-606)

16 Sec. 12-606. Tow-trucks; identification; equipment;
17 insurance.

18 (a) Every tow-truck, except those owned by governmental
19 agencies, shall have displayed on each side thereof, a sign
20 with letters not less than 2 inches in height, contrasting in
21 color to that of the background, stating the full legal name,
22 complete address (including street address and city), and
23 telephone number of the owner or operator thereof. This
24 information shall be permanently affixed to the sides of the
25 tow truck.

26 (b) Every tow-truck shall be equipped with:

27 (1) One or more brooms and shovels;

28 (2) One or more trash cans of at least 5 gallon
29 capacity; and

30 (3) One fire extinguisher. This extinguisher shall
31 be either:

32 (i) of the dry chemical or carbon dioxide type
33 with an aggregate rating of at least 4-B, C units,

1 and bearing the approval of a laboratory qualified
2 by the Division of Fire Prevention for this purpose;
3 or

4 (ii) One that meets the requirements of the
5 Federal Motor Carrier Safety Regulations of the
6 United States Department of Transportation for fire
7 extinguishers on commercial motor vehicles.

8 (c) Every owner or operator and driver of a tow-truck
9 shall comply with Section 11-1413 of this Act and shall
10 remove or cause to be removed all glass and debris, except
11 any (i) hazardous substance as defined in Section 3.215 3-14
12 of the Environmental Protection Act, (ii) hazardous waste as
13 defined in Section 3.220 3-15 of the Environmental Protection
14 Act, and (iii) medical samples or waste, including but not
15 limited to any blood samples, used syringes, other used
16 medical supplies, or any other potentially infectious medical
17 waste as defined in Section 3.360 3-84 of the Environmental
18 Protection Act, deposited upon any street or highway by the
19 disabled vehicle being serviced, and shall in addition,
20 spread dirt or sand or oil absorbent upon that portion of any
21 street or highway where oil or grease has been deposited by
22 the disabled vehicle being serviced.

23 (d) Every tow-truck operator shall in addition file an
24 indemnity bond, insurance policy, or other proof of insurance
25 in a form to be prescribed by the Secretary for:
26 garagekeepers liability insurance, in an amount no less than
27 a combined single limit of \$500,000, and truck (auto)
28 liability insurance in an amount no less than a combined
29 single limit of \$500,000, on hook coverage or garagekeepers
30 coverage in an amount of no less than \$25,000 which shall
31 indemnify or insure the tow-truck operator for the following:

32 (1) Bodily injury or damage to the property of
33 others.

34 (2) Damage to any vehicle towed by the tower.

1 (3) In case of theft, loss of, or damage to any
2 vehicle stored, garagekeepers legal liability coverage in
3 an amount of no less than \$25,000.

4 (4) In case of injury to or occupational illness of
5 the tow truck driver or helper, workers compensation
6 insurance meeting the minimum requirements of the
7 Workers' Compensation Act.

8 Any such bond or policy shall be issued only by a bonding
9 or insuring firm authorized to do business as such in the
10 State of Illinois, and a certificate of such bond or policy
11 shall be carried in the cab of each tow-truck.

12 (e) The bond or policy required in subsection (d) shall
13 provide that the insurance carrier may cancel it by serving
14 previous notice, as required by Sections 143.14 and 143.16 of
15 the Illinois Insurance Code, in writing, either personally or
16 by registered mail, upon the owner or operator of the motor
17 vehicle and upon the Secretary of State. Whenever any such
18 bond or policy shall be so cancelled, the Secretary of State
19 shall mark the policy "Cancelled" and shall require such
20 owner or operator either to furnish a new bond or policy, in
21 accordance with this Act.

22 (Source: P.A. 88-415; 88-670, eff. 12-2-94; 89-433, eff.
23 12-15-95.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.