

1 AMENDMENT TO HOUSE BILL 5557

2 AMENDMENT NO. _____. Amend House Bill 5557 by replacing
3 the title with the following:

4 "AN ACT to implement recommendations of the Illinois
5 Environmental Regulatory Review Commission."; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 5. The Environmental Protection Act is amended
9 by changing Sections 3, 3.32, 3.53, 4, 5, 7, 9.2, 9.3, 9.4,
10 12, 13.1, 14.1, 14.2, 14.3, 14.4, 14.6, 17, 19.10, 21, 21.3,
11 21.5, 22.2, 22.2b, 22.9, 22.15, 22.16, 22.16a, 22.22, 22.23,
12 22.23a, 22.27, 22.33, 22.40, 22.43, 22.44, 22.45, 22.47,
13 22.48, 25b-5, 30, 31, 39, 39.2, 39.3, 40, 40.1, 40.2, 45, 49,
14 55, 56.1, 56.2, 57.7, 57.8, 57.13, 58.7, 58.8, 58.14, and
15 58.17 and renumbering Sections 3.01 through 3.94 as follows:

16 (415 ILCS 5/3) (from Ch. 111 1/2, par. 1003)

17 Sec. 3. Definitions.

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

1 (b) This amendatory Act of the 92nd General Assembly
 2 renumbers the definition Sections formerly included in this
 3 Act as Sections 3.01 through 3.94. The new numbering scheme
 4 is intended to alphabetize the defined terms and to leave
 5 room for additional terms to be added in alphabetical order
 6 in the future. It does not reuse any of the original
 7 numbers.

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

15 (c) In a statute, rule, permit, or other document in
 16 existence on the effective date of this amendatory Act of the
 17 92nd General Assembly, a reference to one of the definition
 18 Sections renumbered by this amendatory Act shall be deemed to
 19 refer to the corresponding Section as renumbered by this
 20 amendatory Act.

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

22 (415 ILCS 5/3.105 new) (was 415 ILCS 5/3.01)

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

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

26 (415 ILCS 5/3.110 new) (was 415 ILCS 5/3.77)

27 Sec. 3.110. Agrichemical facility. ~~3-77-~~ "Agrichemical
 28 facility" means a site used for commercial purposes, where
 29 bulk pesticides are stored in a single container in excess of
 30 300 gallons of liquid pesticide or 300 pounds of dry
 31 pesticide for more than 30 days per year or where more than
 32 300 gallons of liquid pesticide or 300 pounds of dry

1 pesticide are being mixed, repackaged or transferred from one
2 container to another within a 30 day period or a site where
3 bulk fertilizers are stored, mixed, repackaged or transferred
4 from one container to another.

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

6 (415 ILCS 5/3.115 new) (was 415 ILCS 5/3.02)

7 Sec. 3.115. Air pollution. ~~3-02-~~ "Air pollution" is the
8 presence in the atmosphere of one or more contaminants in
9 sufficient quantities and of such characteristics and
10 duration as to be injurious to human, plant, or animal life,
11 to health, or to property, or to unreasonably interfere with
12 the enjoyment of life or property.

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

14 (415 ILCS 5/3.120 new) (was 415 ILCS 5/3.03)

15 Sec. 3.120. Air pollution control equipment. ~~3-03-~~ "Air
16 pollution control equipment" means any equipment or facility
17 of a type intended to eliminate, prevent, reduce or control
18 the emission of specified air contaminants to the atmosphere.
19 Air pollution control equipment includes, but is not limited
20 to, landfill gas recovery facilities.

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

22 (415 ILCS 5/3.125 new) (was 415 ILCS 5/3.68)

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

24 (a) "Biodeterioration", when used in connection with
25 recycling or composting, means the biologically mediated loss
26 of utilitarian or physical characteristics of a plastic or
27 hybrid material containing plastic as a major component.

28 (b) "Biodegradation", when used in connection with
29 recycling, means the conversion of all constituents of a
30 plastic or hybrid material containing plastic as a major
31 component to carbon dioxide, inorganic salts, microbial

1 cellular components and miscellaneous by-products
2 characteristically formed from the breakdown of natural
3 materials such as corn starch.

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

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

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

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

9 (415 ILCS 5/3.135 new) (was 415 ILCS 5/3.94)

10 Sec. 3.135. Coal combustion by-product; CCB. ~~3-94-~~ "Coal
11 combustion by-product" (CCB) means coal combustion waste when
12 used beneficially for any of the following purposes:

13 (1) The extraction or recovery of material compounds
14 contained within CCB.

15 (2) The use of CCB as a raw ingredient or mineral filler
16 in the manufacture of cement; concrete and concrete mortars;
17 concrete products including block, pipe and
18 precast/prestressed components; asphalt or cement based
19 roofing shingles; plastic products including pipes and
20 fittings; paints and metal alloys.

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

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

25 (5) Use as a substitute for lime (CaO and MgO) in the
26 lime modification of soils providing the CCB meets the
27 Illinois Department of Transportation ("IDOT") specifications
28 for byproduct limes.

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

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

1 (8) Structural fill, when used in an engineered
2 application or combined with cement, sand, or water to
3 produce a controlled strength fill material and covered with
4 12 inches of soil unless infiltration is prevented by the
5 material itself or other cover material.

6 (9) Mine subsidence, mine fire control, mine sealing,
7 and mine reclamation.

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

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

13 (B) CCB shall not exceed Class I Groundwater
14 Standards for metals when tested utilizing test method
15 ASTM D3987-85;

16 (C) Unless otherwise exempted, users of CCB shall
17 provide notification to the Agency for each project
18 utilizing CCB documenting the quantity of CCB utilized
19 and certification of compliance with conditions (A) and
20 (B). Notification shall not be required for pavement
21 base, parking lot base, or building base projects
22 utilizing less than 10,000 tons, flowable fill/grout
23 projects utilizing less than 1,000 cubic yards or other
24 applications utilizing less than 100 tons;

25 (D) Fly ash shall be applied in a manner that
26 minimizes the generation of airborne particles and dust
27 using techniques such as moisture conditioning,
28 granulating, inground application, or other demonstrated
29 method; and

30 (E) CCB is not to be accumulated speculatively.
31 CCB is not accumulated speculatively if during the
32 calendar year, the CCB used is equal to 75% of the CCB by
33 weight or volume accumulated at the beginning of the
34 period.

1 To encourage and promote the utilization of CCB in productive
 2 and beneficial applications, the Agency may make a written
 3 determination that coal-combustion waste is CCB when used in
 4 a manner other than that specified in this Section if the use
 5 has been shown to have no adverse environmental impact
 6 greater than the beneficial uses specified, in consultation
 7 with the Department of Mines and Minerals, the Illinois Clean
 8 Coal Institute, the Department of Transportation, and such
 9 other agencies as may be appropriate.

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

11 (415 ILCS 5/3.140 new) (was 415 ILCS 5/3.76)

12 Sec. 3.140. Coal combustion waste. ~~3.76.~~ "Coal
 13 combustion waste" means any fly ash, bottom ash, slag, or
 14 flue gas or fluid bed boiler desulfurization by-products
 15 generated as a result of the combustion of:

- 16 (1) coal, or
- 17 (2) coal in combination with: (i) fuel grade petroleum
 18 coke, (ii) other fossil fuel, or (iii) both fuel grade
 19 petroleum coke and other fossil fuel, or
- 20 (3) coal (with or without: (i) fuel grade petroleum
 21 coke, (ii) other fossil fuel, or (iii) both fuel grade
 22 petroleum coke and other fossil fuel) in combination with no
 23 more than 20% of tire derived fuel or wood or other materials
 24 by weight of the materials combusted; provided that the coal
 25 is burned with other materials, the Agency has made a written
 26 determination that the storage or disposal of the resultant
 27 wastes in accordance with the provisions of item (r) of
 28 Section 21 would result in no environmental impact greater
 29 than that of wastes generated as a result of the combustion
 30 of coal alone, and the storage disposal of the resultant
 31 wastes would not violate applicable federal law.

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

1 (415 ILCS 5/3.145 new) (was 415 ILCS 5/3.05)

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

6 "Non-community water supply" means a public water supply
7 that is not a community water supply. The requirements of
8 this Act shall not apply to non-community water supplies.

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

10 (415 ILCS 5/3.150 new) (was 415 ILCS 5/3.69)

11 Sec. 3.150. Compost. ~~3-69-~~ "Compost" is defined as the
12 humus-like product of the process of composting waste, which
13 may be used as a soil conditioner.

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

15 (415 ILCS 5/3.155 new) (was 415 ILCS 5/3.70)

16 Sec. 3.155. Composting. ~~3-70-~~ "Composting" means the
17 biological treatment process by which microorganisms
18 decompose the organic fraction of waste, producing compost.

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

20 (415 ILCS 5/3.160 new) (was 415 ILCS 5/3.78 and 3.78a)

21 Sec. 3.160. Construction or demolition debris. ~~3-78-~~

22 (a) "General construction or demolition debris" means
23 non-hazardous, uncontaminated materials resulting from the
24 construction, remodeling, repair, and demolition of
25 utilities, structures, and roads, limited to the following:
26 bricks, concrete, and other masonry materials; soil; rock;
27 wood, including non-hazardous painted, treated, and coated
28 wood and wood products; wall coverings; plaster; drywall;
29 plumbing fixtures; non-asbestos insulation; roofing shingles
30 and other roof coverings; reclaimed asphalt pavement; glass;
31 plastics that are not sealed in a manner that conceals waste;

1 electrical wiring and components containing no hazardous
2 substances; and piping or metals incidental to any of those
3 materials.

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

10 (b) See ~~--3-78a-~~ "Clean construction or demolition
11 debris" means uncontaminated broken concrete without
12 protruding metal bars, bricks, rock, stone, reclaimed asphalt
13 pavement, or soil generated from construction or demolition
14 activities.

15 Clean construction or demolition debris does not include
16 uncontaminated soil generated during construction,
17 remodeling, repair, and demolition of utilities, structures,
18 and roads provided the uncontaminated soil is not commingled
19 with any clean construction or demolition debris or other
20 waste.

21 To the extent allowed by federal law, clean construction
22 or demolition debris shall not be considered "waste" if it is
23 (i) used as fill material below grade outside of a setback
24 zone if covered by sufficient uncontaminated soil to support
25 vegetation within 30 days of the completion of filling or if
26 covered by a road or structure, or (ii) separated or
27 processed and returned to the economic mainstream in the form
28 of raw materials or products, if it is not speculatively
29 accumulated and, if used as a fill material, it is used in
30 accordance with item (i), or (iii) solely broken concrete
31 without protruding metal bars used for erosion control, or
32 (iv) generated from the construction or demolition of a
33 building, road, or other structure and used to construct, on
34 the site where the construction or demolition has taken

1 place, an above-grade area shaped so as to blend into an
 2 extension of the surrounding topography or an above-grade
 3 manmade functional structure not to exceed 20 feet in height,
 4 provided that the area or structure shall be covered with
 5 sufficient soil materials to sustain vegetation or by a road
 6 or structure, and further provided that no such area or
 7 structure shall be constructed within a home rule
 8 municipality with a population over 500,000.

9 (Source: P.A. 90-475, eff. 8-17-97; 90-761, eff. 8-14-98;
 10 91-909, eff. 7-7-00.)

11 (415 ILCS 5/3.165 new) (was 415 ILCS 5/3.06)

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

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

16 (415 ILCS 5/3.170 new) (was 415 ILCS 5/3.63)

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

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

21 (415 ILCS 5/3.175 new) (was 415 ILCS 5/3.80)

22 Sec. 3.175. Criterion. ~~3-80-~~ "Criterion" means the
 23 numerical concentration of one or more toxic substances
 24 calculated by the Agency as a basis for establishing a permit
 25 limitation or violation of a water quality standard pursuant
 26 to standards and procedures provided for in board
 27 regulations.

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

29 (415 ILCS 5/3.180 new) (was 415 ILCS 5/3.07)

30 Sec. 3.180. Department. ~~3-07-~~ "Department", when a

1 particular entity is not specified, means (i) in the case of
2 a function to be performed on or after July 1, 1995 (the
3 effective date of the Department of Natural Resources Act),
4 either the Department of Natural Resources or the Department
5 of Commerce and Community Affairs, whichever, in the specific
6 context, is the successor to the Department of Energy and
7 Natural Resources under the Department of Natural Resources
8 Act; or (ii) in the case of a function performed before July
9 1, 1995, the former Illinois Department of Energy and Natural
10 Resources.

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

12 (415 ILCS 5/3.185 new) (was 415 ILCS 5/3.08)

13 Sec. 3.185. Disposal. ~~3-08-~~ "Disposal" means the
14 discharge, deposit, injection, dumping, spilling, leaking or
15 placing of any waste or hazardous waste into or on any land
16 or water or into any well so that such waste or hazardous
17 waste or any constituent thereof may enter the environment or
18 be emitted into the air or discharged into any waters,
19 including ground waters.

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

21 (415 ILCS 5/3.190 new) (was 415 ILCS 5/3.09)

22 Sec. 3.190. Existing fuel combustion stationary emission
23 source. ~~3-09-~~ "Existing fuel combustion stationary emission
24 source" means any stationary furnace, boiler, oven, or
25 similar equipment used for the primary purpose of producing
26 heat or power, of a type capable of emitting specified air
27 contaminants to the atmosphere, the construction or
28 modification of which commenced prior to April 13, 1972.

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

30 (415 ILCS 5/3.195 new) (was 415 ILCS 5/3.10)

31 Sec. 3.195. Fluid. ~~3-10-~~ "Fluid" means material or

1 substance which flows or moves whether in a semi-solid,
2 liquid, sludge, gas or any other form or state.

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

4 (415 ILCS 5/3.200 new) (was 415 ILCS 5/3.11)

5 Sec. 3.200. Garbage. ~~3-11-~~ "Garbage" is waste resulting
6 from the handling, processing, preparation, cooking, and
7 consumption of food, and wastes from the handling,
8 processing, storage, and sale of produce.

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

10 (415 ILCS 5/3.205 new) (was 415 ILCS 5/3.12)

11 Sec. 3.205. Generator. ~~3-12-~~ "Generator" means any
12 person whose act or process produces waste.

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

14 (415 ILCS 5/3.210 new) (was 415 ILCS 5/3.64)

15 Sec. 3.210. Groundwater. ~~3-64-~~ "Groundwater" means
16 underground water which occurs within the saturated zone and
17 geologic materials where the fluid pressure in the pore space
18 is equal to or greater than atmospheric pressure.

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

20 (415 ILCS 5/3.215 new) (was 415 ILCS 5/3.14)

21 Sec. 3.215. Hazardous substance. ~~3-14-~~ "Hazardous
22 substance" means: (A) any substance designated pursuant to
23 Section 311(b)(2)(A) of the Federal Water Pollution Control
24 Act (P.L. 92-500), as amended, (B) any element, compound,
25 mixture, solution, or substance designated pursuant to
26 Section 102 of the Comprehensive Environmental Response,
27 Compensation, and Liability Act of 1980 (P.L. 96-510), as
28 amended, (C) any hazardous waste, (D) any toxic pollutant
29 listed under Section 307(a) of the Federal Water Pollution
30 Control Act (P.L. 92-500), as amended, (E) any hazardous air

1 pollutant listed under Section 112 of the Clean Air Act (P.L.
2 95-95), as amended, (F) any imminently hazardous chemical
3 substance or mixture with respect to which the Administrator
4 of the U.S. Environmental Protection Agency has taken action
5 pursuant to Section 7 of the Toxic Substances Control Act
6 (P.L. 94-469), as amended. The term does not include
7 petroleum, including crude oil or any fraction thereof which
8 is not otherwise specifically listed or designated as a
9 hazardous substance under subparagraphs (A) through (F) of
10 this paragraph, and the term does not include natural gas,
11 natural gas liquids, liquefied natural gas, or synthetic gas
12 usable for fuel or mixtures of natural gas and such synthetic
13 gas.

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

15 (415 ILCS 5/3.220 new) (was 415 ILCS 5/3.15)

16 Sec. 3.220. Hazardous waste. ~~3.15.~~ "Hazardous waste"
17 means a waste, or combination of wastes, which because of its
18 quantity, concentration, or physical, chemical, or infectious
19 characteristics may cause or significantly contribute to an
20 increase in mortality or an increase in serious,
21 irreversible, or incapacitating reversible, illness; or pose
22 a substantial present or potential hazard to human health or
23 the environment when improperly treated, stored, transported,
24 or disposed of, or otherwise managed, and which has been
25 identified, by characteristics or listing, as hazardous
26 pursuant to Section 3001 of the Resource Conservation and
27 Recovery Act of 1976, P.L. 94-580, or pursuant to Board
28 regulations. Potentially infectious medical waste is not a
29 hazardous waste, except for those potentially infectious
30 medical wastes identified by characteristics or listing as
31 hazardous under Section 3001 of the Resource Conservation and
32 Recovery Act of 1976, P.L. 94-580, or pursuant to Board
33 regulations.

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

2 (415 ILCS 5/3.225 new) (was 415 ILCS 5/3.16)

3 Sec. 3.225. Hazardous waste disposal site. ~~3-16-~~

4 "Hazardous waste disposal site" is a site at which hazardous
5 waste is disposed.

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

7 (415 ILCS 5/3.230 new) (was 415 ILCS 5/3.89)

8 Sec. 3.230. Household waste. ~~3-89-~~ "Household waste"

9 means any solid waste (including garbage, trash, and sanitary
10 waste in septic tanks) derived from households (including
11 single and multiple residences, hotels and motels,
12 bunkhouses, ranger stations, crew quarters, campgrounds,
13 picnic grounds, and day-use recreation areas).

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

15 (415 ILCS 5/3.235 new) (was 415 ILCS 5/3.17)

16 Sec. 3.235. Industrial process waste. ~~3-17-~~ "Industrial

17 process waste" means any liquid, solid, semi-solid, or
18 gaseous waste generated as a direct or indirect result of the
19 manufacture of a product or the performance of a service.
20 Any such waste which would pose a present or potential threat
21 to human health or to the environment or with inherent
22 properties which make the disposal of such waste in a
23 landfill difficult to manage by normal means is an industrial
24 process waste. "Industrial Process Waste" includes but is
25 not limited to spent pickling liquors, cutting oils, chemical
26 catalysts, distillation bottoms, etching acids, equipment
27 cleanings, paint sludges, incinerator ashes (including but
28 not limited to ash resulting from the incineration of
29 potentially infectious medical waste), core sands, metallic
30 dust sweepings, asbestos dust, and off-specification,
31 contaminated or recalled wholesale or retail products.

1 Specifically excluded are uncontaminated packaging materials,
2 uncontaminated machinery components, general household waste,
3 landscape waste and construction or demolition debris.

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

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

6 Sec. 3.240. Intermittent control system. ~~3-18-~~

7 "Intermittent control system" is a system which provides for
8 the planned reduction of source emissions of sulfur dioxide
9 during periods when meteorological conditions are such, or
10 are anticipated to be such, that sulfur dioxide ambient air
11 quality standards may be violated unless such reductions are
12 made.

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

14 (415 ILCS 5/3.245 new) (was 415 ILCS 5/3.72)

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

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

19 (415 ILCS 5/3.250 new) (was 415 ILCS 5/3.73)

20 Sec. 3.250. Labeling. ~~3-73-~~ "Labeling" means the label
21 and all other written, printed or graphic matters: (a) on the
22 pesticide or device or any of its containers or wrappings,
23 (b) accompanying the pesticide or device or referring to it
24 in any other media used to disseminate information to the
25 public, (c) to which reference is made to the pesticide or
26 device except when references are made to current official
27 publications of the U. S. Environmental Protection Agency,
28 Departments of Agriculture, Health and Human Services or
29 other Federal Government institutions, the state experiment
30 station or colleges of agriculture or other similar state
31 institution authorized to conduct research in the field of

1 pesticides.

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

3 (415 ILCS 5/3.255 new) (was 415 ILCS 5/3.79)

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

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

8 (415 ILCS 5/3.260 new) (was 415 ILCS 5/3.19)

9 Sec. 3.260. Landfill gas recovery facility. ~~3-19-~~

10 "Landfill gas recovery facility" means any facility which
11 recovers and processes landfill gas from a sanitary landfill
12 or waste disposal site.

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

14 (415 ILCS 5/3.265 new) (was 415 ILCS 5/3.75)

15 Sec. 3.265. Landfill waste. ~~3-75-~~ "Landfill waste" is
16 waste from a closed pollution control facility, closed
17 dumping site, closed sanitary landfill, or a closed waste
18 disposal site; provided however, "landfill waste" shall not
19 include waste removed by or pursuant to the authority of the
20 State or a unit of local government from the public way or
21 household waste removed by or pursuant to the authority of
22 the State or a unit of local government from any unauthorized
23 open dumping site.

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

25 (415 ILCS 5/3.270 new) (was 415 ILCS 5/3.20)

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

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

1 (415 ILCS 5/3.275 new) (was 415 ILCS 5/3.88)

2 Sec. 3.275. Lateral expansion. ~~3-88-~~ "Lateral expansion"
3 means a horizontal expansion of the actual waste boundaries
4 of an existing MSWLF unit occurring on or after October 9,
5 1993. For purposes of this Section, a horizontal expansion
6 is any area where solid waste is placed for the first time
7 directly upon the bottom liner of the unit, excluding side
8 slopes, on or after October 9, 1993.

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

10 (415 ILCS 5/3.280 new) (was 415 ILCS 5/3.92)

11 Sec. 3.280. Lawncare wash water containment area. ~~3-92-~~
12 "Lawncare wash water containment area" means an area utilized
13 for the capture of spills or washing or rinsing of pesticide
14 residues from vehicles, application equipment, mixing
15 equipment, floors, loading areas, or other items used for the
16 storage, handling, preparation for use, transport, or
17 application of pesticides to land areas covered with turf
18 kept closely mown or land area covered with turf and trees or
19 shrubs.

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

21 (415 ILCS 5/3.285 new) (was 415 ILCS 5/3.85, 3.86, and
22 3.87)

23 Sec. 3.285. Municipal Solid Waste Landfill Unit; MSWLF
24 unit. ~~3-85-~~ "Municipal Solid Waste Landfill Unit" or "MSWLF
25 unit" means a contiguous area of land or an excavation that
26 receives household waste, and that is not a land application
27 unit, surface impoundment, injection well, or any pile of
28 noncontainerized accumulations of solid, nonflowing waste
29 that is used for treatment or storage. A MSWLF unit may also
30 receive other types of RCRA Subtitle D wastes, such as
31 commercial solid waste, nonhazardous sludge, small quantity
32 generator waste and industrial solid waste. Such a landfill

1 may be publicly or privately owned. A MSWLF unit may be a
2 new MSWLF unit, an existing MSWLF unit, or a lateral
3 expansion. A sanitary landfill is subject to regulation as a
4 MSWLF unit if it receives household waste.

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

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

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

12 (415 ILCS 5/3.290 new) (was 415 ILCS 5/3.21)

13 Sec. 3.290. Municipal waste. ~~3-21~~. "Municipal waste"
14 means garbage, general household and commercial waste,
15 industrial lunchroom or office waste, landscape waste, and
16 construction or demolition debris.

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

18 (415 ILCS 5/3.295 new) (was 415 ILCS 5/3.22)

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

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

22 (415 ILCS 5/3.300 new) (was 415 ILCS 5/3.23)

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

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

26 (415 ILCS 5/3.305 new) (was 415 ILCS 5/3.24)

27 Sec. 3.305. Open dumping. ~~3-24~~. "Open dumping" means the
28 consolidation of refuse from one or more sources at a
29 disposal site that does not fulfill the requirements of a
30 sanitary landfill.

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

2 (415 ILCS 5/3.310 new) (was 415 ILCS 5/3.25)

3 Sec. 3.310. Organized amateur or professional sporting
4 activity. ~~3-25-~~ "Organized amateur or professional sporting
5 activity" means an activity or event carried out at a
6 facility by persons who engaged in that activity as a
7 business or for education, charity or entertainment for the
8 general public, including all necessary actions and
9 activities associated with such an activity. This definition
10 includes, but is not limited to, (i) rifle and pistol ranges,
11 licensed shooting preserves, and skeet, trap or shooting
12 sports clubs in existence prior to January 1, 1994, (ii)
13 public hunting areas operated by a governmental entity, (iii)
14 organized motor sports, and (iv) sporting events organized or
15 controlled by school districts, units of local government,
16 state agencies, colleges, universities, or professional
17 sports clubs offering exhibitions to the public.

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

19 (415 ILCS 5/3.315 new) (was 415 ILCS 5/3.26)

20 Sec. 3.315. Person. ~~3-26-~~ "Person" is any individual,
21 partnership, co-partnership, firm, company, limited liability
22 company, corporation, association, joint stock company,
23 trust, estate, political subdivision, state agency, or any
24 other legal entity, or their legal representative, agent or
25 assigns.

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

27 (415 ILCS 5/3.320 new) (was 415 ILCS 5/3.71)

28 Sec. 3.320. Pesticide. ~~3-71-~~ "Pesticide" means any
29 substance or mixture of substances intended for preventing,
30 destroying, repelling, or mitigating any pest or any
31 substance or mixture of substances intended for use as a

1 plant regulator, defoliant or desiccant.

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

3 (415 ILCS 5/3.325 new) (was 415 ILCS 5/3.74)

4 Sec. 3.325. Pesticide release. ~~3-74-~~ "Pesticide release"
5 or "release of a pesticide" means any release resulting in a
6 concentration of pesticides in waters of the State which
7 exceeds levels for which: (1) a Maximum Contaminant Level
8 (MCL) has been promulgated by the U. S. Environmental
9 Protection Agency or a Maximum Allowable Concentration (MAC)
10 has been promulgated by the Board pursuant to the Safe
11 Drinking Water Act (P.L. 93-523), as amended; or (2) a Health
12 Advisory used on an interim basis has been issued by the U.
13 S. Environmental Protection Agency; or (3) a standard has
14 been adopted by the Board pursuant to the Illinois
15 Groundwater Protection Act; or (4) in the absence of such
16 advisories or standards, an action level has been developed
17 by the Agency using guidance or procedures issued by the
18 federal government for developing health based levels.

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

20 (415 ILCS 5/3.330 new) (was 415 ILCS 5/3.32)

21 Sec. 3.330. ~~3-32-~~ Pollution control facility.

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

28 The following are not pollution control facilities:

- 29 (1) (Blank);
- 30 (2) waste storage sites regulated under 40 CFR,
- 31 Part 761.42;
- 32 (3) sites or facilities used by any person

1 conducting a waste storage, waste treatment, waste
2 disposal, waste transfer or waste incineration operation,
3 or a combination thereof, for wastes generated by such
4 person's own activities, when such wastes are stored,
5 treated, disposed of, transferred or incinerated within
6 the site or facility owned, controlled or operated by
7 such person, or when such wastes are transported within
8 or between sites or facilities owned, controlled or
9 operated by such person;

10 (4) sites or facilities at which the State is
11 performing removal or remedial action pursuant to Section
12 22.2 or 55.3;

13 (5) abandoned quarries used solely for the disposal
14 of concrete, earth materials, gravel, or aggregate debris
15 resulting from road construction activities conducted by
16 a unit of government or construction activities due to
17 the construction and installation of underground pipes,
18 lines, conduit or wires off of the premises of a public
19 utility company which are conducted by a public utility;

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

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

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

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

30 (10) the portion of a site or facility used for
31 treatment of petroleum contaminated materials by
32 application onto or incorporation into the soil surface
33 and any portion of that site or facility used for storage
34 of petroleum contaminated materials before treatment.

1 Only those categories of petroleum listed in paragraph
2 ~~(5) of subsection (a) of~~ Section 57.9(a)(3) ~~22.18b~~ are
3 exempt under this subdivision (10);

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

11 (12) the portion of a site or facility utilizing
12 coal combustion waste for stabilization and treatment of
13 only waste generated on that site or facility when used
14 in connection with response actions pursuant to the
15 federal Comprehensive Environmental Response,
16 Compensation, and Liability Act of 1980, the federal
17 Resource Conservation and Recovery Act of 1976, or the
18 Illinois Environmental Protection Act or as authorized by
19 the Agency;

20 (13) the portion of a site or facility accepting
21 exclusively general construction or demolition debris,
22 located in a county with a population over 700,000, and
23 operated and located in accordance with Section 22.38 of
24 this Act.

25 (b) A new pollution control facility is:

26 (1) a pollution control facility initially
27 permitted for development or construction after July 1,
28 1981; or

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

31 (3) a permitted pollution control facility
32 requesting approval to store, dispose of, transfer or
33 incinerate, for the first time, any special or hazardous
34 waste.

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

2 (415 ILCS 5/3.335 new) (was 415 ILCS 5/3.27)

3 Sec. 3.335. Pollution control waste. ~~3-27-~~ "Pollution
4 control waste" means any liquid, solid, semi-solid or gaseous
5 waste generated as a direct or indirect result of the removal
6 of contaminants from the air, water or land, and which pose a
7 present or potential threat to human health or to the
8 environment or with inherent properties which make the
9 disposal of such waste in a landfill difficult to manage by
10 normal means. "Pollution control waste" includes but is not
11 limited to water and wastewater treatment plant sludges,
12 baghouse dusts, landfill waste, scrubber sludges and chemical
13 spill cleanings.

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

15 (415 ILCS 5/3.340 new) (was 415 ILCS 5/3.65)

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

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

20 (415 ILCS 5/3.345 new) (was 415 ILCS 5/3.59)

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

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

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

30 (3) is utilized for the landfilling, land treating,
31 surface impounding or piling of any hazardous or special

1 waste that is generated on the site or at other sites
2 owned, controlled or operated by the same person; or

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

6 A new potential primary source is:

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

10 (ii) a potential primary source which expands
11 laterally beyond the currently permitted boundary or, if
12 the primary source is not permitted, the boundary in
13 existence as of January 1, 1988; or

14 (iii) a potential primary source which is part of a
15 facility that undergoes major reconstruction. Such
16 reconstruction shall be deemed to have taken place where
17 the fixed capital cost of the new components constructed
18 within a 2-year period exceed 50% of the fixed capital
19 cost of a comparable entirely new facility.

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

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

25 (415 ILCS 5/3.350 new) (was 415 ILCS 5/3.58)

26 Sec. 3.350. Potential route. ~~3.58-~~ "Potential route"
27 means abandoned and improperly plugged wells of all kinds,
28 drainage wells, all injection wells, including closed loop
29 heat pump wells, and any excavation for the discovery,
30 development or production of stone, sand or gravel.

31 A new potential route is:

32 (1) a potential route which is not in existence or
33 for which construction has not commenced at its location

1 as of January 1, 1988, or

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

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

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

11 (415 ILCS 5/3.355 new) (was 415 ILCS 5/3.60)

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

16 (1) is utilized for the landfilling, land treating,
17 or surface impounding of waste that is generated on the
18 site or at other sites owned, controlled or operated by
19 the same person, other than livestock and landscape
20 waste, and construction and demolition debris; or

21 (2) stores or accumulates at any time more than
22 25,000 but not more than 75,000 pounds above ground, or
23 more than 2,500 but not more than 7,500 pounds below
24 ground, of any hazardous substances; or

25 (3) stores or accumulates at any time more than
26 25,000 gallons above ground, or more than 500 gallons
27 below ground, of petroleum, including crude oil or any
28 fraction thereof which is not otherwise specifically
29 listed or designated as a hazardous substance; or

30 (4) stores or accumulates pesticides, fertilizers,
31 or road oils for purposes of commercial application or
32 for distribution to retail sales outlets; or

33 (5) stores or accumulates at any time more than

1 50,000 pounds of any de-icing agent; or

2 (6) is utilized for handling livestock waste or for
3 treating domestic wastewaters other than private sewage
4 disposal systems as defined in the "Private Sewage
5 Disposal Licensing Act".

6 A new potential secondary source is:

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

10 (ii) a potential secondary source which expands
11 laterally beyond the currently permitted boundary or, if
12 the secondary source is not permitted, the boundary in
13 existence as of July 1, 1988, other than an expansion for
14 handling of livestock waste or for treating domestic
15 wastewaters; or

16 (iii) a potential secondary source which is part of
17 a facility that undergoes major reconstruction. Such
18 reconstruction shall be deemed to have taken place where
19 the fixed capital cost of the new components constructed
20 within a 2-year period exceed 50% of the fixed capital
21 cost of a comparable entirely new facility.

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

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

27 (415 ILCS 5/3.360 new) (was 415 ILCS 5/3.84)

28 Sec. 3.360. Potentially infectious medical waste. 3-84-

29 (a) "Potentially infectious medical waste" means the
30 following types of waste generated in connection with the
31 diagnosis, treatment (i.e., provision of medical services),
32 or immunization of human beings or animals; research
33 pertaining to the provision of medical services; or the

1 production or testing of biologicals:

2 (1) Cultures and stocks. This waste shall include
3 but not be limited to cultures and stocks of agents
4 infectious to humans, and associated biologicals;
5 cultures from medical or pathological laboratories;
6 cultures and stocks of infectious agents from research
7 and industrial laboratories; wastes from the production
8 of biologicals; discarded live or attenuated vaccines; or
9 culture dishes and devices used to transfer, inoculate,
10 or mix cultures.

11 (2) Human pathological wastes. This waste shall
12 include tissue, organs, and body parts (except teeth and
13 the contiguous structures of bone and gum); body fluids
14 that are removed during surgery, autopsy, or other
15 medical procedures; or specimens of body fluids and their
16 containers.

17 (3) Human blood and blood products. This waste
18 shall include discarded human blood, blood components
19 (e.g., serum and plasma), or saturated material
20 containing free flowing blood or blood components.

21 (4) Used sharps. This waste shall include but not
22 be limited to discarded sharps used in animal or human
23 patient care, medical research, or clinical or
24 pharmaceutical laboratories; hypodermic, intravenous, or
25 other medical needles; hypodermic or intravenous
26 syringes; Pasteur pipettes; scalpel blades; or blood
27 vials. This waste shall also include but not be limited
28 to other types of broken or unbroken glass (including
29 slides and cover slips) in contact with infectious
30 agents.

31 (5) Animal waste. Animal waste means discarded
32 materials, including carcasses, body parts, body fluids,
33 blood, or bedding originating from animals inoculated
34 during research, production of biologicals, or

1 pharmaceutical testing with agents infectious to humans.

2 (6) Isolation waste. This waste shall include
3 discarded materials contaminated with blood, excretions,
4 exudates, and secretions from humans that are isolated to
5 protect others from highly communicable diseases.
6 "Highly communicable diseases" means those diseases
7 identified by the Board in rules adopted under subsection
8 (e) of Section 56.2 of this Act.

9 (7) Unused sharps. This waste shall include but
10 not be limited to the following unused, discarded sharps:
11 hypodermic, intravenous, or other needles; hypodermic or
12 intravenous syringes; or scalpel blades.

13 (b) Potentially infectious medical waste does not
14 include:

15 (1) waste generated as general household waste;

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

18 (3) sharps that meet both of the following
19 conditions:

20 (A) the infectious potential has been
21 eliminated from the sharps by treatment; and

22 (B) the sharps are rendered unrecognizable by
23 treatment.

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

25 (415 ILCS 5/3.365 new) (was 415 ILCS 5/3.28)

26 Sec. 3.365. Public water supply. ~~3-28-~~ "Public water
27 supply" means all mains, pipes and structures through which
28 water is obtained and distributed to the public, including
29 wells and well structures, intakes and cribs, pumping
30 stations, treatment plants, reservoirs, storage tanks and
31 appurtenances, collectively or severally, actually used or
32 intended for use for the purpose of furnishing water for
33 drinking or general domestic use and which serve at least 15

1 service connections or which regularly serve at least 25
2 persons at least 60 days per year. A public water supply is
3 either a "community water supply" or a "non-community water
4 supply".

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

6 (415 ILCS 5/3.370 new) (was 415 ILCS 5/3.29)

7 Sec. 3.370. RCRA permit. ~~3-29-~~ "RCRA permit" means a
8 permit issued by the Agency pursuant to authorization
9 received by the Agency from the United States Environmental
10 Protection Agency under Subtitle C of the Resource
11 Conservation and Recovery Act of 1976, (P.L. 94-580) (RCRA)
12 and which meets the requirements of Section 3005 of RCRA and
13 of this Act.

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

15 (415 ILCS 5/3.375 new) (was 415 ILCS 5/3.81)

16 Sec. 3.375. Recycling center. ~~3-81-~~ "Recycling center"
17 means a site or facility that accepts only segregated,
18 nonhazardous, nonspecial, homogeneous, nonputrescible
19 materials, such as dry paper, glass, cans or plastics, for
20 subsequent use in the secondary materials market.

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

22 (415 ILCS 5/3.380 new) (was 415 ILCS 5/3.30)

23 Sec. 3.380. Recycling, reclamation or reuse. ~~3-30-~~
24 "Recycling, reclamation or reuse" means a method, technique,
25 or process designed to remove any contaminant from waste so
26 as to render such waste reusable, or any process by which
27 materials that would otherwise be disposed of or discarded
28 are collected, separated or processed and returned to the
29 economic mainstream in the form of raw materials or products.

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

1 (415 ILCS 5/3.385 new) (was 415 ILCS 5/3.31)

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

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

4 (415 ILCS 5/3.390 new) (was 415 ILCS 5/3.67)

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

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

10 (415 ILCS 5/3.395 new) (was 415 ILCS 5/3.33)

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

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

27 (415 ILCS 5/3.400 new) (was 415 ILCS 5/3.34)

28 Sec. 3.400. Remedial action. ~~3-34-~~ "Remedial action"
29 means those actions consistent with permanent remedy taken
30 instead of or in addition to removal actions in the event of
31 a release or threatened release of a hazardous substance into

1 the environment, to prevent or minimize the release of
2 hazardous substances so that they do not migrate to cause
3 substantial danger to present or future public health or
4 welfare or the environment. The term includes, but is not
5 limited to, such actions at the location of the release as
6 storage, confinement, perimeter protection using dikes,
7 trenches, or ditches, clay cover, neutralization, cleanup of
8 released hazardous substances or contaminated materials,
9 recycling or reuse, diversion destruction, segregation of
10 reactive wastes, dredging or excavations, repair or
11 replacement of leaking containers, collection of leachate and
12 runoff, onsite treatment or incineration, provision of
13 alternative water supplies, and any monitoring reasonably
14 required to assure that such actions protect the public
15 health and welfare and the environment. The term includes
16 the costs of permanent relocation of residents and businesses
17 and community facilities where the Governor and the Director
18 determine that, alone or in combination with other measures,
19 such relocation is more cost-effective than and
20 environmentally preferable to the transportation, storage,
21 treatment, destruction, or secure disposition offsite of
22 hazardous substances, or may otherwise be necessary to
23 protect the public health or welfare. The term includes
24 offsite transport of hazardous substances, or the storage,
25 treatment, destruction, or secure disposition offsite of such
26 hazardous substances or contaminated materials.

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

28 (415 ILCS 5/3.405 new) (was 415 ILCS 5/3.35)

29 Sec. 3.405. Remove; removal. 3-35. "Remove" or "removal"
30 means the cleanup or removal of released hazardous substances
31 from the environment, actions as may be necessary taken in
32 the event of the threat of release of hazardous substances
33 into the environment, actions as may be necessary to monitor,

1 assess, and evaluate the release or threat of release of
2 hazardous substances, the disposal of removed material, or
3 the taking of other actions as may be necessary to prevent,
4 minimize, or mitigate damage to the public health or welfare
5 or the environment, that may otherwise result from a release
6 or threat of release. The term includes, in addition,
7 without being limited to, security fencing or other measures
8 to limit access, provision of alternative water supplies,
9 temporary evacuation and housing of threatened individuals,
10 and any emergency assistance that may be provided under the
11 Illinois Emergency Management Agency Act or any other law.

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

13 (415 ILCS 5/3.410 new) (was 415 ILCS 5/3.36)

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

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

18 (415 ILCS 5/3.415 new) (was 415 ILCS 5/3.37)

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

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

23 (415 ILCS 5/3.420 new) (was 415 ILCS 5/3.38)

24 Sec. 3.420. Resource conservation. ~~3-38-~~ "Resource
25 conservation" means reduction of the amounts of waste that
26 are generated, reduction of overall resource consumption and
27 the utilization of recovered resources.

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

29 (415 ILCS 5/3.425 new) (was 415 ILCS 5/3.90)

30 Sec. 3.425. Resource Conservation and Recovery Act; RCRA.

1 ~~3-90-~~ "Resource Conservation and Recovery Act" or "RCRA"
2 means the Resource Conservation and Recovery Act of 1976
3 (P.L. 94-580), as amended.
4 (Source: P.A. 88-496.)

5 (415 ILCS 5/3.430 new) (was 415 ILCS 5/3.66)
6 Sec. 3.430. Resource groundwater. ~~3-66-~~ "Resource
7 groundwater" means groundwater that is presently being or in
8 the future capable of being put to beneficial use by reason
9 of being of suitable quality.
10 (Source: P.A. 85-863.)

11 (415 ILCS 5/3.435 new) (was 415 ILCS 5/3.39)
12 Sec. 3.435. Resource recovery. ~~3-39-~~ "Resource recovery"
13 means the recovery of material or energy from waste.
14 (Source: P.A. 84-1308.)

15 (415 ILCS 5/3.440 new) (was 415 ILCS 5/3.40)
16 Sec. 3.440. Respond; response. ~~3-40-~~ "Respond" or
17 "response" means remove, removal, remedy, and remedial
18 action.
19 (Source: P.A. 84-1308.)

20 (415 ILCS 5/3.445 new) (was 415 ILCS 5/3.41)
21 Sec. 3.445. Sanitary landfill. ~~3-41-~~ "Sanitary landfill"
22 means a facility permitted by the Agency for the disposal of
23 waste on land meeting the requirements of the Resource
24 Conservation and Recovery Act, P.L. 94-580, and regulations
25 thereunder, and without creating nuisances or hazards to
26 public health or safety, by confining the refuse to the
27 smallest practical volume and covering it with a layer of
28 earth at the conclusion of each day's operation, or by such
29 other methods and intervals as the Board may provide by
30 regulation.

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

2 (415 ILCS 5/3.450 new) (was 415 ILCS 5/3.61)

3 Sec. 3.450. Setback zone. 3-61- "Setback zone" means a
4 geographic area, designated pursuant to this Act, containing
5 a potable water supply well or a potential source or
6 potential route, having a continuous boundary, and within
7 which certain prohibitions or regulations are applicable in
8 order to protect groundwaters.

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

10 (415 ILCS 5/3.455 new) (was 415 ILCS 5/3.42)

11 Sec. 3.455. Sewage works. 3-42- "Sewage works" means
12 individually or collectively those constructions or devices
13 used for collecting, pumping, treating, and disposing of
14 sewage, industrial waste or other wastes or for the recovery
15 of by-products from such wastes.

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

17 (415 ILCS 5/3.460 new) (was 415 ILCS 5/3.43)

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

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

24 (415 ILCS 5/3.465 new) (was 415 ILCS 5/3.44)

25 Sec. 3.465. Sludge. 3-44- "Sludge" means any solid,
26 semi-solid, or liquid waste generated from a municipal,
27 commercial, or industrial wastewater treatment plant, water
28 supply treatment plant, or air pollution control facility or
29 any other such waste having similar characteristics and
30 effects.

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

2 (415 ILCS 5/3.470 new) (was 415 ILCS 5/3.82)

3 Sec. 3.470. Solid waste. ~~3.82-~~ "Solid waste" means
4 waste.

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

6 (415 ILCS 5/3.475 new) (was 415 ILCS 5/3.45)

7 Sec. 3.475. ~~3.45-~~ Special waste. "Special waste" means
8 any of the following:

9 (a) potentially infectious medical waste;

10 (b) hazardous waste, as determined in conformance with
11 RCRA hazardous waste determination requirements set forth in
12 Section 722.111 of Title 35 of the Illinois Administrative
13 Code, including a residue from burning or processing
14 hazardous waste in a boiler or industrial furnace unless the
15 residue has been tested in accordance with Section 726.212 of
16 Title 35 of the Illinois Administrative Code and proven to be
17 nonhazardous;

18 (c) industrial process waste or pollution control waste,
19 except:

20 (1) any such waste certified by its generator,
21 pursuant to Section 22.48 of this Act, not to be any of
22 the following:

23 (A) a liquid, as determined using the paint
24 filter test set forth in subdivision (3)(A) of
25 subsection (m) of Section 811.107 of Title 35 of the
26 Illinois Administrative Code;

27 (B) regulated asbestos-containing waste
28 materials, as defined under the National Emission
29 Standards for Hazardous Air Pollutants in 40 CFR
30 Section 61.141;

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

1 (D) an industrial process waste or pollution
2 control waste subject to the waste analysis and
3 recordkeeping requirements of Section 728.107 of
4 Title 35 of the Illinois Administrative Code under
5 the land disposal restrictions of Part 728 of Title
6 35 of the Illinois Administrative Code; and

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

11 (2) any empty portable device or container,
12 including but not limited to a drum, in which a special
13 waste has been stored, transported, treated, disposed of,
14 or otherwise handled, provided that the generator has
15 certified that the device or container is empty and does
16 not contain a liquid, as determined pursuant to item (A)
17 of subdivision (1) of this subsection. For purposes of
18 this subdivision, "empty portable device or container"
19 means a device or container in which removal of special
20 waste, except for a residue that shall not exceed one
21 inch in thickness, has been accomplished by a practice
22 commonly employed to remove materials of that type. An
23 inner liner used to prevent contact between the special
24 waste and the container shall be removed and managed as a
25 special waste; or

26 (3) as may otherwise be determined under Section
27 22.9 of this Act.

28 "Special waste" does not mean fluorescent and high
29 intensity discharge lamps as defined in subsection (a) of
30 Section 22.23a of this Act, waste that is managed in
31 accordance with the universal waste requirements set forth in
32 Title 35 of the Illinois Administrative Code, Subtitle G,
33 Chapter I, Subchapter c, Part 733, or waste that is subject
34 to rules adopted pursuant to subsection (c)(2) of Section

1 22.23a of this Act.

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

3 (415 ILCS 5/3.480 new) (was 415 ILCS 5/3.46)

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

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

9 (415 ILCS 5/3.485 new) (was 415 ILCS 5/3.47)

10 Sec. 3.485. Storage site. ~~3-47-~~ "Storage site" is a site
11 at which waste is stored. "Storage site" includes transfer
12 stations but does not include (i) a site that accepts or
13 receives waste in transfer containers unless the waste is
14 removed from the transfer container or unless the transfer
15 container becomes stationary, en route to a disposal,
16 treatment, or storage facility for more than 5 business days,
17 or (ii) a site that accepts or receives open top units
18 containing only clean construction and demolition debris, or
19 (iii) a site that stores waste on a refuse motor vehicle or
20 in the vehicle's detachable refuse receptacle for no more
21 than 24 hours, excluding Saturdays, Sundays, and holidays,
22 but only if the detachable refuse receptacle is completely
23 covered or enclosed and is stored on the same site as the
24 refuse motor vehicle that transported the receptacle to the
25 site.

26 Nothing in this Section shall be construed to be less
27 stringent than or inconsistent with the provisions of the
28 federal Resource Conservation and Recovery Act of 1976 (P.L.
29 94-480) or regulations adopted under it.

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

31 (415 ILCS 5/3.490 new) (was 415 ILCS 5/3.48)

1 Sec. 3.490. Trade secret. 3-48- "Trade secret" means the
2 whole or any portion or phase of any scientific or technical
3 information, design, process (including a manufacturing
4 process), procedure, formula or improvement, or business plan
5 which is secret in that it has not been published or
6 disseminated or otherwise become a matter of general public
7 knowledge, and which has competitive value. A trade secret
8 is presumed to be secret when the owner thereof takes
9 reasonable measures to prevent it from becoming available to
10 persons other than those selected by the owner to have access
11 thereto for limited purposes.

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

13 (415 ILCS 5/3.495 new) (was 415 ILCS 5/3.48-5)

14 Sec. 3.495. Transfer container. 3-48-5- "Transfer
15 container" means a reusable transportable shipping container
16 that is completely covered or enclosed, that has a volume of
17 not less than 250 cubic feet based on the external
18 dimensions, and that is constructed and maintained to protect
19 the container contents (which may include smaller containers
20 that are or are not transfer containers) from water, rain,
21 and wind, to prevent the free movement of rodents and vectors
22 into or out of the container, and to prevent leaking from the
23 container.

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

25 (415 ILCS 5/3.500 new) (was 415 ILCS 5/3.83)

26 Sec. 3.500. Transfer station. 3-83- "Transfer station"
27 means a site or facility that accepts waste for temporary
28 storage or consolidation and further transfer to a waste
29 disposal, treatment or storage facility. "Transfer station"
30 includes a site where waste is transferred from (1) a rail
31 carrier to a motor vehicle or water carrier; (2) a water
32 carrier to a rail carrier or motor vehicle; (3) a motor

1 vehicle to a rail carrier, water carrier or motor vehicle;
 2 (4) a rail carrier to a rail carrier, if the waste is removed
 3 from a rail car; or (5) a water carrier to a water carrier,
 4 if the waste is removed from a vessel.

5 "Transfer station" does not include (i) a site where
 6 waste is not removed from the transfer container, or (ii) a
 7 site that accepts or receives open top units containing only
 8 clean construction and demolition debris, or (iii) a site
 9 that stores waste on a refuse motor vehicle or in the
 10 vehicle's detachable refuse receptacle for no more than 24
 11 hours, excluding Saturdays, Sundays, and holidays, but only
 12 if the detachable refuse receptacle is completely covered or
 13 enclosed and is stored on the same site as the refuse motor
 14 vehicle that transported the receptacle to the 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 5/3.505 new) (was 415 ILCS 5/3.49)

21 Sec. 3.505. Treatment. ~~3-49-~~ "Treatment" means any
 22 method, technique or process, including neutralization,
 23 designed to change the physical, chemical, or biological
 24 character or composition of any waste so as to neutralize it
 25 or render it nonhazardous, safer for transport, amenable for
 26 recovery, amenable for storage, or reduced in volume. Such
 27 term includes any activity or processing designed to change
 28 the physical form or chemical composition of hazardous waste
 29 so as to render it nonhazardous.

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

31 (415 ILCS 5/3.510 new) (was 415 ILCS 5/3.50)

32 Sec. 3.510. Underground injection. ~~3-50-~~ "Underground

1 injection" means the subsurface emplacement of fluids by well
2 injection.

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

4 (415 ILCS 5/3.515 new) (was 415 ILCS 5/3.62)

5 Sec. 3.515. Unit. ~~3-62-~~ "Unit" means any device,
6 mechanism, equipment, or area (exclusive of land utilized
7 only for agricultural production). This term includes
8 secondary containment structures and their contents at
9 agrichemical facilities.

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

11 (415 ILCS 5/3.520 new) (was 415 ILCS 5/3.51)

12 Sec. 3.520. Used oil. ~~3-51-~~ "Used oil" means any oil
13 which has been refined from crude oil or refined from used
14 oil, has been used, and as a result of such use has been
15 contaminated by physical or chemical impurities, except that
16 "used oil" shall not include that type of oil generated on
17 farmland property devoted to agricultural use and used on
18 that property for heating or burning.

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

20 (415 ILCS 5/3.525 new) (was 415 ILCS 5/3.91)

21 Sec. 3.525. Vegetable by-products. ~~3-91-~~ "Vegetable
22 by-products" means any waste consisting solely of the unused
23 portion of fruits and vegetables, associated solids, and
24 process water resulting from any commercial canning,
25 freezing, preserving or other processing of fruits and
26 vegetables. Vegetable by-products are not special wastes.

27 (Source: P.A. 88-454; 88-670, eff. 12-2-94.)

28 (415 ILCS 5/3.530 new) (was 415 ILCS 5/3.52)

29 Sec. 3.530. Virgin oil. ~~3-52-~~ "Virgin oil" means any oil
30 which has been refined from crude oil which may or may not

1 contain additives and has not been used.

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

3 (415 ILCS 5/3.535 new) (was 415 ILCS 5/3.53)

4 Sec. 3.535. Waste. 3-53- "Waste" means any garbage,
5 sludge from a waste treatment plant, water supply treatment
6 plant, or air pollution control facility or other discarded
7 material, including solid, liquid, semi-solid, or contained
8 gaseous material resulting from industrial, commercial,
9 mining and agricultural operations, and from community
10 activities, but does not include solid or dissolved material
11 in domestic sewage, or solid or dissolved materials in
12 irrigation return flows, or coal combustion by-products as
13 defined in Section 3.135 3-94, or industrial discharges which
14 are point sources subject to permits under Section 402 of the
15 Federal Water Pollution Control Act, as now or hereafter
16 amended, or source, special nuclear, or by-product materials
17 as defined by the Atomic Energy Act of 1954, as amended (68
18 Stat. 921) or any solid or dissolved material from any
19 facility subject to the Federal Surface Mining Control and
20 Reclamation Act of 1977 (P.L. 95-87) or the rules and
21 regulations thereunder or any law or rule or regulation
22 adopted by the State of Illinois pursuant thereto.

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

24 (415 ILCS 5/3.540 new) (was 415 ILCS 5/3.54)

25 Sec. 3.540. Waste disposal site. 3-54- "Waste disposal
26 site" is a site on which solid waste is disposed.

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

28 (415 ILCS 5/3.545 new) (was 415 ILCS 5/3.55)

29 Sec. 3.545. Water pollution. 3-55- "Water pollution" is
30 such alteration of the physical, thermal, chemical,
31 biological or radioactive properties of any waters of the

1 State, or such discharge of any contaminant into any waters
 2 of the State, as will or is likely to create a nuisance or
 3 render such waters harmful or detrimental or injurious to
 4 public health, safety or welfare, or to domestic, commercial,
 5 industrial, agricultural, recreational, or other legitimate
 6 uses, or to livestock, wild animals, birds, fish, or other
 7 aquatic life.

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

9 (415 ILCS 5/3.550 new) (was 415 ILCS 5/3.56)

10 Sec. 3.550. Waters. ~~3-56-~~ "Waters" means all
 11 accumulations of water, surface and underground, natural, and
 12 artificial, public and private, or parts thereof, which are
 13 wholly or partially within, flow through, or border upon this
 14 State.

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

16 (415 ILCS 5/3.555 new) (was 415 ILCS 5/3.57)

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

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

21 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

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

24 (a) There is established in the Executive Branch of the
 25 State Government an agency to be known as the Environmental
 26 Protection Agency. This Agency shall be under the
 27 supervision and direction of a Director who shall be
 28 appointed by the Governor with the advice and consent of the
 29 Senate. The term of office of the Director shall expire on
 30 the third Monday of January in odd numbered years, provided
 31 that he or she shall hold ~~his~~ office until a ~~his~~ successor is

1 appointed and has qualified. The Director shall receive an
2 annual salary as set by the Governor from time to time or as
3 set by the Compensation Review Board, whichever is greater.
4 If set by the Governor, the Director's annual salary may not
5 exceed 85% of the Governor's annual salary. The Director, in
6 accord with the Personnel Code, shall employ and direct such
7 personnel, and shall provide for such laboratory and other
8 facilities, as may be necessary to carry out the purposes of
9 this Act. In addition, the Director may by agreement secure
10 such services as he or she may deem necessary from any other
11 department, agency, or unit of the State Government, and may
12 employ and compensate such consultants and technical
13 assistants as may be required.

14 (b) The Agency shall have the duty to collect and
15 disseminate such information, acquire such technical data,
16 and conduct such experiments as may be required to carry out
17 the purposes of this Act, including ascertainment of the
18 quantity and nature of discharges from any contaminant source
19 and data on those sources, and to operate and arrange for the
20 operation of devices for the monitoring of environmental
21 quality.

22 (c) The Agency shall have authority to conduct a program
23 of continuing surveillance and of regular or periodic
24 inspection of actual or potential contaminant or noise
25 sources, of public water supplies, and of refuse disposal
26 sites.

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

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

33 (2) In accordance with the provisions of this Act,
34 taking whatever preventive or corrective action, including

1 but not limited to removal or remedial action, that is
2 necessary or appropriate whenever there is a release or a
3 substantial threat of a release of (A) a hazardous substance
4 or pesticide or (B) petroleum from an underground storage
5 tank.

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

12 (f) The Agency shall appear before the Board in any
13 hearing upon a petition for variance, the denial of a permit,
14 or the validity or effect of a rule or regulation of the
15 Board, and shall have the authority to appear before the
16 Board in any hearing under the Act.

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

32 (h) The Agency shall have authority to require the
33 submission of complete plans and specifications from any
34 applicant for a permit required by this Act or by regulations

1 thereunder, and to require the submission of such reports
2 regarding actual or potential violations of the Act or of
3 regulations thereunder, or of permits or terms or conditions
4 thereof, as may be necessary for purposes of this Act.

5 (i) The Agency shall have authority to make
6 recommendations to the Board for the adoption of regulations
7 under Title VII of the Act.

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

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

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

30 (l) The Agency is hereby designated as water pollution
31 agency for the state for all purposes of the Federal Water
32 Pollution Control Act, as amended; as implementing agency for
33 the State for all purposes of the Safe Drinking Water Act,
34 Public Law 93-523, as now or hereafter amended, except

1 Section 1425 of that Act; as air pollution agency for the
2 state for all purposes of the Clean Air Act of 1970, Public
3 Law 91-604, approved December 31, 1970, as amended; and as
4 solid waste agency for the state for all purposes of the
5 Solid Waste Disposal Act, Public Law 89-272, approved October
6 20, 1965, and amended by the Resource Recovery Act of 1970,
7 Public Law 91-512, approved October 26, 1970, as amended, and
8 amended by the Resource Conservation and Recovery Act of
9 1976, (P.L. 94-580) approved October 21, 1976, as amended; as
10 noise control agency for the state for all purposes of the
11 Noise Control Act of 1972, Public Law 92-574, approved
12 October 27, 1972, as amended; and as implementing agency for
13 the State for all purposes of the Comprehensive Environmental
14 Response, Compensation, and Liability Act of 1980 (P.L.
15 96-510), as amended; and otherwise as pollution control
16 agency for the State pursuant to federal laws integrated with
17 the foregoing laws, for financing purposes or otherwise. The
18 Agency is hereby authorized to take all action necessary or
19 appropriate to secure to the State the benefits of such
20 federal Acts, provided that the Agency shall transmit to the
21 United States without change any standards adopted by the
22 Pollution Control Board pursuant to Section 5(c) of this Act.
23 This subsection (1) of Section 4 shall not be construed to
24 bar or prohibit the Environmental Protection Trust Fund
25 Commission from accepting, receiving, and administering on
26 behalf of the State any grants, gifts, loans or other funds
27 for which the Commission is eligible pursuant to the
28 Environmental Protection Trust Fund Act. The Agency is
29 hereby designated as the State agency for all purposes of
30 administering the requirements of Section 313 of the federal
31 Emergency Planning and Community Right-to-Know Act of 1986.

32 Any municipality, sanitary district, or other political
33 subdivision, or any Agency of the State or interstate Agency,
34 which makes application for loans or grants under such

1 federal Acts shall notify the Agency of such application; the
2 Agency may participate in proceedings under such federal
3 Acts.

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

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

28 (o) The Agency shall have the authority to issue
29 certificates of competency to persons and laboratories
30 meeting the minimum standards established by the Agency in
31 accordance with Section 4(n) of this Act and to promulgate
32 and enforce regulations relevant to the issuance and use of
33 such certificates. The Agency may enter into formal working
34 agreements with other departments or agencies of state

1 government under which all or portions of this authority may
2 be delegated to the cooperating department or agency.

3 (p) Except as provided in Section 17.7, the Agency shall
4 have the duty to analyze samples as required from each public
5 water supply to determine compliance with the contaminant
6 levels specified by the Pollution Control Board. The maximum
7 number of samples which the Agency shall be required to
8 analyze for microbiological quality shall be 6 per month, but
9 the Agency may, at its option, analyze a larger number each
10 month for any supply. Results of sample analyses for
11 additional required bacteriological testing, turbidity,
12 residual chlorine and radionuclides are to be provided to the
13 Agency in accordance with Section 19. Owners of water
14 supplies may enter into agreements with the Agency to provide
15 for reduced Agency participation in sample analyses.

16 (q) The Agency shall have the authority to provide
17 notice to any person who may be liable pursuant to Section
18 22.2(f) of this Act for a release or a substantial threat of
19 a release of a hazardous substance or pesticide. Such notice
20 shall include the identified response action and an
21 opportunity for such person to perform the response action.

22 (r) The Agency may enter into written delegation
23 agreements with any unit of local government under which it
24 may delegate all or portions of its inspecting, investigating
25 and enforcement functions. Such delegation agreements shall
26 require that work performed thereunder be in accordance with
27 Agency criteria and subject to Agency review.
28 Notwithstanding any other provision of law to the contrary,
29 no unit of local government shall be liable for any injury
30 resulting from the exercise of its authority pursuant to such
31 a delegation agreement unless the injury is proximately
32 caused by the willful and wanton negligence of an agent or
33 employee of the unit of local government, and any policy of
34 insurance coverage issued to a unit of local government may

1 provide for the denial of liability and the nonpayment of
2 claims based upon injuries for which the unit of local
3 government is not liable pursuant to this subsection (r).

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

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

26 (u) Pursuant to the Illinois Administrative Procedure
27 Act, the Agency shall have the authority to adopt such rules
28 as are necessary or appropriate for the Agency to implement
29 Section 31.1 of this Act.

30 (v) (Blank.)

31 (w) Neither the State, nor the Director, nor the Board,
32 nor any State employee shall be liable for any damages or
33 injury arising out of or resulting from any action taken
34 under subsection (s) ~~or-subsection-(v)~~.

1 (x)(1) The Agency shall have authority to distribute
2 grants, subject to appropriation by the General Assembly, to
3 units of local government for financing and construction of
4 public water supply facilities. With respect to all monies
5 appropriated from the Build Illinois Bond Fund or the Build
6 Illinois Purposes Fund for public water supply grants, such
7 grants shall be made in accordance with rules promulgated by
8 the Agency. Such rules shall include a requirement for a
9 local match of 30% of the total project cost for projects
10 funded through such grants.

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

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

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

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

Sec. 5. Pollution Control Board.

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

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

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

1 Senate-is-not-in-session-at-the-time-this-Act--takes--effect,
2 the--Governor-shall-make-temporary-appointments-as-in-case-of
3 vacancies.

4 Members of the Board shall hold office until their
5 respective successors have been appointed and qualified. Any
6 member may resign from his office, such resignation to take
7 effect when a his successor has been appointed and has
8 qualified.

9 Board members shall be paid \$30,000-per-year--until--July
10 17--1979;--\$33,000-from-July-17-1979-to-July-17-1980;--\$34,900
11 from-July-17-1980-to-July--17--1981;-and \$37,000 per year
12 thereafter, or an amount set by the Compensation Review
13 Board, whichever is greater, and the Chairman shall be paid
14 \$35,000--per--year--until--July-17-1979;--\$38,500-from-July-17-
15 1979-to-July-17-1980;--\$40,800-from-July-17-1980--to--July--17-
16 1981-and \$43,000 per year thereafter, or an amount set by the
17 Compensation Review Board, whichever is greater. Each member
18 shall be reimbursed for expenses necessarily incurred, shall
19 devote full time to the performance of his or her duties and
20 shall make a financial disclosure upon appointment. Each
21 Board member may employ one secretary and one assistant, and
22 the Chairman one secretary and 2 two assistants. The Board
23 also may employ and compensate hearing officers to preside at
24 hearings under this Act, and such other personnel as may be
25 necessary. Hearing officers shall be attorneys licensed to
26 practice law in Illinois.

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

29 The Board shall hold at least one meeting each month and
30 such additional meetings as may be prescribed by Board rules.
31 In addition, special meetings may be called by the Chairman
32 or by any 2 two Board members, upon delivery of 24 hours
33 written notice to the office of each member. All Board
34 meetings shall be open to the public, and public notice of

1 all meetings shall be given at least 24 hours in advance of
 2 each meeting. In emergency situations in which a majority of
 3 the Board certifies that exigencies of time require the
 4 requirements of public notice and of 24 hour written notice
 5 to members may be dispensed with, and Board members shall
 6 receive such notice as is reasonable under the circumstances.

7 Four members of the Board shall constitute a quorum, and
 8 4 votes shall be required for any final determination by the
 9 Board, except in a proceeding to remove a seal under
 10 paragraph (d) of Section 34 of this Act. The Board shall
 11 keep a complete and accurate record of all its meetings.

12 (b) The Board shall determine, define and implement the
 13 environmental control standards applicable in the State of
 14 Illinois and may adopt rules and regulations in accordance
 15 with Title VII of this Act.

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

26 (d) The Board shall have authority to conduct
 27 proceedings ~~hearings~~ upon complaints charging violations of
 28 this Act, any rule or regulation adopted under this Act, or
 29 any permit or term or condition of a permit; upon
 30 administrative citations ~~or-ef-regulations-thereunder~~; upon
 31 petitions for variances or adjusted standards; upon petitions
 32 for review of the Agency's final determinations on denial--~~of~~
 33 a permit applications in accordance with Title X of this Act;
 34 upon petitions ~~petition~~ to remove seals ~~a-seal~~ under Section

1 34 of this Act; and upon other petitions for review of final
 2 determinations which are made pursuant to this the Act or
 3 Board rule and which involve a subject which the Board is
 4 authorized to regulate. The Board may also conduct~~;-and-such~~
 5 other proceedings hearings as may be provided by this Act or
 6 any other statute or rule.

7 (e) In connection with any proceeding hearing pursuant
 8 to subsection ~~subsections~~ (b) or (d) of this Section, the
 9 Board may subpoena and compel the attendance of witnesses and
 10 the production of evidence reasonably necessary to resolution
 11 of the matter under consideration. The Board shall issue
 12 such subpoenas upon the request of any party to a proceeding
 13 under subsection (d) of this Section or upon its own motion.

14 (f) The Board may prescribe reasonable fees for permits
 15 required pursuant to this Act. Such fees in the aggregate
 16 may not exceed the total cost to the Agency for its
 17 inspection and permit systems. The Board may not prescribe
 18 any permit fees which are different in amount from those
 19 established by this Act.

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

21 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007)

22 Sec. 7. Public inspection; fees.

23 (a) All files, records, and data of the Agency, the
 24 Board, and the Department shall be open to reasonable public
 25 inspection and may be copied upon payment of reasonable fees
 26 to be established where appropriate by the Agency, the Board,
 27 or the Department, except for the following:

- 28 (i) information which constitutes a trade secret;
- 29 (ii) information privileged against introduction in
 30 judicial proceedings;
- 31 (iii) internal communications of the several
 32 agencies;
- 33 (iv) information concerning secret manufacturing

1 processes or confidential data submitted by any person
2 under this Act.

3 (b) Notwithstanding subsection (a) above, as to
4 information from or concerning persons subject to NPDES
5 permit requirements:

6 (i) effluent data may under no circumstances be
7 kept confidential; and

8 (ii) the Agency, the Board, and the Department may
9 make available to the public for inspection and copying
10 any required records, reports, information, permits, and
11 permit applications obtained from contaminant sources
12 subject to the provisions of Section 12 (f) of this Act;
13 provided that upon a showing satisfactory to the Agency,
14 the Board or the Department, as the case may be, by any
15 person that such information, or any part thereof (other
16 than effluent data) would, if made public, divulge
17 methods or processes entitled to protection as trade
18 secrets of such person, the Agency, the Board, or the
19 Department, as the case may be, shall treat such
20 information as confidential.

21 (c) Notwithstanding any other provision of this Title or
22 any other law to the contrary, all emission data reported to
23 or otherwise obtained by the Agency, the Board or the
24 Department in connection with any examination, inspection or
25 proceeding under this Act shall be available to the public to
26 the extent required by the federal Clean Air Act, Amendments
27 of 1977-(P.L.-95-95) as amended.

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

33 (e) Notwithstanding any other provisions of this Title,
34 or any other law to the contrary, any information accorded

1 confidential treatment may be disclosed or transmitted to
 2 other officers, employees or authorized representatives of
 3 this State or of the United States concerned with or for the
 4 purposes of carrying out this Act or federal environmental
 5 statutes and regulations; provided, however, that such
 6 information shall be identified as confidential by the
 7 Agency, the Board, or the Department, as the case may be.
 8 Any confidential information disclosed or transmitted under
 9 this provision shall be used for the purposes stated herein.

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

13 (g) All files, records and data of the Agency, the Board
 14 and the Department shall be made available to the Department
 15 of Public Health pursuant to the Illinois Health and
 16 Hazardous Substances Registry Act. Expenses incurred in the
 17 copying and transmittal of files, records and data requested
 18 pursuant to this subsection (g) shall be the responsibility
 19 of the Department of Public Health.

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

21 (415 ILCS 5/9.2) (from Ch. 111 1/2, par. 1009.2)

22 Sec. 9.2. Sulfur dioxide emission standards.

23 (a) (Blank.) ~~The Agency shall review all Illinois sulfur~~
 24 ~~dioxide emission standards for existing fuel combustion~~
 25 ~~stationary emission sources located within the Chicago, St.~~
 26 ~~Louis (Illinois), and Peoria major metropolitan areas and, if~~
 27 ~~appropriate following such review, propose amendments to such~~
 28 ~~standards to the Board by July 1, 1980, or within 90 days of~~
 29 ~~receipt of the initial reports required pursuant to Section~~
 30 ~~6.1 of this Act, whichever is later. The standards proposed~~
 31 ~~by the Agency shall be designed to enhance the use of~~
 32 ~~Illinois coal, consistent with the need to attain and~~
 33 ~~maintain the National Ambient Air Quality Standards for~~

1 sulfur-dioxide-and-particulate-matter.

2 (b) In granting any alternative emission standard or
3 variance relating to sulfur dioxide emissions from a
4 coal-burning stationary source, the Board may require the use
5 of Illinois coal as a condition of such alternative standard
6 or variance, provided that the Board determines that Illinois
7 coal of the proper quality is available and competitive in
8 price; such determination shall include consideration of the
9 cost of pollution control equipment and the economic impact
10 on the Illinois coal mining industry.

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

12 (415 ILCS 5/9.3) (from Ch. 111 1/2, par. 1009.3)

13 Sec. 9.3. Alternative control strategies.

14 (a) The General Assembly finds that control strategies,
15 including emission limitations, alternative but
16 environmentally equivalent to those required by Board
17 regulations or the terms of this Act, can assure equivalent
18 protection of the environment and that the use of such
19 alternative control strategies can encourage technological
20 innovation, reduce the likelihood of shutdown of older
21 sources, and can result in decreased costs of compliance and
22 increased availability of resources for use in productive
23 capital investments.

24 (b) (Blank.) Within-120-days-after-the-effective-date-of
25 this--amendatory--Act--of-1981,-the-Board-shall-adopt-interim
26 rules-pursuant-to-the-Illinois-Administrative--Procedure--Act
27 for--the--standards--of--issuance-of-permits-to-sources-under
28 Section-39.1,-provided,-that--processing--of--permits--under
29 Section--39.1--is--of--vital--benefit--to--the-State,-and-may
30 proceed--immediately--upon--the--effective--date---of---this
31 amendatory--Act--of--1981.---Such--interim--rules-shall-be-in
32 effect--until--the--effective--date--of---Board--regulations
33 promulgated-pursuant-to-subsection-(c),-below.

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

4 (d) Board rules pursuant to this Section 9.3 shall set
5 forth reasonable requirements for issuance of an alternative
6 control strategy permit, provided that the Board may not
7 impose any condition or requirement more stringent than
8 required by the Clean Air Act or for compliance with this Act
9 or other Board regulations thereunder. The Agency shall
10 promptly adopt any necessary procedures for the
11 administration of such permit programs. The burden of
12 establishing that any procedure, condition or requirement
13 imposed by the Agency in or for the issuance of a permit is
14 more stringent than required by applicable law shall be upon
15 the permit applicant.

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

17 (415 ILCS 5/9.4) (from Ch. 111 1/2, par. 1009.4)

18 Sec. 9.4. Municipal waste incineration emission
19 standards.

20 (a) The General Assembly finds:

21 (1) That air pollution from municipal waste
22 incineration may constitute a threat to public health,
23 welfare and the environment. The amounts and kinds of
24 pollutants depend on the nature of the waste stream,
25 operating conditions of the incinerator, and the
26 effectiveness of emission controls. Under normal
27 operating conditions, municipal waste incinerators
28 produce pollutants such as organic compounds, metallic
29 compounds and acid gases which may be a threat to public
30 health, welfare and the environment.

31 (2) That a combustion and flue-gas control system,
32 which is properly designed, operated and maintained, can
33 substantially reduce the emissions of organic materials,

1 metallic compounds and acid gases from municipal waste
2 incineration.

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

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

- 11 (1) particulate matter, sulfur dioxide and nitrogen
12 oxides;
- 13 (2) acid gases;
- 14 (3) heavy metals; and
- 15 (4) organic materials.

16 (c) The Agency shall issue permits, pursuant to Section
17 39, to new municipal waste incineration facilities only if
18 the Agency finds that such facilities are designed,
19 constructed and operated so as to comply with the
20 requirements prescribed by this Section.

21 Prior to adoption of Board regulations under subsection
22 (d) of this Section the Agency may issue permits for the
23 construction of new municipal waste incineration facilities.
24 The Agency determination of Best Available Control Technology
25 shall be based upon consideration of the specific pollutants
26 named in subsection (d), and emissions of particulate matter,
27 sulfur dioxide and nitrogen oxides.

28 Nothing in this Section shall limit the applicability of
29 any other Sections of this Act, or of other standards or
30 regulations adopted by the Board, to municipal waste
31 incineration facilities. In issuing such permits, the Agency
32 may prescribe those conditions necessary to assure continuing
33 compliance with the emission limits and operating standards
34 determined pursuant to subsection (b); such conditions may

1 include the monitoring and reporting of emissions.

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

9 Such regulations shall be written so that the categories
10 of pollutants include, but need not be limited to, the
11 following specific pollutants:

12 (1) hydrogen chloride in the definition of acid
13 gases;

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

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

19 (e) For the purposes of this Section, the term "Best
20 Available Control Technology" means an emission limitation
21 (including a visible emission standard) based on the maximum
22 degree of pollutant reduction which the Agency, on a
23 case-by-case basis, taking into account energy, environmental
24 and economic impacts, determines is achievable through the
25 application of production processes or available methods,
26 systems and techniques, including fuel cleaning or treatment
27 or innovative fuel combustion techniques. If the Agency
28 determines that technological or economic limitations on the
29 application of measurement methodology to a particular class
30 of sources would make the imposition of an emission standard
31 not feasible, it may instead prescribe a design, equipment,
32 work practice or operational standard, or combination
33 thereof, to require the application of best available control
34 technology. Such standard shall, to the degree possible, set

1 forth the emission reduction achievable by implementation of
2 such design, equipment, work practice or operation and shall
3 provide for compliance by means which achieve equivalent
4 results.

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

11 (g) The provisions of this Section shall not apply to
12 industrial incineration facilities that burn waste generated
13 at the same site.

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

15 (415 ILCS 5/12) (from Ch. 111 1/2, par. 1012)

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

17 (a) Cause or threaten or allow the discharge of any
18 contaminants into the environment in any State so as to cause
19 or tend to cause water pollution in Illinois, either alone or
20 in combination with matter from other sources, or so as to
21 violate regulations or standards adopted by the Pollution
22 Control Board under this Act.

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

29 (c) Increase the quantity or strength of any discharge
30 of contaminants into the waters, or construct or install any
31 sewer or sewage treatment facility or any new outlet for
32 contaminants into the waters of this State, without a permit
33 granted by the Agency.

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

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

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

17 No permit shall be required under this subsection and
18 under Section 39(b) of this Act for any discharge for which a
19 permit is not required under the Federal Water Pollution
20 Control Act, as now or hereafter amended, and regulations
21 pursuant thereto.

22 For all purposes of this Act, a permit issued by the
23 Administrator of the United States Environmental Protection
24 Agency under Section 402 of the Federal Water Pollution
25 Control Act, as now or hereafter amended, shall be deemed to
26 be a permit issued by the Agency pursuant to Section 39(b) of
27 this Act. However, this shall not apply to the exclusion
28 from the requirement of an operating permit provided under
29 Section 13(b)(i).

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

1 In any case where a permit has been timely applied for
2 pursuant to Section 39(b) of this Act but final
3 administrative disposition of such application has not been
4 made, it shall not be a violation of this subsection to
5 discharge without such permit unless the complainant proves
6 that final administrative disposition has not been made
7 because of the failure of the applicant to furnish
8 information reasonably required or requested in order to
9 process the application. ~~For purposes of this provision,~~
10 ~~until implementing requirements have been established by the~~
11 ~~Board and the Agency, all applications deemed filed with the~~
12 ~~Administrator of the United States Environmental Protection~~
13 ~~Agency pursuant to the provisions of the Federal Water~~
14 ~~Pollution Control Act, as now or hereafter amended, shall be~~
15 ~~deemed filed with the Agency.~~

16 (g) Cause, threaten or allow the underground injection
17 of contaminants without a UIC permit issued by the Agency
18 under Section 39(d) of this Act, or in violation of any term
19 or condition imposed by such permit, or in violation of any
20 regulations or standards adopted by the Board or of any order
21 adopted by the Board with respect to the UIC program.

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

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

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

32 (415 ILCS 5/13.1) (from Ch. 111 1/2, par. 1013.1)

33 Sec. 13.1. Groundwater monitoring network.

1 (a) (Blank.) The--Department,--in--cooperation-with-the
2 Environmental-Protection-Agency-and-the-Department-of--Public
3 Health,--shall--complete--a--study--of-groundwater-quality-in
4 Illinois.----Such--study,--at--a--minimum,--shall--include--a
5 compilation--of--currently--available--data--on--groundwater
6 quality--and--a-limited-amount-of-taking-of-new-water-samples
7 from-existing-wells-to-fill-in-major-data-gaps-to--provide--a
8 preliminary--assessment-of-current-levels-of-contamination-of
9 the-groundwaters-in-the-State-by-hazardous-substances,--and-an
10 identification--of--the--location--of--critical--underground
11 resources-such-as-recharge-zones-and-high-water-tables.--Such
12 study--shall--give--priority-to-the-assessment-of-groundwater
13 quality-near-hazardous-waste--facilities--and--shall--include
14 recommendations-on-priorities-for-future-studies-and-research
15 necessary--to--administer--a--groundwater-protection-program.
16 The-Agency-and-the-Department-of-Public-Health-and-any--other
17 State--agency-shall-provide-to-the-Department-any-information
18 relating-to-groundwater-quality--necessary--to--complete--the
19 study.---The--Department--shall-complete-its-study-by-July-1,
20 1985-and-shall-report-its-findings-to-the--Pollution--Control
21 Board,--the-Agency,--the-General-Assembly-and-the-Governor.

22 (b) The Agency shall establish a Statewide groundwater
23 monitoring network. Such network shall include a sufficient
24 number of testing wells to assess the current levels of
25 contamination in the groundwaters of the State and to detect
26 any future degradation of groundwater resources. The
27 monitoring network shall give special emphasis to critical
28 groundwater areas and to locations near hazardous waste
29 disposal facilities. To the extent possible, the network
30 shall utilize existing publicly or privately operated
31 drinking water or monitoring wells.

32 (c) (Blank.) By--January--1,--1986,--the--Agency--shall
33 formulate-a-groundwater-protection--plan.---Such--plan--shall
34 identify--critical--groundwaters--that--have--been--or--are

1 particularly--suseptible--to--contamination--by--hazardous
 2 substances--and--probable--sources-of-such-contamination, and
 3 shall--recommend--the--steps--to--be--taken--to--prevent--the
 4 degradation-of-the-water-quality-of-such-areas,----Such--plan
 5 may---also---recommend--the--establishment--of--a--system--of
 6 classifying-groundwaters-based-on-their-quality-and--use--and
 7 for--the-establishment-of-groundwater-quality-standards,--The
 8 Agency-shall-hold-at-least--3--public--hearings,--each--at--a
 9 different--location--within--the-State, before-finalizing-the
 10 plan.--By-January-1, 1986, the-Agency--shall--report--on--its
 11 plan--to-the-Governor, the-General-Assembly-and-the-Pollution
 12 Control---Board,---along---with---recommendations---for---any
 13 legislation, regulations-or-administrative-changes--necessary
 14 to-implement-the-groundwater-protection-plan.

15 (d) (Blank.) Following-the-completion-of-the-groundwater
 16 quality--study--and--the--groundwater--protection--plan, the
 17 Pollution--Control-Board-shall-conduct-public-hearings-on-the
 18 results-and-recommendations-as-provided-in-Title-VII-of--this
 19 Act.---Upon--conclusion--of--such--hearings, the-Board-shall
 20 publish-its-findings-and-conclusions-on-the-areas-covered--by
 21 the-study-and-the-plan-and-the-testimony-received.

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

23 (415 ILCS 5/14.1) (from Ch. 111 1/2, par. 1014.1)

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

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

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

30 (b) No new community water supply well deriving water
 31 from fractured or highly permeable bedrock or from an
 32 unconsolidated and unconfined sand and gravel formation may
 33 be located within 400 feet of any potential primary or

1 potential secondary source or any potential route. Such 400
 2 foot setback is not applicable to any new community water
 3 supply well where the potential primary or potential
 4 secondary source is located within a site for which
 5 certification is currently in effect pursuant to Section
 6 14.5.

7 (c) Nothing in this Section shall affect any location
 8 and construction requirement imposed in Section 6 of the
 9 "Illinois Water Well Construction Code", approved August 20,
 10 1965, as amended, and the regulations promulgated thereunder.

11 (d) For the purposes of this Section, a community water
 12 supply well is "new" if it is constructed after September 24,
 13 1987 ~~the-effective-date-of-this-Section.~~

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

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

19 (415 ILCS 5/14.2) (from Ch. 111 1/2, par. 1014.2)

20 Sec. 14.2. New potential source or route; minimum setback
 21 zone. A minimum setback zone is established for the location
 22 of each new potential source or new potential route as
 23 follows:

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

29 (b) The owner of a new potential primary source or a
 30 potential secondary source or a potential route may secure a
 31 waiver from the requirement of subsection (a) of this Section
 32 for a potable water supply well other than a community water
 33 supply well. A written request for a waiver shall be made to

1 the owner of the water well and the Agency. Such request
2 shall identify the new or proposed potential source or
3 potential route, shall generally describe the possible effect
4 of such potential source or potential route upon the water
5 well and any applicable technology-based controls which will
6 be utilized to minimize the potential for contamination, and
7 shall state whether, and under what conditions, the requestor
8 will provide an alternative potable water supply. Waiver may
9 be granted by the owner of the water well no less than 90
10 days after receipt of the request unless prior to such time
11 the Agency notifies the well owner that it does not concur
12 with the request.

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

30 No waiver under this Section is required where the
31 potable water supply well is part of a private water system
32 as defined in the Illinois Groundwater Protection Act, and
33 the owner of such well will also be the owner of a new
34 potential secondary source or a potential route. In such

1 instances, a prohibition of 75 feet shall apply and the owner
2 shall notify the Agency of the intended action so that the
3 Agency may provide information regarding the potential
4 hazards associated with location of a potential secondary
5 source or potential route in close proximity to a potable
6 water supply well.

7 (c) The Board may grant an exception from the setback
8 requirements of this Section and subsection (e) of Section
9 14.3 to the owner of a new potential route, a new potential
10 primary source other than landfilling or land treating, or a
11 new potential secondary source. The owner seeking an
12 exception with respect to a community water supply well shall
13 file a petition with the Board and the Agency. The owner
14 seeking an exception with respect to a potable water supply
15 well other than a community water supply well shall file a
16 petition with the Board and the Agency, and set forth therein
17 the circumstances under which a waiver has been sought but
18 not obtained pursuant to subsection (b) of this Section. A
19 petition shall be accompanied by proof that the owner of each
20 potable water supply well for which setback requirements
21 would be affected by the requested exception has been
22 notified and been provided with a copy of the petition. A
23 petition shall set forth such facts as may be required to
24 support an exception, including a general description of the
25 potential impacts of such potential source or potential route
26 upon groundwaters and the affected water well, and an
27 explanation of the applicable technology-based controls which
28 will be utilized to minimize the potential for contamination
29 of the potable water supply well.

30 The Board shall grant an exception, whenever it is found
31 upon presentation of adequate proof, that compliance with the
32 setback requirements of this Section would pose an arbitrary
33 and unreasonable hardship upon the petitioner, that the
34 petitioner will utilize the best available technology

1 controls economically achievable to minimize the likelihood
2 of contamination of the potable water supply well, that the
3 maximum feasible alternative setback will be utilized, and
4 that the location of such potential source or potential route
5 will not constitute a significant hazard to the potable water
6 supply well.

7 ~~Not later than January 17, 1988,~~ The Board shall adopt
8 procedural rules governing requests for exceptions under this
9 subsection. The rulemaking provisions of Title VII of this
10 Act and of Section 5-35 of the Illinois Administrative
11 Procedure Act shall not apply to such rules. A decision made
12 by the Board pursuant to this subsection shall constitute a
13 final determination.

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

19 (d) Except as provided in subsections (c) and (h) of
20 this Section and Section 14.5, no new potential route or
21 potential primary source or potential secondary source may be
22 placed within 400 feet of any existing or permitted community
23 water supply well deriving water from an unconfined shallow
24 fractured or highly permeable bedrock formation or from an
25 unconsolidated and unconfined sand and gravel formation. The
26 Agency shall notify~~7, not later than January 17, 1988,~~ the
27 owner and operator of each existing well which is afforded
28 this setback protection and shall maintain a directory of all
29 community water supply wells to which the 400 foot minimum
30 setback zone applies.

31 (e) The minimum setback zones established under
32 subsections (a) and (b) of this Section shall not apply to
33 new common sources of sanitary pollution as specified
34 pursuant to Section 17 and the regulations adopted thereunder

1 by the Agency; however, no such common sources may be located
2 within the applicable minimum distance from a community water
3 supply well specified by such regulations.

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

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

11 (1) purchases an existing water supply well and
12 attendant property with the intent of eventually
13 abandoning or totally removing the well;

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

18 (3) implements any other arrangement which is
19 mutually agreeable with the owner of a water supply well;
20 or

21 (4) modifies the on-site storage capacity at an
22 agrichemical facility such that the volume of pesticide
23 storage does not exceed 125% of the available capacity in
24 existence on April 1, 1990, or the volume of fertilizer
25 storage does not exceed 150% of the available capacity in
26 existence on April 1, 1990; provided that a written
27 endorsement for an agrichemical facility permit is in
28 effect under Section 39.4 of this Act and the maximum
29 feasible setback is maintained. This on-site storage
30 capacity includes mini-bulk pesticides, package
31 agrichemical storage areas, liquid or dry fertilizers,
32 and liquid or dry pesticides.

33 (h) A new potential route, which is an excavation for
34 stone, sand or gravel and which becomes active on lands which

1 were acquired or were being held as mineral reserves prior to
2 September 24, 1987, shall only be subject to the setback
3 requirements of subsections (a) and (d) of this Section with
4 respect to any community water supply well, non-community
5 water system well, or semi-private water system well in
6 existence prior to January 1, 1988.

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

8 (415 ILCS 5/14.3) (from Ch. 111 1/2, par. 1014.3)

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

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

12 (a) Owners of community water supplies which utilize any
13 water well, or any county or municipality served by any
14 community water supply well, may determine the lateral area
15 of influence of the well under normal operational conditions.
16 The Agency shall adopt procedures by which such
17 determinations may be made including, where appropriate,
18 pumping tests and estimation techniques.

19 (b) Where the results of any determination made pursuant
20 to subsection (a) of this Section disclose that the distance
21 from the well to the outermost boundary of the lateral area
22 of influence of the well under normal operational conditions
23 exceeds the radius of the minimum setback zone established
24 for that well pursuant to Section 14.2, any county or
25 municipality served by such water supply may in writing
26 request the Agency to review and confirm the technical
27 adequacy of such determination. The Agency shall, within 90
28 days of the request, notify the county or municipality
29 whether the determination is technically adequate for
30 describing the outer boundary of drawdown of the affected
31 groundwater by the well under normal operational conditions.
32 Any action by the Agency hereunder shall be in writing and
33 shall constitute a final determination of the Agency.

1 (c) Upon receipt of Agency confirmation of the technical
2 adequacy of such determination, the county or municipality
3 may, after notice and opportunity for comment, adopt an
4 ordinance setting forth the location of each affected well
5 and specifying the boundaries of a maximum setback zone,
6 which boundaries may be irregular. In no event, however,
7 shall any portion of such a boundary be in excess of 1,000
8 feet from the wellhead, except as provided by subsection (f)
9 of this Section. Such ordinance shall include the area
10 within the applicable minimum setback zone and shall
11 incorporate requirements which are consistent with but not
12 more stringent than the prohibitions of this Act and the
13 regulations promulgated by the Board under Section 14.4,
14 except as provided by subsection (f) of this Section. Upon
15 adoption, the county or municipality shall provide a copy of
16 the ordinance to the Agency. Any county or municipality
17 which fails to adopt such an ordinance within 2 years of
18 receipt of Agency confirmation of technical adequacy may not
19 proceed under the authority of this Section without obtaining
20 a new confirmation of the technical adequacy pursuant to
21 subsection (b) of this Section.

22 (d) After July 1, 1989, and upon written notice to the
23 county or municipality, the Agency may propose to the Board a
24 regulation establishing a maximum setback zone for any well
25 subject to this Section. Such proposal shall be based upon
26 all reasonably available hydrogeologic information, include
27 the justification for expanding the zone of wellhead
28 protection, and specify the boundaries of such zone, no
29 portion of which boundaries shall be in excess of 1,000 feet
30 from the wellhead. Such justification may include the need
31 to protect a sole source of public water supply or a highly
32 vulnerable source of groundwater, or an Agency finding that
33 the presence of potential primary or potential secondary
34 sources or potential routes represents a significant hazard

1 to the public health or the environment. The Agency may
2 proceed with the filing of such a proposal unless the county
3 or municipality, within 30 days of the receipt of the written
4 notice, files a written request for a conference with the
5 Agency. Upon receipt of such a request, the Agency shall
6 schedule a conference to be held within 90 days thereafter.
7 At the conference, the Agency shall inform the county or
8 municipality regarding the proposal. Within 30 days after
9 the conference, the affected unit of local government may
10 provide written notice to the Agency of its intent to
11 establish a maximum setback zone in lieu of the Agency acting
12 on a proposal. Upon receipt of such a notice of intent, the
13 Agency may not file a proposal with the Board for a period of
14 6 months. Rulemaking proceedings initiated by the Agency
15 under this subsection shall be conducted by the Board
16 pursuant to Title VII of this Act, except that subsection (b)
17 of Section 27 shall not apply.

18 Nothing in this Section shall be construed as limiting
19 the general authority of the Board to promulgate regulations
20 pursuant to Title VII of this Act. Nothing in this
21 subsection shall limit the right of any person to participate
22 in rulemaking proceedings conducted by the Board under this
23 subsection.

24 (e) Except as provided in subsection (c) of Section
25 14.2, no new potential primary source shall be placed within
26 the maximum setback zone established for any community water
27 supply well pursuant to subsection (c) or (d) of this
28 Section. Nothing in this subsection shall be construed as
29 limiting the power of any county or municipality to adopt
30 ordinances which are consistent with but not more stringent
31 than the prohibition as stated herein.

32 (f) If an active community water supply well is
33 withdrawing groundwater from within the alluvial deposits and
34 is located within 1000 feet of public waters, the boundaries

1 of a maximum setback zone adopted by ordinance pursuant to
 2 subsection (c) may be established to a distance of 2,500 feet
 3 from the wellhead. No new potential route shall be placed,
 4 operated or utilized within the maximum setback zone
 5 established for any community water supply well pursuant to
 6 this subsection. Restrictions provided in subsection (e)
 7 shall not be applied beyond 1,000 feet from the wellhead for
 8 maximum setback zones adopted pursuant to this subsection.
 9 An ordinance which creates a maximum setback zone as
 10 described by this subsection shall also be consistent with
 11 subsections (a), (b) and (c) of this Section, including
 12 incorporation of requirements which are consistent with but
 13 no more stringent than the prohibitions of this amendatory
 14 Act of 1989. For purposes of this subsection, the term
 15 "public waters" means public waters as defined in Section 18
 16 of the Rivers, Lakes, and Streams Act "~~An Act in relation to~~
 17 ~~the regulation of the rivers, lakes and streams of the State~~
 18 ~~of Illinois~~", approved June 10, 1911, as now or hereafter
 19 amended.

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

21 (415 ILCS 5/14.4) (from Ch. 111 1/2, par. 1014.4)
 22 Sec. 14.4. Groundwater rules.

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

- 28 (1) landfilling, land treating, surface impounding
- 29 or piling of special waste and other wastes which could
- 30 cause contamination of groundwater and which are
- 31 generated on the site, other than hazardous, livestock
- 32 and landscape waste, and construction and demolition
- 33 debris;

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

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

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

9 (5) storage and related handling of pesticides and
10 fertilizers at a central location for the purpose of
11 distribution to retail sales outlets.

12 In preparing such regulation, the Agency shall provide as
13 it deems necessary for more stringent provisions for those
14 activities enumerated in this subsection which are not
15 already in existence. Any activity for which such standards
16 and requirements are proposed may be referred to as a new
17 activity. For the purposes of this Section, the term
18 "commercial application" shall not include the use of
19 pesticides or fertilizers in a manner incidental to the
20 primary business activity.

21 (b) No later than October 1, 1993, the Board shall
22 promulgate appropriate regulations for existing activities.
23 In promulgating these regulations, the Board shall, in
24 addition to the factors set forth in Title VII of this Act,
25 consider the following:

26 (1) appropriate programs for water quality
27 monitoring;

28 (2) reporting, recordkeeping and remedial response
29 measures;

30 (3) appropriate technology-based measures for
31 pollution control; and

32 (4) requirements for closure or discontinuance of
33 operations.

34 Such regulations as are promulgated pursuant to this

1 subsection shall be for the express purpose of protecting
2 groundwaters. The applicability of such regulations shall be
3 limited to any existing activity which is located:

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

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

10 (i) the boundary of the lateral area of
11 influence of a community water supply well located
12 within the recharge area includes such activity
13 therein;

14 (ii) the distance from the wellhead of the
15 community water supply to the activity does not
16 exceed 2500 feet; and

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

19 In addition, the Board shall ensure that the promulgated
20 regulations are consistent with and not pre-emptive of the
21 certification system provided by Section 14.5. Pursuant-to
22 ~~this-amendatory-Act-of-1992,~~ The Board shall modify the
23 regulations adopted under this subsection to provide an
24 exception for existing activities subject to Section 14.6.
25 ~~In-taking-this-action,~~ ~~the-Board-shall-proceed-in-an~~
26 ~~expeditious-manner-to-prevent-affected-activities-from-being~~
27 ~~in-noncompliance-on-or-after-January-1, 1993.~~

28 (c) Concurrently with the action mandated by subsection
29 (a), the Agency shall evaluate, with respect to the
30 protection of groundwater, the adequacy of existing federal
31 and State regulations regarding the disposal of hazardous
32 waste and the offsite disposal of special and municipal
33 wastes. The Agency shall then propose, as it deems
34 necessary, additional regulations for such new disposal

1 activities as may be necessary to achieve a level of
2 groundwater protection that is consistent with the
3 regulations proposed under subsection (a) of this Section.

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

10 (1) appropriate programs for water quality
11 monitoring, including, where appropriate, notification
12 limitations to trigger preventive response activities;

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

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

18 (4) requirements for closure or discontinuance of
19 operations.

20 Such regulations as are promulgated pursuant to this
21 subsection shall be for the express purpose of protecting
22 groundwaters. The applicability of such regulations shall be
23 limited to any new activity which is to be located within a
24 setback zone regulated by this Act, or which is to be located
25 within a regulated recharge area as delineated by Board
26 regulation. In addition, the Board shall ensure that the
27 promulgated regulations are consistent with and not
28 pre-emptive of the certification system provided by Section
29 14.5. ~~Pursuant to this amendatory Act of 1992,~~ The Board
30 shall modify the regulations adopted under this subsection to
31 provide an exception for new activities subject to Section
32 14.6. ~~In taking this action, the Board shall proceed in an~~
33 ~~expeditious manner to prevent affected activities from being~~
34 ~~in noncompliance on or after January 1, 1993.~~

1 (e) Nothing in this Section shall be construed as
2 prohibiting any person for whom regulations are promulgated
3 by the Board pursuant to subsection (b) or (c) of this
4 Section, from proposing and obtaining, concurrently with the
5 regulations proposed by the Agency pursuant to subsection (a)
6 of this Section, a rule specific to individual persons or
7 sites pursuant to Title VII of this Act which codifies
8 alternative groundwater protection methods that provide
9 substantially equivalent protection for community water
10 supplies.

11 (f) Nothing in this Section shall be construed as
12 limiting the power of any county or municipality to adopt
13 ordinances, which are consistent with but not more stringent
14 than the regulations adopted by the Board pursuant to this
15 Section, for application of standards and requirements within
16 such setback zones as are provided by this Act.

17 (g) The Agency shall prepare a groundwater protection
18 regulatory agenda for submittal to the Interagency
19 Coordinating Committee on Groundwater and the Groundwater
20 Advisory Council. In preparing this agenda, the Agency shall
21 consider situations where gaps may exist in federal or State
22 regulatory protection for groundwater, or where further
23 refinements could be necessary to achieve adequate protection
24 of groundwater.

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

28 (i) The Board's rulemaking with respect to subsection
29 (a)(3) of this Section shall take into account the relevant
30 aspects of the Department of Agriculture's Part 255
31 regulations which specify containment rules for agricultural
32 facilities.

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

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

2 Sec. 14.6. Agrichemical facilities.

3 (a) Notwithstanding the provisions of Section 14.4,
4 groundwater protection for storage and related handling of
5 pesticides and fertilizers at a facility for the purpose of
6 commercial application or at a central location for the
7 purpose of distribution to retail sales outlets may be
8 provided by adherence to the provisions of this Section. For
9 any such activity to be subject to this Section, the
10 following action must be taken by an owner or operator:

11 (1) with respect to agrichemical facilities, as
12 defined by the Illinois Pesticide Act, the Illinois
13 Fertilizer Act and regulations adopted thereunder, file a
14 written notice of intent to be subject to the provisions
15 of this Section with the Department of Agriculture by
16 January 1, 1993, or within 6 months after the date on
17 which a maximum setback zone is established or a
18 regulated recharge area regulation is adopted that
19 affects such a facility;

20 (2) with respect to lawn care facilities that are
21 subject to the containment area provisions of the Lawn
22 Care Products Application and Notice Act and its
23 regulations, file a written notice of intent to be
24 subject to the provisions of this Section with the
25 Department of Agriculture by January 1, 1993, or within 6
26 months after the date on which a maximum setback zone is
27 established or a regulated recharge area regulation is
28 adopted that affects such a facility;

29 (3) with respect to a central distribution location
30 that is not an agrichemical facility, certify intent to
31 be subject to the provisions of this Section on the
32 appropriate license or renewal application form submitted
33 to the Department of Agriculture; or

34 (4) with respect to any other affected facility,

1 certify intent to be subject to the provisions of this
2 Section on the appropriate renewal application forms
3 submitted to the Department of Agriculture or other
4 appropriate agency.

5 An owner or operator of a facility that takes the action
6 described in this subsection shall be subject to the
7 provisions of this Section and shall not be regulated under
8 the provisions of Section 14.4, except as provided in
9 subsection (d) of this Section and--unless--a--regulatory
10 program--is--not--in--effect--by-January-17-1994--pursuant-to
11 subsection-(b)-or-(c)-of-this--Section. The Department of
12 Agriculture or other appropriate agency shall provide copies
13 of the written notices and certifications to the Agency. For
14 the purposes of this subsection, the term "commercial
15 application" shall not include the use of pesticides or
16 fertilizers in a manner incidental to the primary business
17 activity.

18 (b) The Agency and Department of Agriculture shall
19 cooperatively develop a program for groundwater protection
20 for designated facilities or sites consistent with the
21 activities specified in subsection (a) of this Section. In
22 developing such a program, the Agency and the Department of
23 Agriculture shall consult with affected interests and take
24 into account relevant information. Based on such agreed
25 program, the Department of Agriculture shall adopt
26 appropriate regulatory requirements by-January-17-1994, for
27 the designated facilities or sites and administer a program.
28 At a minimum, the following considerations must be adequately
29 addressed as part of such program:

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

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

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

3 (4) requirements for closure or discontinuance of
4 operations.

5 (c) The Agency may enter into a written agreement with
6 any State agency to operate a cooperative program for
7 groundwater protection for designated facilities or sites
8 consistent with the activities specified in subparagraph (4)
9 of subsection (a) of this Section. Such State agency shall
10 adopt appropriate regulatory requirements for the designated
11 facilities or sites and necessary procedures and practices to
12 administer the program.

13 (d) The Agency shall ensure that any facility that is
14 subject to this Section is in compliance with applicable
15 provisions as specified in subsection (b) or (c) of this
16 Section. To fulfill this responsibility, the Agency may rely
17 on information provided by another State agency or other
18 information that is obtained on a direct basis. If a facility
19 is not in compliance with the applicable provisions, or a
20 deficiency in the execution of a program affects such a
21 facility, the Agency may so notify the facility of this
22 condition and shall provide 30 days for a written response to
23 be filed. The response may describe any actions taken by the
24 owner which relate to the condition of noncompliance. If the
25 response is deficient or untimely, the Agency shall serve
26 notice upon the owner that the facility is subject to the
27 applicable provisions of Section 14.4 of this Act and
28 regulations adopted thereunder.

29 (e) (Blank.) ~~After January 17, 1993, and before January~~
30 ~~17, 1994, an owner or operator of a facility that is subject~~
31 ~~to the provisions of this Section may withdraw the notice~~
32 ~~given under subsection (a) of this Section by filing a~~
33 ~~written withdrawal statement with the Department of~~
34 ~~Agriculture. Within 45 days after such filing and after~~

1 consultation-with-the-Agency, the-Department--of--Agriculture
 2 shall--provide--written-confirmation-to-the-owner-or-operator
 3 that-the-facility-is-no-longer-subject-to-the--provisions--of
 4 this--Section--and-must-comply-with-the-applicable-provisions
 5 of--Section--14.4--within--90--days--after--receipt--of---the
 6 confirmation.--The--Department--of--Agriculture-shall-provide
 7 copies-of-the-written-confirmations-to-the-Agency.

8 (f) After January 1, 1994, and before one year after the
 9 date on which a maximum setback zone is established or a
 10 regulated recharge area regulation is adopted that affects a
 11 facility subject to the provisions of this Section, an owner
 12 or operator of such a facility may withdraw the notice given
 13 under subsection (a) of this Section by filing a written
 14 withdrawal statement with the Department of Agriculture.
 15 Within 45 days after such filing and after consultation with
 16 the Agency, the Department of Agriculture shall provide
 17 written confirmation to the owner or operator that the
 18 facility is no longer subject to the provisions of this
 19 Section and must comply with the applicable provisions of
 20 Section 14.4 within 90 days after receipt of the
 21 confirmation. The Department of Agriculture shall provide
 22 copies of the written confirmations to the Agency.

23 (g) On or after August 11, the-effective-date-of-this
 24 amendatory--Act--of 1994, an owner or operator of an
 25 agrchemical facility that is subject to the provisions of
 26 Section 14.4 and regulations adopted thereunder solely
 27 because of the presence of an on-site potable water supply
 28 well that is not a non-community water supply may file a
 29 written notice with the Department of Agriculture by January
 30 1, 1995 declaring the facility to be subject to the
 31 provisions of this Section. When that action is taken, the
 32 regulatory requirements of subsection (b) of this Section
 33 shall be applicable beginning January 1, 1995. During-the
 34 period-from-January-1, 1993-through-December--31,--1994,--any

1 facility-described-in-this-subsection-shall-not-be-subject-to
2 regulation--under--Section--14.4--of--this-Act. Beginning on
3 January 1, 1995, such facilities shall be subject to either
4 Section 14.4 or this Section depending on the action taken
5 under this subsection. An owner or operator of an
6 agrichemical facility that is subject to this Section because
7 a written notice was filed under this subsection shall do all
8 of the following:

9 (1) File a facility review report with the
10 Department of Agriculture on or before February 28, 1995
11 consistent with the regulatory requirements of subsection
12 (b) of this Section.

13 (2) Implement an approved monitoring program within
14 120 days of receipt of the Department of Agriculture's
15 determination or a notice to proceed from the Department
16 of Agriculture. The monitoring program shall be
17 consistent with the requirements of subsection (b) of
18 this Section.

19 (3) Implement applicable operational and management
20 practice requirements and submit a permit application or
21 modification to meet applicable structural provisions
22 consistent with those in subsection (b) of this Section
23 on or before July 1, 1995 and complete construction of
24 applicable structural requirements on or before January
25 1, 1996.

26 Notwithstanding the provisions of this subsection, an owner
27 or operator of an agrichemical facility that is subject to
28 the provisions of Section 14.4 and regulations adopted
29 thereunder solely because of the presence of an on-site
30 private potable water supply well may file a written notice
31 with the Department of Agriculture before January 1, 1995
32 requesting a release from the provisions of Section 14.4 and
33 this Section. Upon receipt of a request for release, the
34 Department of Agriculture shall conduct a site visit to

1 confirm the private potable use of the on-site well. If
 2 private potable use is confirmed, the Department shall
 3 provide written notice to the owner or operator of the
 4 agrichemical facility that the facility is released from
 5 compliance with the provisions of Section 14.4 and this
 6 Section. If private potable use is not confirmed, the
 7 Department of Agriculture shall provide written notice to the
 8 owner or operator that a release cannot be given. No action
 9 in this subsection shall be precluded by the on-site
 10 non-potable use of water from an on-site private potable
 11 water supply well.

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

13 (415 ILCS 5/17) (from Ch. 111 1/2, par. 1017)

14 Sec. 17. Rules; chlorination requirements.

15 (a) The Board may adopt regulations governing the
 16 location, design, construction, and continuous operation and
 17 maintenance of public water supply installations, changes or
 18 additions which may affect the continuous sanitary quality,
 19 mineral quality, or adequacy of the public water supply,
 20 pursuant to Title VII of this Act.

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

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

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

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

33 (4) Does not provide any raw water treatment other than

1 fluoridation;

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

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

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

11 (8) A unit of local government seeking to exempt its
12 public water supply from the chlorination requirement under
13 this subsection (b) on or after September 9, the--effective
14 date--of--this--amendatory--Act--of 1983 shall be required to
15 receive the approval of the voters of such local government.
16 The proposition to exempt the community water supply from the
17 mandatory chlorination requirement shall be placed on the
18 ballot if the governing body of the local government adopts
19 an ordinance or resolution directing the clerk of the local
20 government to place such question on the ballot. The clerk
21 shall cause the election officials to place the proposition
22 on the ballot at the next election at which such proposition
23 may be voted upon if a certified copy of the adopted
24 ordinance or resolution is filed in his office at least 90
25 days before such election. The proposition shall also be
26 placed on the ballot if a petition containing the signatures
27 of at least 10% of the eligible voters residing in the local
28 government is filed with the clerk at least 90 days before
29 the next election at which the proposition may be voted upon.
30 The proposition shall be in substantially the following form:

31 -----

32 Shall the community
33 water supply of (specify YES
34 the unit of local government)

1 be exempt from the mandatory -----
 2 chlorination requirement NO
 3 of the State of Illinois?
 4 -----

5 If the majority of the voters of the local government
 6 voting therein vote in favor of the proposition, the
 7 community water supply of that local government shall be
 8 exempt from the mandatory chlorination requirement, provided
 9 that the other requirements under this subsection (b) are
 10 met. If the majority of the vote is against such
 11 proposition, the community water supply may not be exempt
 12 from the mandatory chlorination requirement.

13 Agency decisions regarding exemptions under this
 14 subsection may be appealed to the Board pursuant to the
 15 provisions of Section 40(a) of this Act.

16 (c) Any supply showing contamination in its distribution
 17 system (including finished water storage) may be required to
 18 chlorinate until the Agency has determined that the source of
 19 contamination has been removed and all traces of
 20 contamination in the distribution system have been
 21 eliminated. Standby chlorination equipment may be required
 22 by the Agency if a supply otherwise exempt from chlorination
 23 shows frequent or gross episodes of contamination.

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

25 (415 ILCS 5/19.10)

26 Sec. 19.10. Re-enactment of Title IV-A; findings;
 27 purpose; validation.

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

29 (1) Title IV-A (consisting of Sections 19.1 through
 30 19.9) was first added to the Environmental Protection Act
 31 by Article III of Public Act 85-1135, effective September
 32 1, 1988. In its original form, Title IV-A created the
 33 Water Pollution Control Revolving Fund and authorized the

1 Illinois Environmental Protection Agency to establish a
2 program for providing units of local government with
3 low-cost loans to be used to construct wastewater
4 treatment works. The loans are paid from the Revolving
5 Fund, which consists primarily of a combination of
6 federal grant money, State matching money, and money that
7 has been repaid on past loans.

8 (2) In 1995, Title IV-A was amended by Public Act
9 89-27, effective January 1, 1997, which created the Loan
10 Support Program and made other changes. The Loan Support
11 Program provides financing for certain administrative
12 costs of the Agency. It specifically includes the costs
13 of developing a loan program for public water supply
14 projects.

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

22 (4) Title IV-A has also been amended by Public Act
23 86-671, effective September 1, 1989; P.A. 86-820,
24 effective September 7, 1989; and P.A. 90-372, effective
25 July 1, 1998.

26 (5) Article III, Section 6, of Public Act 85-1135
27 amended the Build Illinois Bond Act. Among other changes
28 to that Act, P.A. 85-1135 authorized the deposit of up to
29 \$70,000,000 into the Water Pollution Control Revolving
30 Fund to be used for the Title IV-A loan program.

31 (6) Article III of Public Act 85-1135 also added
32 Section 5.237 to the State Finance Act. This Section
33 added the Water Pollution Control Revolving Fund to the
34 list of special funds in the State Treasury. The Section

1 was renumbered as Section 5.238 by a revisory bill,
2 Public Act 85-1440, effective February 1, 1989. Although
3 the name of the Fund was changed by Public Act 90-121,
4 that Act did not make the corresponding change in Section
5 5.238.

6 (7) Over the 10 years that it has administered
7 Title IV-A programs, the Agency has entered into loan
8 agreements with hundreds of units of local government and
9 provided hundreds of millions of dollars of financial
10 assistance for water pollution control projects. There
11 are currently many active Title IV-A loans in the
12 disbursement phase and many more that are in the process
13 of being repaid. The Agency continues to receive many
14 new applications each year.

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

18 (9) On August 26, 1998, the Cook County Circuit
19 Court entered an order in the case of Oak Park Arms
20 Associates v. Whitley (No. 92 L 51045), in which it found
21 that Public Act 85-1135 violates the single subject
22 clause of the Illinois Constitution (Article IV, Section
23 8(d)). As of the time this amendatory Act of 1999 was
24 prepared, the order declaring P.A. 85-1135 invalid has
25 been vacated but the case is subject to appeal.

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

30 (b) It is the purpose of this amendatory Act of 1999
31 (Public Act 91-52) to prevent or minimize any disruption to
32 the programs administered under Title IV-A that may result
33 from challenges to the constitutional validity of Public Act
34 85-1135.

1 (c) This amendatory Act of 1999 (P.A. 91-52) re-enacts
2 Title IV-A of the Environmental Protection Act as it has been
3 amended. This re-enactment is intended to ensure the
4 continuation of the programs administered under that Title
5 and, if necessary, to recreate them. The material in
6 Sections 19.1 through 19.9 is shown as existing text (i.e.,
7 without underscoring) because, as of the time this amendatory
8 Act of 1999 was prepared, the order declaring P.A. 85-1135
9 invalid has been vacated. Section 19.7 has been omitted
10 because it was repealed by Public Act 90-372, effective July
11 1, 1998.

12 Section 4.1 is added to the Build Illinois Bond Act to
13 re-authorize the deposit of funds into the Water Pollution
14 Control Revolving Fund.

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

18 (d) The re-enactment of Title IV-A of the Environmental
19 Protection Act by this amendatory Act of 1999 (P.A. 91-52) is
20 intended to remove any question as to the validity or content
21 of Title IV-A; it is not intended to supersede any other
22 Public Act that amends the text of a Section as set forth in
23 this amendatory Act. This re-enactment is not intended, and
24 shall not be construed, to imply that Public Act 85-1135 is
25 invalid or to limit or impair any legal argument concerning
26 (1) whether the Agency has express or implied authority to
27 administer loan programs in the absence of Title IV-A, or (2)
28 whether the provisions of Title IV-A were substantially
29 re-enacted by P.A. 89-27 or 90-121.

30 (e) All otherwise lawful actions taken before June 30,
31 1999 (the effective date of P.A. 91-52) ~~this-amendatory-Act~~
32 ~~of-1999~~ by any employee, officer, agency, or unit of State or
33 local government or by any other person or entity, acting in
34 reliance on or pursuant to Title IV-A of the Environmental

1 Protection Act, as set forth in Public Act 85-1135 or as
2 subsequently amended, are hereby validated.

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

11 (g) All otherwise lawful deposits into the Water
12 Pollution Control Revolving Fund made before June 30, 1999
13 (the effective date of P.A. 91-52) ~~this-amendatory-Act-of~~
14 ~~1999~~ in accordance with Section 4 of the Build Illinois Bond
15 Act, as set forth in Public Act 85-1135 or as subsequently
16 amended, and the use of those deposits for the purposes of
17 Title IV-A of the Environmental Protection Act, are hereby
18 validated.

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

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

23 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

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

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

26 (b) Abandon, dump, or deposit any waste upon the public
27 highways or other public property, except in a sanitary
28 landfill approved by the Agency pursuant to regulations
29 adopted by the Board.

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

33 (d) Conduct any waste-storage, waste-treatment, or

1 waste-disposal operation:

2 (1) without a permit granted by the Agency or in
3 violation of any conditions imposed by such permit,
4 including periodic reports and full access to adequate
5 records and the inspection of facilities, as may be
6 necessary to assure compliance with this Act and with
7 regulations and standards adopted thereunder; provided,
8 however, that, except for municipal solid waste landfill
9 units that receive waste on or after October 9, 1993, no
10 permit shall be required for (i) any person conducting a
11 waste-storage, waste-treatment, or waste-disposal
12 operation for wastes generated by such person's own
13 activities which are stored, treated, or disposed within
14 the site where such wastes are generated, or (ii) a
15 facility located in a county with a population over
16 700,000, operated and located in accordance with Section
17 22.38 of this Act, and used exclusively for the transfer,
18 storage, or treatment of general construction or
19 demolition debris;

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

22 (3) which receives waste after August 31, 1988,
23 does not have a permit issued by the Agency, and is (i) a
24 landfill used exclusively for the disposal of waste
25 generated at the site, (ii) a surface impoundment
26 receiving special waste not listed in an NPDES permit,
27 (iii) a waste pile in which the total volume of waste is
28 greater than 100 cubic yards or the waste is stored for
29 over one year, or (iv) a land treatment facility
30 receiving special waste generated at the site; without
31 giving notice of the operation to the Agency by January
32 1, 1989, or 30 days after the date on which the operation
33 commences, whichever is later, and every 3 years
34 thereafter. The form for such notification shall be

1 specified by the Agency, and shall be limited to
2 information regarding: the name and address of the
3 location of the operation; the type of operation; the
4 types and amounts of waste stored, treated or disposed of
5 on an annual basis; the remaining capacity of the
6 operation; and the remaining expected life of the
7 operation.

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

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

15 (e) Dispose, treat, store or abandon any waste, or
16 transport any waste into this State for disposal, treatment,
17 storage or abandonment, except at a site or facility which
18 meets the requirements of this Act and of regulations and
19 standards thereunder.

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

22 (1) without a RCRA permit for the site issued by
23 the Agency under subsection (d) of Section 39 of this
24 Act, or in violation of any condition imposed by such
25 permit, including periodic reports and full access to
26 adequate records and the inspection of facilities, as may
27 be necessary to assure compliance with this Act and with
28 regulations and standards adopted thereunder; or

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

31 (3) in violation of any RCRA permit filing
32 requirement established under standards adopted by the
33 Board under this Act; or

34 (4) in violation of any order adopted by the Board

1 under this Act.

2 Notwithstanding the above, no RCRA permit shall be
3 required under this subsection or subsection (d) of Section
4 39 of this Act for any person engaged in agricultural
5 activity who is disposing of a substance which has been
6 identified as a hazardous waste, and which has been
7 designated by Board regulations as being subject to this
8 exception, if the substance was acquired for use by that
9 person on his own property and the substance is disposed of
10 on his own property in accordance with regulations or
11 standards adopted by the Board.

12 (g) Conduct any hazardous waste-transportation
13 operation:

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

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

19 (h) Conduct any hazardous waste-recycling or hazardous
20 waste-reclamation or hazardous waste-reuse operation in
21 violation of any regulations, standards or permit
22 requirements adopted by the Board under this Act.

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

27 (j) Conduct any special waste transportation operation
28 in violation of any regulations, standards or permit
29 requirements adopted by the Board under this Act. However,
30 sludge from a water or sewage treatment plant owned and
31 operated by a unit of local government which (1) is subject
32 to a sludge management plan approved by the Agency or a
33 permit granted by the Agency, and (2) has been tested and
34 determined not to be a hazardous waste as required by

1 applicable State and federal laws and regulations, may be
2 transported in this State without a special waste hauling
3 permit, and the preparation and carrying of a manifest shall
4 not be required for such sludge under the rules of the
5 Pollution Control Board. The unit of local government which
6 operates the treatment plant producing such sludge shall file
7 a semiannual report with the Agency identifying the volume of
8 such sludge transported during the reporting period, the
9 hauler of the sludge, and the disposal sites to which it was
10 transported. This subsection (j) shall not apply to hazardous
11 waste.

12 (k) Fail or refuse to pay any fee imposed under this
13 Act.

14 (l) Locate a hazardous waste disposal site above an
15 active or inactive shaft or tunneled mine or within 2 miles
16 of an active fault in the earth's crust. In counties of
17 population less than 225,000 no hazardous waste disposal site
18 shall be located (1) within 1 1/2 miles of the corporate
19 limits as defined on June 30, 1978, of any municipality
20 without the approval of the governing body of the
21 municipality in an official action; or (2) within 1000 feet
22 of an existing private well or the existing source of a
23 public water supply measured from the boundary of the actual
24 active permitted site and excluding existing private wells on
25 the property of the permit applicant. The provisions of this
26 subsection do not apply to publicly-owned sewage works or the
27 disposal or utilization of sludge from publicly-owned sewage
28 works.

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

34 (n) Use any land which has been used as a hazardous

1 waste disposal site except in compliance with conditions
2 imposed by the Agency under subsection (g) of Section 39.

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

7 (1) refuse in standing or flowing waters;

8 (2) leachate flows entering waters of the State;

9 (3) leachate flows exiting the landfill confines
10 (as determined by the boundaries established for the
11 landfill by a permit issued by the Agency);

12 (4) open burning of refuse in violation of Section
13 9 of this Act;

14 (5) uncovered refuse remaining from any previous
15 operating day or at the conclusion of any operating day,
16 unless authorized by permit;

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

19 (7) acceptance of wastes without necessary permits;

20 (8) scavenging as defined by Board regulations;

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

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

25 (11) failure to submit reports required by permits
26 or Board regulations;

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

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

32 The prohibitions specified in this subsection (o) shall
33 be enforceable by the Agency either by administrative
34 citation under Section 31.1 of this Act or as otherwise

1 provided by this Act. The specific prohibitions in this
2 subsection do not limit the power of the Board to establish
3 regulations or standards applicable to sanitary landfills.

4 (p) In violation of subdivision (a) of this Section,
5 cause or allow the open dumping of any waste in a manner
6 which results in any of the following occurrences at the dump
7 site:

- 8 (1) litter;
- 9 (2) scavenging;
- 10 (3) open burning;
- 11 (4) deposition of waste in standing or flowing
12 waters;
- 13 (5) proliferation of disease vectors;
- 14 (6) standing or flowing liquid discharge from the
15 dump site;
- 16 (7) deposition of:
 - 17 (i) general construction or demolition debris
18 as defined in Section 3.160(a) 3-78 of this Act; or
 - 19 (ii) clean construction or demolition debris
20 as defined in Section 3.160(b) 3-78a of this Act.

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

27 (q) Conduct a landscape waste composting operation
28 without an Agency permit, provided, however, that no permit
29 shall be required for any person:

- 30 (1) conducting a landscape waste composting
31 operation for landscape wastes generated by such person's
32 own activities which are stored, treated or disposed of
33 within the site where such wastes are generated; or
- 34 (2) applying landscape waste or composted landscape

1 waste at agronomic rates; or

2 (3) operating a landscape waste composting facility
3 on a farm, if the facility meets all of the following
4 criteria:

5 (A) the composting facility is operated by the
6 farmer on property on which the composting material
7 is utilized, and the composting facility constitutes
8 no more than 2% of the property's total acreage,
9 except that the Agency may allow a higher percentage
10 for individual sites where the owner or operator has
11 demonstrated to the Agency that the site's soil
12 characteristics or crop needs require a higher rate;

13 (B) the property on which the composting
14 facility is located, and any associated property on
15 which the compost is used, is principally and
16 diligently devoted to the production of agricultural
17 crops and is not owned, leased or otherwise
18 controlled by any waste hauler or generator of
19 nonagricultural compost materials, and the operator
20 of the composting facility is not an employee,
21 partner, shareholder, or in any way connected with
22 or controlled by any such waste hauler or generator;

23 (C) all compost generated by the composting
24 facility is applied at agronomic rates and used as
25 mulch, fertilizer or soil conditioner on land
26 actually farmed by the person operating the
27 composting facility, and the finished compost is not
28 stored at the composting site for a period longer
29 than 18 months prior to its application as mulch,
30 fertilizer, or soil conditioner;

31 (D) the owner or operator, by January 1, 1990
32 (or the January 1 following commencement of
33 operation, whichever is later) and January 1 of each
34 year thereafter, (i) registers the site with the

1 Agency, (ii) reports to the Agency on the volume of
2 composting material received and used at the site,
3 (iii) certifies to the Agency that the site complies
4 with the requirements set forth in subparagraphs
5 (A), (B) and (C) of this paragraph (q)(3), and (iv)
6 certifies to the Agency that all composting material
7 was placed more than 200 feet from the nearest
8 potable water supply well, was placed outside the
9 boundary of the 10-year floodplain or on a part of
10 the site that is floodproofed, was placed at least
11 1/4 mile from the nearest residence (other than a
12 residence located on the same property as the
13 facility) and there are not more than 10 occupied
14 non-farm residences within 1/2 mile of the
15 boundaries of the site on the date of application,
16 and was placed more than 5 feet above the water
17 table.

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

24 (r) Cause or allow the storage or disposal of coal
25 combustion waste unless:

26 (1) such waste is stored or disposed of at a site
27 or facility for which a permit has been obtained or is
28 not otherwise required under subsection (d) of this
29 Section; or

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

34 (3) such waste is stored or disposed of at a site

1 or facility which is operating under NPDES and Subtitle D
2 permits issued by the Agency pursuant to regulations
3 adopted by the Board for mine-related water pollution and
4 permits issued pursuant to the Federal Surface Mining
5 Control and Reclamation Act of 1977 (P.L. 95-87) or the
6 rules and regulations thereunder or any law or rule or
7 regulation adopted by the State of Illinois pursuant
8 thereto, and the owner or operator of the facility agrees
9 to accept the waste; and either

10 (i) such waste is stored or disposed of in
11 accordance with requirements applicable to refuse
12 disposal under regulations adopted by the Board for
13 mine-related water pollution and pursuant to NPDES
14 and Subtitle D permits issued by the Agency under
15 such regulations; or

16 (ii) the owner or operator of the facility
17 demonstrates all of the following to the Agency, and
18 the facility is operated in accordance with the
19 demonstration as approved by the Agency: (1) the
20 disposal area will be covered in a manner that will
21 support continuous vegetation, (2) the facility will
22 be adequately protected from wind and water erosion,
23 (3) the pH will be maintained so as to prevent
24 excessive leaching of metal ions, and (4) adequate
25 containment or other measures will be provided to
26 protect surface water and groundwater from
27 contamination at levels prohibited by this Act, the
28 Illinois Groundwater Protection Act, or regulations
29 adopted pursuant thereto.

30 Notwithstanding any other provision of this Title, the
31 disposal of coal combustion waste pursuant to item (2) or (3)
32 of this subdivision (r) shall be exempt from the other
33 provisions of this Title V, and notwithstanding the
34 provisions of Title X of this Act, the Agency is authorized

1 to grant experimental permits which include provision for the
2 disposal of wastes from the combustion of coal and other
3 materials pursuant to items (2) and (3) of this subdivision
4 (r).

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

10 (t) Cause or allow a lateral expansion of a municipal
11 solid waste landfill unit on or after October 9, 1993,
12 without a permit modification, granted by the Agency, that
13 authorizes the lateral expansion.

14 (u) Conduct any vegetable by-product treatment, storage,
15 disposal or transportation operation in violation of any
16 regulation, standards or permit requirements adopted by the
17 Board under this Act. However, no permit shall be required
18 under this Title V for the land application of vegetable
19 by-products conducted pursuant to Agency permit issued under
20 Title III of this Act to the generator of the vegetable
21 by-products. In addition, vegetable by-products may be
22 transported in this State without a special waste hauling
23 permit, and without the preparation and carrying of a
24 manifest.

25 (v) (Blank).

26 (w) Conduct any generation, transportation, or recycling
27 of construction or demolition debris, clean or general, or
28 uncontaminated soil generated during construction,
29 remodeling, repair, and demolition of utilities, structures,
30 and roads that is not commingled with any waste, without the
31 maintenance of documentation identifying the hauler,
32 generator, place of origin of the debris or soil, the weight
33 or volume of the debris or soil, and the location, owner, and
34 operator of the facility where the debris or soil was

1 transferred, disposed, recycled, or treated. This
2 documentation must be maintained by the generator,
3 transporter, or recycler for 3 years. This subsection (w)
4 shall not apply to (1) a permitted pollution control facility
5 that transfers or accepts construction or demolition debris,
6 clean or general, or uncontaminated soil for final disposal,
7 recycling, or treatment, (2) a public utility (as that term
8 is defined in the Public Utilities Act) or a municipal
9 utility, or (3) the Illinois Department of Transportation;
10 but it shall apply to an entity that contracts with a public
11 utility, a municipal utility, or the Illinois Department of
12 Transportation. The terms "generation" and "recycling" as
13 used in this subsection do not apply to clean construction or
14 demolition debris when (i) used as fill material below grade
15 outside of a setback zone if covered by sufficient
16 uncontaminated soil to support vegetation within 30 days of
17 the completion of filling or if covered by a road or
18 structure, (ii) solely broken concrete without protruding
19 metal bars is used for erosion control, or (iii) milled
20 asphalt or crushed concrete is used as aggregate in
21 construction of the shoulder of a roadway. The terms
22 "generation" and "recycling", as used in this subsection, do
23 not apply to uncontaminated soil that is not commingled with
24 any waste when (i) used as fill material below grade or
25 contoured to grade, or (ii) used at the site of generation.
26 (Source: P.A. 90-219, eff. 7-25-97; 90-344, eff. 1-1-98;
27 90-475, eff. 8-17-97; 90-655, eff. 7-30-98; 90-761, eff.
28 8-14-98; 91-72, eff. 7-9-99.)

29 (415 ILCS 5/21.3) (from Ch. 111 1/2, par. 1021.3)

30 Sec. 21.3. Environmental reclamation lien.

31 (a) All costs and damages for which a person is liable
32 to the State of Illinois under Section 22.2 and Section 22.18
33 shall constitute an environmental reclamation lien in favor

1 of the State of Illinois upon all real property and rights to
2 such property which:

- 3 (1) belong to such person; and
- 4 (2) are subject to or affected by a removal or
5 remedial action under Section 22.2 or preventive action,
6 corrective action or enforcement action under Section
7 22.18.

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

12 (c) An environmental reclamation lien shall be effective
13 upon the filing by the Agency of a Notice of Environmental
14 Reclamation Lien with the recorder or the registrar of titles
15 of the county in which the real property lies. The Agency
16 shall not file an environmental reclamation lien, and no such
17 lien shall be valid, unless the Agency has sent notice
18 pursuant to subsection (q) ~~or~~ of Section 4 of this Act to
19 owners of the real property. Nothing in this Section shall
20 be construed to give the Agency's lien a preference over the
21 rights of any bona fide purchaser or mortgagee or other
22 lienholder (not including the United States when holding an
23 unfiled lien) arising prior to the filing of a notice of
24 environmental reclamation lien in the office of the recorder
25 or registrar of titles of the county in which the property
26 subject to the lien is located. For purposes of this
27 Section, the term "bona fide" shall not include any mortgage
28 of real or personal property or any other credit transaction
29 that results in the mortgagee or the holder of the security
30 acting as trustee for unsecured creditors of the liable
31 person mentioned in the notice of lien who executed such
32 chattel or real property mortgage or the document evidencing
33 such credit transaction. Such lien shall be inferior to the
34 lien of general taxes, special assessments and special taxes

1 heretofore or hereafter levied by any political subdivision
2 of this State.

3 (d) The environmental reclamation lien shall not exceed
4 the amount of expenditures as itemized on the Affidavit of
5 Expenditures attached to and filed with the Notice of
6 Environmental Reclamation Lien. The Affidavit of
7 Expenditures may be amended if additional costs or damages
8 are incurred.

9 (e) Upon filing of the Notice of Environmental
10 Reclamation Lien a copy with attachments shall be served upon
11 the owners of the real property. Notice of such service
12 shall be served on all lienholders of record as of the date
13 of filing.

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

20 (g) In addition to any other remedy provided by the laws
21 of this State, the Agency may foreclose in the circuit court
22 an environmental reclamation lien on real property for any
23 costs or damages imposed under Section 22.2 or Section 22.18
24 to the same extent and in the same manner as in the
25 enforcement of other liens. The process, practice and
26 procedure for such foreclosure shall be the same as provided
27 in Article XV of the Code of Civil Procedure. Nothing in
28 this Section shall affect the right of the State of Illinois
29 to bring an action against any person to recover all costs
30 and damages for which such person is liable under Section
31 22.2 or Section 22.18.

32 (h) Any liability to the State under Section 22.2 or
33 Section 22.18 shall constitute a debt to the State. Interest
34 on such debt shall begin to accrue at a rate of 12% per annum

1 from the date of the filing of the Notice of Environmental
2 Reclamation Lien under paragraph (c). Accrued interest shall
3 be included as a cost incurred by the State of Illinois under
4 Section 22.2 or Section 22.18.

5 (i) "Environmental reclamation lien" means a lien
6 established under this Section.

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

8 (415 ILCS 5/21.5) (from Ch. 111 1/2, par. 1021.5)

9 Sec. 21.5. Toxic packaging reduction.

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

12 "Distributor" means any person, firm, or corporation
13 that takes title to goods purchased for resale.

14 "Package" means a container providing a direct means
15 of marketing, protecting, or handling a product, and
16 includes a product unit package, an intermediate package,
17 or a shipping container as defined by ASTM D996.
18 "Package" shall also include such unsealed consumer
19 product receptacles as carrying cases, crates, cups,
20 pails, rigid foil and other trays, wrappers and wrapping
21 films, bags, and tubs.

22 "Packaging component" means any individual assembled
23 part of a package including, but not limited to, any
24 interior or exterior blocking, bracing, cushioning,
25 weatherproofing, coatings, closure, ink, and labeling;
26 except that coatings shall not include a thin tin layer
27 applied to base steel or sheet steel during manufacturing
28 of the steel or package.

29 (b) Beginning July 1, 1994, no package or packaging
30 component may be offered for sale or promotional purposes in
31 this State, by its manufacturer or distributor, if the
32 package itself or any packaging component includes any ink,
33 dye, pigment, adhesive, stabilizer, or other additive that

1 contains lead, cadmium, mercury or hexavalent chromium that
2 has been intentionally introduced during manufacturing or
3 distribution.

4 (c) Beginning July 1, 1994, no product may be offered
5 for sale or for promotional purposes in this State by its
6 manufacturer or distributor in Illinois in a package that
7 includes, in the package itself or in any of its packaging
8 components, any ink, dye, pigment, adhesive, stabilizer, or
9 other additive that contains lead, cadmium, mercury or
10 hexavalent chromium that has been intentionally introduced
11 during manufacturing or distribution.

12 (d) No package or packaging component, and no product in
13 a package, may be offered for sale or promotional purposes in
14 this State if the sum of the concentration levels of lead,
15 cadmium, mercury, or hexavalent chromium present in the
16 package or packaging component, but not intentionally
17 introduced by the manufacturer or distributor, exceeds the
18 following limits:

19 (1) 600 parts per million by weight (0.06%)
20 beginning July 1, 1994.

21 (2) 250 parts per million by weight (0.025%)
22 beginning July 1, 1995.

23 (3) 100 parts per million by weight (0.01%)
24 beginning July 1, 1996.

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

27 (1) Those packages or packaging components with a
28 code indicating a date of manufacture before July 1,
29 1994.

30 (2) Those packages or packaging components for
31 which an exemption has been granted by the Agency under
32 subsection (f).

33 (3) Until July 1, 1998, packages and packaging
34 components that would not exceed the maximum contaminant

1 levels set forth in subsection (d) of this Section but
2 for the addition of post consumer materials.

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

6 (5) Packaging components, including but not limited
7 to strapping, seals, fasteners, and other industrial
8 packaging components intended to protect, secure, close,
9 unitize or provide pilferage protection for any product
10 destined for commercial use.

11 (6) Those packages used in transporting,
12 protecting, safe handling or functioning of radiographic
13 film.

14 (f) The Agency may grant an exemption from the
15 requirements of this Section for a package or packaging
16 component to which lead, cadmium, mercury, or hexavalent
17 chromium has been added in the manufacturing, forming,
18 printing, or distribution process in order to comply with
19 health or safety requirements of federal law or because there
20 is not a feasible alternative. These exemptions shall be
21 granted, upon application of the manufacturer of the package
22 or packaging component, for a period of 2 years and are
23 renewable for periods of 2 years. If the Agency denies a
24 request for exemption, or fails to take final action on a
25 request within 180 days, the applicant may seek review from
26 the Board in the same manner as in the case of a permit
27 denial. Any other party to the Agency proceeding may seek
28 review in the manner provided in subsection (c) of Section
29 40.

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

34 The Agency may enter into reciprocal agreements with

1 other states that have adopted similar restrictions on toxic
2 packaging and may accept exemptions to those restrictions
3 granted by such states. Prior to taking such action, the
4 Agency shall provide for public notice in the Environmental
5 Register and for a 30-day comment period.

6 (g) Beginning July 1, 1994, a certificate of compliance
7 stating that a package or packaging component is in
8 compliance with the requirements of this Section shall be
9 furnished by its manufacturer or supplier to its distributor,
10 or shall be maintained by the manufacturer in Illinois if the
11 manufacturer is also the distributor. If compliance is
12 achieved only under the exemption provided in subdivision
13 (e)(2) or (e)(3), the certificate shall state the specific
14 basis upon which the exemption is claimed. The certificate of
15 compliance shall be signed by an authorized official of the
16 manufacturer or supplier. The certificate can be for the
17 entire class, type, or category of packaging or a particular
18 product regulated under this Act, and a certificate need not
19 be provided or maintained for each individual package,
20 packaging component, or packaging for a product. The
21 manufacturer or distributor in Illinois shall retain the
22 certificate of compliance for as long as the package or
23 packaging component is in use. A copy of the certificate of
24 compliance shall be kept on file by the manufacturer or
25 supplier of the package or packaging component. Certificates
26 of compliance, or copies thereof, shall be furnished to the
27 Agency upon its request and to members of the public in
28 accordance with subsection (i).

29 If the manufacturer or supplier of the package or
30 packaging component reformulates or creates a new package or
31 packaging component, the manufacturer or supplier shall
32 provide an amended or new certificate of compliance for the
33 reformulated or new package or packaging component.

34 (h) (Blank.) ~~The-Agency-shall-review--the--effectiveness~~

1 of--this--Section--no--later--than--January--17--1996--and--shall
 2 provide--a--report--based--upon--that--review--to--the--Governor--and
 3 the---General---Assembly.----The---report---shall---contain---a
 4 recommendation--whether--to--continue--the--recycling--exemption
 5 provided---in--subdivision--(e)(3)--of--this--Section--and--a
 6 description--of--the--nature--of--the--substitutes--used--in--lieu--of
 7 lead, mercury, cadmium, and hexavalent chromium.

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

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

13 (2) specific as to the package or packaging
 14 component information requested; and

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

17 (j) The provisions of this Section shall not apply to
 18 any glass or ceramic product used as packaging that is
 19 intended to be reusable or refillable, and where the lead and
 20 cadmium from the product do not exceed the Toxicity
 21 Characteristic Leachability Procedures of leachability of
 22 lead and cadmium as set forth by the U.S. Environmental
 23 Protection Agency.

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

25 (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

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

27 (a) There are hereby created within the State Treasury 2
 28 special funds to be known respectively as the "Hazardous
 29 Waste Fund" and the "Hazardous Waste Research Fund",
 30 constituted from the fees collected pursuant to this Section.
 31 In addition to the fees collected under this Section, the
 32 Hazardous Waste Fund shall include other moneys made
 33 available from any source for deposit into the Fund.

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

4 (A) ~~6 cents per gallon or \$12.12 per cubic~~
 5 ~~yard of hazardous waste disposed for 1989, 7.5 cents~~
 6 ~~per gallon or \$15.15 per cubic yard for 1990 and 9~~
 7 cents per gallon or \$18.18 per cubic yard
 8 thereafter, if the hazardous waste disposal site is
 9 located off the site where such waste was produced.
 10 The maximum amount payable under this subdivision
 11 (A) with respect to the hazardous waste generated by
 12 a single generator and deposited in monofills is
 13 \$20,000 for 1989, \$25,000 for 1990, and \$30,000 per
 14 year thereafter. If, as a result of the use of
 15 multiple monofills, waste fees in excess of the
 16 maximum are assessed with respect to a single waste
 17 generator, the generator may apply to the Agency for
 18 a credit.

19 (B) ~~6 cents per gallon or \$12.12 per cubic~~
 20 ~~yard of hazardous waste disposed for 1989, 7.5 cents~~
 21 ~~per gallon or \$15.15 per cubic yard for 1990 and 9~~
 22 cents or \$18.18 per cubic yard thereafter, if the
 23 hazardous waste disposal site is located on the site
 24 where such waste was produced, provided however the
 25 maximum amount of fees payable under this paragraph
 26 (B) is \$20,000 for 1989, \$25,000 for 1990 and
 27 \$30,000 per year thereafter for each such hazardous
 28 waste disposal site.

29 (C) If the hazardous waste disposal site is an
 30 underground injection well, \$6,000 per year if not
 31 more than 10,000,000 gallons per year are injected,
 32 \$15,000 per year if more than 10,000,000 gallons but
 33 not more than 50,000,000 gallons per year are
 34 injected, and \$27,000 per year if more than

1 50,000,000 gallons per year are injected.

2 (D) ~~2-cents-per-gallon-or-\$4.04-per-cubic-yard~~
3 ~~for-1989,-2.5-cents-per-gallon-or--\$5.05--per--cubic~~
4 ~~yard--for--1990,-~~ and 3 cents per gallon or \$6.06 per
5 cubic yard thereafter of hazardous waste received
6 for treatment at a hazardous waste treatment site,
7 if the hazardous waste treatment site is located off
8 the site where such waste was produced and if such
9 hazardous waste treatment site is owned, controlled
10 and operated by a person other than the generator of
11 such waste. After treatment at such hazardous waste
12 treatment site, the waste shall not be subject to
13 any other fee imposed by this subsection (b). For
14 purposes of this subsection (b), the term
15 "treatment" is defined as in Section 3.505 3-49 but
16 shall not include recycling, reclamation or reuse.

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

20 (3) The Agency shall have the authority to accept,
21 receive, and administer on behalf of the State any moneys
22 made available to the State from any source for the
23 purposes of the Hazardous Waste Fund set forth in
24 subsection (d) of this Section.

25 (4) Of the amount collected as fees provided for in
26 this Section, the Agency shall manage the use of such
27 funds to assure that sufficient funds are available for
28 match towards federal expenditures for response action at
29 sites which are listed on the National Priorities List;
30 provided, however, that this shall not apply to
31 additional monies appropriated to the Fund by the General
32 Assembly, nor shall it apply in the event that the
33 Director finds that revenues in the Hazardous Waste Fund
34 must be used to address conditions which create or may

1 create an immediate danger to the environment or public
2 health or to the welfare of the people of the State of
3 Illinois.

4 (5) Notwithstanding the other provisions of this
5 subsection (b), sludge from a publicly-owned sewage works
6 generated in Illinois, coal mining wastes and refuse
7 generated in Illinois, bottom boiler ash, flyash and flue
8 gas desulphurization sludge from public utility electric
9 generating facilities located in Illinois, and bottom
10 boiler ash and flyash from all incinerators which process
11 solely municipal waste shall not be subject to the fee.

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

17 (c) The Agency shall establish procedures, not later
18 than January 1, 1984, relating to the collection of the fees
19 authorized by this Section. Such procedures shall include,
20 but not be limited to: (1) necessary records identifying the
21 quantities of hazardous waste received or disposed; (2) the
22 form and submission of reports to accompany the payment of
23 fees to the Agency; and (3) the time and manner of payment of
24 fees to the Agency, which payments shall be not more often
25 than quarterly.

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

31 (1) Taking whatever preventive or corrective action
32 is necessary or appropriate, in circumstances certified
33 by the Director, including but not limited to removal or
34 remedial action whenever there is a release or

1 substantial threat of a release of a hazardous substance
2 or pesticide; provided, the Agency shall expend no more
3 than \$1,000,000 on any single incident without
4 appropriation by the General Assembly.

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

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

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

18 (5) To the extent the Agency has received and
19 deposited monies in the Fund other than fees collected
20 under subsection (b) of this Section, to pay for the cost
21 of Agency employees for services provided in reviewing
22 the performance of response actions pursuant to Title
23 XVII of this Act.

24 (6) In an amount up to 15% of the fees collected
25 annually under subsection (b) of this Section, for use by
26 the Agency for administration of the provisions of this
27 Section.

28 (e) The Agency shall deposit 10% of all receipts
29 collected under subsection (b) of this Section, but not to
30 exceed \$200,000 per year, in the State Treasury to the credit
31 of the Hazardous Waste Research Fund established by this Act.
32 Pursuant to appropriation, all monies in such Fund shall be
33 used by the Department of Natural Resources for the purposes
34 set forth in this subsection.

1 The Department of Natural Resources may enter into
2 contracts with business, industrial, university, governmental
3 or other qualified individuals or organizations to assist in
4 the research and development intended to recycle, reduce the
5 volume of, separate, detoxify or reduce the hazardous
6 properties of hazardous wastes in Illinois. Monies in the
7 Fund may also be used by the Department of Natural Resources
8 for technical studies, monitoring activities, and educational
9 and research activities which are related to the protection
10 of underground waters. Monies in the Hazardous Waste
11 Research Fund may be used to administer the Illinois Health
12 and Hazardous Substances Registry Act. Monies in the
13 Hazardous Waste Research Fund shall not be used for any
14 sanitary landfill or the acquisition or construction of any
15 facility. This does not preclude the purchase of equipment
16 for the purpose of public demonstration projects. The
17 Department of Natural Resources shall adopt guidelines for
18 cost sharing, selecting, and administering projects under
19 this subsection.

20 (f) Notwithstanding any other provision or rule of law,
21 and subject only to the defenses set forth in subsection (j)
22 of this Section, the following persons shall be liable for
23 all costs of removal or remedial action incurred by the State
24 of Illinois or any unit of local government as a result of a
25 release or substantial threat of a release of a hazardous
26 substance or pesticide:

27 (1) the owner and operator of a facility or vessel
28 from which there is a release or substantial threat of
29 release of a hazardous substance or pesticide;

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

1 release of any such hazardous substance or pesticide;

2 (3) any person who by contract, agreement, or
3 otherwise has arranged with another party or entity for
4 transport, storage, disposal or treatment of hazardous
5 substances or pesticides owned, controlled or possessed
6 by such person at a facility owned or operated by another
7 party or entity from which facility there is a release or
8 substantial threat of a release of such hazardous
9 substances or pesticides; and

10 (4) any person who accepts or accepted any
11 hazardous substances or pesticides for transport to
12 disposal, storage or treatment facilities or sites from
13 which there is a release or a substantial threat of a
14 release of a hazardous substance or pesticide.

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

18 In accordance with the other provisions of this Section,
19 costs of removal or remedial action incurred by a unit of
20 local government may be recovered in an action before the
21 Board brought by the unit of local government under
22 subsection (i) of this Section. Any monies so recovered
23 shall be paid to the unit of local government.

24 (g)(1) No indemnification, hold harmless, or similar
25 agreement or conveyance shall be effective to transfer
26 from the owner or operator of any vessel or facility or
27 from any person who may be liable for a release or
28 substantial threat of a release under this Section, to
29 any other person the liability imposed under this
30 Section. Nothing in this Section shall bar any agreement
31 to insure, hold harmless or indemnify a party to such
32 agreements for any liability under this Section.

33 (2) Nothing in this Section, including the
34 provisions of paragraph (g)(1) of this Section, shall bar

1 a cause of action that an owner or operator or any other
2 person subject to liability under this Section, or a
3 guarantor, has or would have, by reason of subrogation or
4 otherwise against any person.

5 (h) For purposes of this Section:

6 (1) The term "facility" means:

7 (A) any building, structure, installation,
8 equipment, pipe or pipeline including but not
9 limited to any pipe into a sewer or publicly owned
10 treatment works, well, pit, pond, lagoon,
11 impoundment, ditch, landfill, storage container,
12 motor vehicle, rolling stock, or aircraft; or

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

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

17 (A) any person owning or operating a vessel or
18 facility;

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

24 (C) in the case of a land trust as defined in
25 Section 2 of the Land Trustee as Creditor Act, the
26 person owning the beneficial interest in the land
27 trust;

28 (D) in the case of a fiduciary (other than a
29 land trustee), the estate, trust estate, or other
30 interest in property held in a fiduciary capacity,
31 and not the fiduciary. For the purposes of this
32 Section, "fiduciary" means a trustee, executor,
33 administrator, guardian, receiver, conservator or
34 other person holding a facility or vessel in a

1 fiduciary capacity;

2 (E) in the case of a "financial institution",
3 meaning the Illinois Housing Development Authority
4 and that term as defined in Section 2 of the
5 Illinois Banking Act, that has acquired ownership,
6 operation, management, or control of a vessel or
7 facility through foreclosure or under the terms of a
8 security interest held by the financial institution
9 or under the terms of an extension of credit made by
10 the financial institution, the financial institution
11 only if the financial institution takes possession
12 of the vessel or facility and the financial
13 institution exercises actual, direct, and continual
14 or recurrent managerial control in the operation of
15 the vessel or facility that causes a release or
16 substantial threat of a release of a hazardous
17 substance or pesticide resulting in removal or
18 remedial action;

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

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

8 (H) The term "owner or operator" does not
9 include a unit of State or local government which
10 acquired ownership or control through bankruptcy,
11 tax delinquency, abandonment, or other circumstances
12 in which the government acquires title by virtue of
13 its function as sovereign. The exclusion provided
14 under this paragraph shall not apply to any State or
15 local government which has caused or contributed to
16 the release or threatened release of a hazardous
17 substance from the facility, and such a State or
18 local government shall be subject to the provisions
19 of this Act in the same manner and to the same
20 extent, both procedurally and substantively, as any
21 nongovernmental entity, including liability under
22 Section 22.2(f).

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

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

32 (A) an act of God;

33 (B) an act of war;

34 (C) an act or omission of a third party other than

1 an employee or agent of the defendant, or other than one
2 whose act or omission occurs in connection with a
3 contractual relationship, existing directly or
4 indirectly, with the defendant (except where the sole
5 contractual arrangement arises from a published tariff
6 and acceptance for carriage by a common carrier by rail),
7 if the defendant establishes by a preponderance of the
8 evidence that (i) he exercised due care with respect to
9 the hazardous substance concerned, taking into
10 consideration the characteristics of such hazardous
11 substance, in light of all relevant facts and
12 circumstances, and (ii) he took precautions against
13 foreseeable acts or omissions of any such third party and
14 the consequences that could foreseeably result from such
15 acts or omissions; or

16 (D) any combination of the foregoing paragraphs.

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

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

34 (4) There shall be no liability under this Section for

1 any person (including, but not limited to, an owner of
2 residential property who applies a pesticide to the
3 residential property or who has another person apply a
4 pesticide to the residential property) for response costs or
5 damages as the result of the storage, handling and use, or
6 recommendation for storage, handling and use, of a pesticide
7 consistent with:

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

10 (B) its warnings and cautions as stated in its
11 label or labeling; and

12 (C) the uses for which it is registered under the
13 Federal Insecticide, Fungicide and Rodenticide Act and
14 the Illinois Pesticide Act.

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

25 (4.6) There shall be no liability under subdivision
26 (f)(1) of this Section for response costs or damages as the
27 result of a substantial threat of a release of a pesticide
28 from an agrichemical facility site if the Agency has received
29 notice from the Department of Agriculture pursuant to Section
30 19.3 of the Illinois Pesticide Act and the owner or operator
31 of the agrichemical facility is proceeding with a corrective
32 action plan under the Agrichemical Facility Response Action
33 Program implemented under that Section.

34 (5) Nothing in this subsection (j) shall affect or

1 modify in any way the obligations or liability of any person
2 under any other provision of this Act or State or federal
3 law, including common law, for damages, injury, or loss
4 resulting from a release or substantial threat of a release
5 of any hazardous substance or for removal or remedial action
6 or the costs of removal or remedial action of such hazardous
7 substance.

8 (6)(A) The term "contractual relationship", for the
9 purpose of this subsection includes, but is not limited to,
10 land contracts, deeds or other instruments transferring title
11 or possession, unless the real property on which the facility
12 concerned is located was acquired by the defendant after the
13 disposal or placement of the hazardous substance on, in, or
14 at the facility, and one or more of the circumstances
15 described in clause (i), (ii), or (iii) of this paragraph is
16 also established by the defendant by a preponderance of the
17 evidence:

18 (i) At the time the defendant acquired the facility
19 the defendant did not know and had no reason to know that
20 any hazardous substance which is the subject of the
21 release or threatened release was disposed of on, in or
22 at the facility.

23 (ii) The defendant is a government entity which
24 acquired the facility by escheat, or through any other
25 involuntary transfer or acquisition, or through the
26 exercise of eminent domain authority by purchase or
27 condemnation.

28 (iii) The defendant acquired the facility by
29 inheritance or bequest.

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

33 (B) To establish the defendant had no reason to know, as
34 provided in clause (i) of subparagraph (A) of this paragraph,

1 the defendant must have undertaken, at the time of
2 acquisition, all appropriate inquiry into the previous
3 ownership and uses of the property consistent with good
4 commercial or customary practice in an effort to minimize
5 liability. For purposes of the preceding sentence, the court
6 shall take into account any specialized knowledge or
7 experience on the part of the defendant, the relationship of
8 the purchase price to the value of the property if
9 uncontaminated, commonly known or reasonably ascertainable
10 information about the property, the obviousness of the
11 presence or likely presence of contamination at the property,
12 and the ability to detect such contamination by appropriate
13 inspection.

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

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

32 (E) (i) Except as provided in clause (ii) of this
33 subparagraph (E), a defendant who has acquired real property
34 shall have established a rebuttable presumption against all

1 State claims and a conclusive presumption against all private
2 party claims that the defendant has made all appropriate
3 inquiry within the meaning of subdivision (6)(B) of this
4 subsection (j) if the defendant proves that immediately prior
5 to or at the time of the acquisition:

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

13 (II) the defendant obtained a Phase II
14 Environmental Audit of the real property that meets or
15 exceeds the requirements of this subparagraph (E), and
16 the Phase II Environmental Audit did not disclose 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 the real property.

20 (ii) No presumption shall be created under clause (i) of
21 this subparagraph (E), and a defendant shall be precluded
22 from demonstrating that the defendant has made all
23 appropriate inquiry within the meaning of subdivision (6)(B)
24 of this subsection (j), if:

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

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

34 (III) a Phase II Environmental Audit discloses the

1 presence or likely presence of a release or a substantial
2 threat of a release of a hazardous substance or pesticide
3 at, on, to, or from the real property;

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

8 (V) there is any evidence of fraud, material
9 concealment, or material misrepresentation by the
10 defendant of environmental conditions or of related
11 information discovered during the course of an
12 Environmental Audit.

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

19 (I) maintains at the time of the Environmental
20 Audit and for at least one year thereafter at least
21 \$500,000 of environmental consultants' professional
22 liability insurance coverage issued by an insurance
23 company licensed to do business in Illinois; or

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

26 An environmental professional may employ persons who are
27 not environmental professionals to assist in the preparation
28 of an Environmental Audit if such persons are under the
29 direct supervision and control of the environmental
30 professional.

31 (iv) For purposes of this subparagraph (E), the term
32 "real property" means any interest in any parcel of land, and
33 ~~shall not be limited to the definition of the term "real~~
34 ~~property" contained in the Responsible Property Transfer Act~~

1 ~~of--1988.---For--purposes--of--this--subparagraph--(E),--the--term~~
 2 ~~"real--property"~~ includes, but is not limited to, buildings,
 3 fixtures, and improvements.

4 (v) For purposes of this subparagraph (E), the term
 5 "Phase I Environmental Audit" means an investigation of real
 6 property, conducted by environmental professionals, to
 7 discover the presence or likely presence of a release or a
 8 substantial threat of a release of a hazardous substance or
 9 pesticide at, on, to, or from real property, and whether a
 10 release or a substantial threat of a release of a hazardous
 11 substance or pesticide has occurred or may occur at, on, to,
 12 or from the real property. The investigation shall include a
 13 review of at least each of the following sources of
 14 information concerning the current and previous ownership and
 15 use of the real property:

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

19 (II) Aerial photographs that may reflect prior uses
 20 of the real property and that are reasonably obtainable
 21 through State, federal, or local government agencies or
 22 bodies.

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

26 (IV) Reasonably obtainable State, federal, and
 27 local government records of sites or facilities at, on,
 28 or near the real property to discover the presence or
 29 likely presence of a hazardous substance or pesticide,
 30 and whether a release or a substantial threat of a
 31 release of a hazardous substance or pesticide has
 32 occurred or may occur at, on, to, or from the real
 33 property. Such government records shall include, but not
 34 be limited to: reasonably obtainable State, federal, and

1 local government investigation reports for those sites or
2 facilities; reasonably obtainable State, federal, and
3 local government records of activities likely to cause or
4 contribute to a release or a threatened release of a
5 hazardous substance or pesticide at, on, to, or from the
6 real property, including landfill and other treatment,
7 storage, and disposal location records, underground
8 storage tank records, hazardous waste transporter and
9 generator records, and spill reporting records; and other
10 reasonably obtainable State, federal, and local
11 government environmental records that report incidents or
12 activities that are likely to cause or contribute to a
13 release or a threatened release of a hazardous substance
14 or pesticide at, on, to, or from the real property. In
15 order to be deemed "reasonably obtainable" as required
16 herein, a copy or reasonable facsimile of the record must
17 be obtainable from the government agency by request and
18 upon payment of a processing fee, if any, established by
19 the government agency. The Agency is authorized to
20 establish a reasonable fee for processing requests
21 received under this subparagraph (E) for records. All
22 fees collected by the Agency under this clause (v)(IV)
23 shall be deposited into the Environmental Protection
24 Permit and Inspection Fund in accordance with Section
25 22.8.

26 Notwithstanding any other law, ~~if the fee is paid,~~
27 ~~commencing on the effective date of this amendatory Act~~
28 ~~of 1993 and until one year after the effective date of~~
29 ~~this amendatory Act of 1993, the Agency shall use its~~
30 ~~best efforts to process a request received under this~~
31 ~~subparagraph (E) as expeditiously as possible.~~
32 Notwithstanding any other law, ~~commencing one year after~~
33 ~~the effective date of this amendatory Act of 1993,~~ if the
34 fee is paid, the Agency shall process a request received

1 under this subparagraph (E) for records within 30 days of
2 the receipt of such request.

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

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

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

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

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

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

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

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

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

1 certification of the results of the Environmental Audit.

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

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

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

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

1 or any other law.

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

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

24 (1-5) (1) As used in this subsection:

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

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

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

34 "Transporter" means a person engaged in the offsite

1 transportation of hazardous waste by highway.

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

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

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

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

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

1 with the procedures established under the Uniform
2 Program.

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

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

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

33 (B) The Agency shall recognize a Uniform Program
34 registration as valid for one year from the date a notice

1 of registration form is issued and a permit as valid for
2 3 years from the date issued or until a transporter fails
3 to renew its registration, whichever occurs first.

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

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

24 (m) (Blank).

25 (n) (Blank).

26 (Source: P.A. 90-14, eff. 7-1-97; 90-219, eff. 7-25-97;
27 90-773, eff. 8-14-98; 91-36, eff. 6-15-99.)

28 (415 ILCS 5/22.2b)

29 Sec. 22.2b. Limit of liability for prospective purchasers
30 of real property.

31 (a) The State of Illinois may grant a release of
32 liability that provides that a person is not potentially
33 liable under subsection (f) of Section 22.2 of this Act as a

1 result of a release or a threatened release of a hazardous
2 substance or pesticide if:

3 (1) the person performs the response actions to
4 remove or remedy all releases or threatened releases of a
5 hazardous substance or pesticide at an identified area or
6 at identified areas of the property in accordance with a
7 response action plan approved by the Agency under this
8 Section;

9 (2) the person did not cause, allow, or contribute
10 to the release or threatened release of a hazardous
11 substance or pesticide through any act or omission;

12 (3) the person requests, in writing, that the
13 Agency provide review and evaluation services under
14 ~~subsection (m) of Section 22.2 of this Act~~ and the Agency
15 agrees to provide the review and evaluation services; and

16 (4) the person is not otherwise liable under
17 subsection (f) of Section 22.2 under, and complies with,
18 regulations adopted by the Agency under subsection (e).

19 (b) The Agency may approve a response action plan under
20 this Section, including but not limited to a response action
21 plan that does not require the removal or remedy of all
22 releases or threatened releases of hazardous substances or
23 pesticides, if the person described under subsection (a)
24 proves:

25 (1) the response action will prevent or mitigate
26 immediate and significant risk of harm to human life and
27 health and the environment;

28 (2) activities at the property will not cause,
29 allow, contribute to, or aggravate the release or
30 threatened release of a hazardous substance or pesticide;

31 (3) due consideration has been given to the effect
32 that activities at the property will have on the health
33 of those persons likely to be present at the property;

34 (4) irrevocable access to the property is given to

1 the State of Illinois and its authorized representatives;

2 (5) the person is financially capable of performing
3 the proposed response action; and

4 (6) the person complies with regulations adopted by
5 the Agency under subsection (e).

6 (c) The limit of liability granted by the State of
7 Illinois under this Section does not apply to any person:

8 (1) Who is potentially liable under subsection (f)
9 of Section 22.2 of this Act for any costs of removal or
10 remedial action incurred by the State of Illinois or any
11 unit of local government as a result of the release or
12 substantial threat of a release of a hazardous substance
13 or pesticide that was the subject of the response action
14 plan approved by the Agency under this Section.

15 (2) Who agrees to perform the response action
16 contained in a response action plan approved by the
17 Agency under this Section and fails to perform in
18 accordance with the approved response action plan.

19 (3) Whose willful and wanton conduct contributes to
20 a release or threatened release of a hazardous substance
21 or pesticide.

22 (4) Whose negligent conduct contributes to a
23 release or threatened release of a hazardous substance or
24 pesticide.

25 (5) Who is seeking a construction or development
26 permit for a new municipal waste incinerator or other new
27 waste-to-energy facility.

28 (d) If a release or threatened release of a hazardous
29 substance or pesticide occurs within the area identified in
30 the response action plan approved by the Agency under this
31 Section and such release or threatened release is not
32 specifically identified in the response action plan, for any
33 person to whom this Section applies, the numeric cleanup
34 level established by the Agency in the response action plan

1 shall also apply to the release or threatened release not
 2 specifically identified in the response action plan if the
 3 response action plan has a numeric cleanup level for the
 4 hazardous substance or pesticide released or threatened to be
 5 released. Nothing in this subsection (d) shall limit the
 6 authority of the Agency to require, for any person to whom
 7 this Section does not apply, a numeric cleanup level that
 8 differs from the numeric cleanup level established in the
 9 response action plan approved by the Agency under this
 10 Section.

11 (e) The Agency may adopt regulations relating to this
 12 Section. The regulations may include, but are not limited to,
 13 both of the following:

14 (1) Requirements and procedures for a response
 15 action plan.

16 (2) Additional requirements that a person must meet
 17 in order not to be liable under subsection (f) of Section
 18 22.2.

19 (Source: P.A. 89-101, eff. 7-7-95; 90-655, eff. 7-30-98.)

20 (415 ILCS 5/22.9) (from Ch. 111 1/2, par. 1022.9)
 21 Sec. 22.9. Special waste determinations.

22 (a) (Blank.) ~~The--Department--shall--complete--a--study--of~~
 23 ~~the--benefits--and--feasibility--of--establishing--a--system--of~~
 24 ~~classifying--and--regulating--special--wastes--according--to--their~~
 25 ~~degree--of--hazard.--Such--study--shall--include,--at--a--minimum,--an~~
 26 ~~assessment--of--the--degree--of--hazard--of--the--special--waste~~
 27 ~~streams--produced--in--the--State,--alternative--systems--for~~
 28 ~~classifying--these--wastes--according--to--their--degree--of--hazard~~
 29 ~~and--an--evaluation--of--the--benefits--of--assessing--hazardous~~
 30 ~~waste--fees--and--developing--storage,--treatment--and--disposal~~
 31 ~~standards--based--on--such--classes--of--wastes.---The--Department~~
 32 ~~shall--report--to--the--Governor,--the--General--Assembly--and--the~~
 33 ~~Pollution--Control--Board--with--the--results--of--such--study--no~~

1 later than July 1, 1985.

2 (b) Following the completion of the Department's study,
3 but Not later than December 1, 1990, the Pollution Control
4 Board shall, pursuant to Title VII of the Act, adopt
5 regulations that establish standards and criteria for
6 classifying special wastes according to the degree of hazard
7 or an alternative method.

8 (c) The Board shall adopt regulations by December 1,
9 1990, establishing the standards and criteria by which the
10 Agency may determine upon written request by any person that
11 a waste or class of waste is not special waste.

12 (d) (Blank.) Until such time as the regulations required
13 in subsection (c) of this Section are effective, any person
14 may request the Agency to determine that a waste is not a
15 special waste. Within 60 days of receipt of a written
16 request, the Agency shall make a final determination, which
17 shall be based on whether the waste would pose a present or
18 potential threat to human health or to the environment or if
19 such waste has inherent properties which make disposal of
20 such waste in a landfill difficult to manage by normal means.

21 (e) (Blank.) If the Agency denies a request made
22 pursuant to subsection (c) or (d) of this Section or if the
23 Agency fails to act within 60 days after receipt of such
24 request, the requestor may seek review before the Board
25 pursuant to Section 40 as if the Agency had denied an
26 application for a permit.

27 (f) The determinations to be made under subsection (c)
28 subsections (c), (d) and (e) of this Section shall not apply
29 to hazardous waste.

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

31 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)
32 Sec. 22.15. Solid Waste Management Fund; fees.

33 (a) There is hereby created within the State Treasury a

1 special fund to be known as the "Solid Waste Management Fund"
 2 constituted from the fees collected by the State pursuant to
 3 this Section and from repayments of loans made from the Fund
 4 for solid waste projects. Moneys received by the Department
 5 of Commerce and Community Affairs in repayment of loans made
 6 pursuant to the Illinois Solid Waste Management Act shall be
 7 deposited into the Solid Waste Management Revolving Loan
 8 Fund.

9 (b) On and after January 1, 1987, the Agency shall
 10 assess and collect a fee in the amount set forth herein from
 11 the owner or operator of each sanitary landfill permitted or
 12 required to be permitted by the Agency to dispose of solid
 13 waste if the sanitary landfill is located off the site where
 14 such waste was produced and if such sanitary landfill is
 15 owned, controlled, and operated by a person other than the
 16 generator of such waste. The Agency shall deposit all fees
 17 collected into the Solid Waste Management Fund. If a site is
 18 contiguous to one or more landfills owned or operated by the
 19 same person, the volumes permanently disposed of by each
 20 landfill shall be combined for purposes of determining the
 21 fee under this subsection.

22 (1) If more than 150,000 cubic yards of
 23 non-hazardous solid waste is permanently disposed of at a
 24 site in a calendar year, the owner or operator shall
 25 either pay a fee of 45 cents per cubic yard ~~(60¢--per~~
 26 ~~cubic--yard--from--January--17--1989--through--December--317~~
 27 ~~1993)7~~ or, alternatively, the owner or operator may weigh
 28 the quantity of the solid waste permanently disposed of
 29 with a device for which certification has been obtained
 30 under the Weights and Measures Act and pay a fee of 95
 31 cents per ton ~~(\$1.27--per--ton--from--January--17--1989--through~~
 32 ~~December--317--1993)~~ of solid waste permanently disposed
 33 of. ~~An--owner--or--operator--that--is--subject--to--any--fee7~~
 34 ~~tax7---or---surcharge--imposed--under--the--authority--of~~

1 subsection-(j)-of-this-Section--on--September--26,--1991,
 2 with--respect--to--fees--due--to--the--Agency--under-this
 3 paragraph-after-December-31,1991-and-before--January--1,
 4 1994,shall-deduct-from-the-amount-paid-to-the-Agency-the
 5 amount-by-which-the-fee-paid-under-subsection-(j)-exceeds
 6 45--cents-per-cubic-yard-or-95-cents-per-ton. In no case
 7 shall the fee collected or paid by the owner or operator
 8 under this paragraph exceed \$1.05 per cubic yard or \$2.22
 9 per ton.

10 (2) If more than 100,000 cubic yards, but not more
 11 than 150,000 cubic yards of non-hazardous waste is
 12 permanently disposed of at a site in a calendar year, the
 13 owner or operator shall pay a fee of \$25,000 (~~\$33,350--in~~
 14 ~~1989,1990-and-1991~~).

15 (3) If more than 50,000 cubic yards, but not more
 16 than 100,000 cubic yards of non-hazardous solid waste is
 17 permanently disposed of at a site in a calendar year, the
 18 owner or operator shall pay a fee of \$11,300 (~~\$15,500--in~~
 19 ~~1989,1990-and-1991~~).

20 (4) If more than 10,000 cubic yards, but not more
 21 than 50,000 cubic yards of non-hazardous solid waste is
 22 permanently disposed of at a site in a calendar year, the
 23 owner or operator shall pay a fee of \$3,450 (~~\$4,650--in~~
 24 ~~1989,1990-and-1991~~).

25 (5) If not more than 10,000 cubic yards of
 26 non-hazardous solid waste is permanently disposed of at a
 27 site in a calendar year, the owner or operator shall pay
 28 a fee of \$500 (~~\$650--in-1989,1990-and-1991~~).

29 (c) (Blank.) From--January-1,1987-through-December-31,
 30 1988,the-fee-set-forth-in-this-Section-shall-not-apply-to:

31 (1)--Solid-waste-which-is-hazardous-waste;

32 (2)--Any-landfill-which-is-permitted-by--the--Agency
 33 to--receive--only--demolition--or--construction-debris-or
 34 landscape-waste;-or

1 (3) The following wastes:

2 (A) Foundry sand;

3 (B) Coal combustion by-product, including
4 scrubber waste and fluidized bed boiler waste which
5 does not contain metal cleaning waste;

6 (C) Slag from the manufacture of iron and
7 steel;

8 (D) Pollution Control Waste;

9 (E) Wastes from recycling, reclamation or
10 reuse processes designed to remove any contaminant
11 from wastes so as to render such wastes reusable,
12 provided that the process renders at least 50% of
13 the waste reusable;

14 (F) Non-hazardous solid waste that is received
15 at a sanitary landfill after January 1, 1987 and
16 recycled through a process permitted by the Agency.

17 (d) The Agency shall establish rules relating to the
18 collection of the fees authorized by this Section. Such
19 rules shall include, but not be limited to:

20 (1) necessary records identifying the quantities of
21 solid waste received or disposed;

22 (2) the form and submission of reports to accompany
23 the payment of fees to the Agency;

24 (3) the time and manner of payment of fees to the
25 Agency, which payments shall not be more often than
26 quarterly; and

27 (4) procedures setting forth criteria establishing
28 when an owner or operator may measure by weight or volume
29 during any given quarter or other fee payment period.

30 (e) Pursuant to appropriation, all monies in the Solid
31 Waste Management Fund shall be used by the Agency and the
32 Department of Commerce and Community Affairs for the purposes
33 set forth in this Section and in the Illinois Solid Waste
34 Management Act, including for the costs of fee collection and

1 administration, and through June 30, 1989, by the University
2 of Illinois for research consistent with the Illinois Solid
3 Waste Management Act.

4 (f) The Agency is authorized to enter into such
5 agreements and to promulgate such rules as are necessary to
6 carry out its duties under this Section and the Illinois
7 Solid Waste Management Act.

8 (g) On the first day of January, April, July, and
9 October of each year, beginning on July 1, 1996, the State
10 Comptroller and Treasurer shall transfer \$500,000 from the
11 Solid Waste Management Fund to the Hazardous Waste Fund.
12 Moneys transferred under this subsection (g) shall be used
13 only for the purposes set forth in item (1) of subsection (d)
14 of Section 22.2.

15 (h) The Agency is authorized to provide financial
16 assistance to units of local government for the performance
17 of inspecting, investigating and enforcement activities
18 pursuant to Section 4(r) at nonhazardous solid waste disposal
19 sites.

20 (i) The Agency is authorized to support the operations
21 of an industrial materials exchange service, and to conduct
22 household waste collection and disposal programs.

23 (j) A unit of local government, as defined in the Local
24 Solid Waste Disposal Act, in which a solid waste disposal
25 facility is located may establish a fee, tax, or surcharge
26 with regard to the permanent disposal of solid waste. All
27 fees, taxes, and surcharges collected under this subsection
28 shall be utilized for solid waste management purposes,
29 including long-term monitoring and maintenance of landfills,
30 planning, implementation, inspection, enforcement and other
31 activities consistent with the Solid Waste Management Act and
32 the Local Solid Waste Disposal Act, or for any other
33 environment-related purpose, including but not limited to an
34 environment-related public works project, but not for the

1 construction of a new pollution control facility other than a
2 household hazardous waste facility. However, the total fee,
3 tax or surcharge imposed by all units of local government
4 under this subsection (j) upon the solid waste disposal
5 facility shall not exceed:

6 (1) ~~45¢ per cubic yard~~ (60¢ per cubic yard
7 ~~beginning January 1, 1992~~) if more than 150,000 cubic
8 yards of non-hazardous solid waste is permanently
9 disposed of at the site in a calendar year, unless the
10 owner or operator weighs the quantity of the solid waste
11 received with a device for which certification has been
12 obtained under the Weights and Measures Act, in which
13 case the fee shall not exceed ~~95¢ per ton~~ (\$1.27 per ton
14 ~~beginning January 1, 1992~~) of solid waste permanently
15 disposed of.

16 (2) ~~\$25,000~~ (~~\$33,350 beginning in 1992~~) if more
17 than 100,000 cubic yards, but not more than 150,000 cubic
18 yards, of non-hazardous waste is permanently disposed of
19 at the site in a calendar year.

20 (3) ~~\$11,300~~ (~~\$15,500 beginning in 1992~~) if more
21 than 50,000 cubic yards, but not more than 100,000 cubic
22 yards, of non-hazardous solid waste is permanently
23 disposed of at the site in a calendar year.

24 (4) ~~\$3,450~~ (~~\$4,650 beginning in 1992~~) if more than
25 10,000 cubic yards, but not more than 50,000 cubic yards,
26 of non-hazardous solid waste is permanently disposed of
27 at the site in a calendar year.

28 (5) ~~\$500~~ (~~\$650 beginning in 1992~~) if not more than
29 10,000 cubic yards of non-hazardous solid waste is
30 permanently disposed of at the site in a calendar year.

31 The corporate authorities of the unit of local government
32 may use proceeds from the fee, tax, or surcharge to reimburse
33 a highway commissioner whose road district lies wholly or
34 partially within the corporate limits of the unit of local

1 government for expenses incurred in the removal of
2 nonhazardous, nonfluid municipal waste that has been dumped
3 on public property in violation of a State law or local
4 ordinance.

5 A county or Municipal Joint Action Agency that imposes a
6 fee, tax, or surcharge under this subsection may use the
7 proceeds thereof to reimburse a municipality that lies wholly
8 or partially within its boundaries for expenses incurred in
9 the removal of nonhazardous, nonfluid municipal waste that
10 has been dumped on public property in violation of a State
11 law or local ordinance.

12 If the fees are to be used to conduct a local sanitary
13 landfill inspection or enforcement program, the unit of local
14 government must enter into a written delegation agreement
15 with the Agency pursuant to subsection (r) of Section 4. The
16 unit of local government and the Agency shall enter into such
17 a written delegation agreement within 60 days after the
18 establishment of such fees, ~~or August 23, 1988, whichever is~~
19 ~~later. For the year commencing January 1, 1989, and~~ At
20 least annually thereafter, the Agency shall conduct an audit
21 of the expenditures made by units of local government from
22 the funds granted by the Agency to the units of local
23 government for purposes of local sanitary landfill inspection
24 and enforcement programs, to ensure that the funds have been
25 expended for the prescribed purposes under the grant.

26 The fees, taxes or surcharges collected under this
27 subsection (j) shall be placed by the unit of local
28 government in a separate fund, and the interest received on
29 the moneys in the fund shall be credited to the fund. The
30 monies in the fund may be accumulated over a period of years
31 to be expended in accordance with this subsection.

32 A unit of local government, as defined in the Local Solid
33 Waste Disposal Act, shall prepare and distribute to the
34 Agency, in April of each year, a report that details spending

1 plans for monies collected in accordance with this
2 subsection. The report will at a minimum include the
3 following:

4 (1) The total monies collected pursuant to this
5 subsection.

6 (2) The most current balance of monies collected
7 pursuant to this subsection.

8 (3) An itemized accounting of all monies expended
9 for the previous year pursuant to this subsection.

10 (4) An estimation of monies to be collected for the
11 following 3 years pursuant to this subsection.

12 (5) A narrative detailing the general direction and
13 scope of future expenditures for one, 2 and 3 years.

14 The exemptions granted under Sections 22.16 and 22.16a,
15 and under subsections (c) and (k) of this Section, shall be
16 applicable to any fee, tax or surcharge imposed under this
17 subsection (j); except that the fee, tax or surcharge
18 authorized to be imposed under this subsection (j) may be
19 made applicable by a unit of local government to the
20 permanent disposal of solid waste after December 31, 1986,
21 under any contract lawfully executed before June 1, 1986
22 under which more than 150,000 cubic yards (or 50,000 tons) of
23 solid waste is to be permanently disposed of, even though the
24 waste is exempt from the fee imposed by the State under
25 subsection (b) of this Section pursuant to an exemption
26 granted under Section 22.16.

27 (k) In accordance with the findings and purposes of the
28 Illinois Solid Waste Management Act, beginning January 1,
29 1989 the fee under subsection (b) and the fee, tax or
30 surcharge under subsection (j) shall not apply to:

31 (1) Waste which is hazardous waste; or

32 (2) Waste which is pollution control waste; or

33 (3) Waste from recycling, reclamation or reuse
34 processes which have been approved by the Agency as being

1 designed to remove any contaminant from wastes so as to
2 render such wastes reusable, provided that the process
3 renders at least 50% of the waste reusable; or

4 (4) Non-hazardous solid waste that is received at a
5 sanitary landfill and composted or recycled through a
6 process permitted by the Agency; or

7 (5) Any landfill which is permitted by the Agency
8 to receive only demolition or construction debris or
9 landscape waste.

10 (Source: P.A. 89-93, eff. 7-6-95; 89-443, eff. 7-1-96;
11 89-445, eff. 2-7-96; 90-14, eff. 7-1-97; 90-475, eff.
12 8-17-97.)

13 (415 ILCS 5/22.16) (from Ch. 111 1/2, par. 1022.16)

14 Sec. 22.16. Fee exemptions.

15 (a) The Agency shall grant exemptions from the fee
16 requirements of Section 22.15 of this Act for permanent
17 disposal or transport of solid waste meeting all of the
18 following criteria:

19 (1) permanent disposal of the solid waste is
20 pursuant to a written contract between the owner or
21 operator of the sanitary landfill and some other person,
22 or transport of the solid waste is pursuant to a written
23 contract between the transporter and some other person;

24 (2) the contract for permanent disposal or
25 transport of solid waste was lawfully executed on or
26 before December 31, 1986, and by its express terms
27 continues beyond January 1, 1987, or was lawfully
28 executed during 1987 or 1988 and by its express terms
29 continues beyond January 1, 1989;

30 (3) the contract for permanent disposal or
31 transport of solid waste establishes a fixed fee or
32 compensation, does not allow the operator or transporter
33 to pass the fee through to another party, and does not

1 allow voluntary cancellation or re-negotiation of the
2 compensation or fee during the term of the contract; and

3 (4) the contract was lawfully executed on or before
4 December 31, 1986 and has not been amended at any time
5 after that date, or was lawfully executed during 1987 or
6 1988 and has not been amended on or after January 1,
7 1989.

8 (b) Exemptions granted under this Section shall cause
9 the solid waste received by an owner or operator of a
10 sanitary landfill pursuant to a contract exempted under this
11 Section to be disregarded in calculating the volume or weight
12 of solid waste permanently disposed of during a calendar year
13 under Section 22.15 of this Act.

14 (c) (Blank.) ~~Applications--for--exemptions--under--this~~
15 ~~Section--may--be--granted--retroactively.---Applications-for~~
16 ~~retroactive-or-prospective-exemptions-must-be-submitted--with~~
17 ~~proof--of--satisfaction--of--all--criteria--for--granting-the~~
18 ~~exemption, and must be received by the Agency before March 1,~~
19 ~~1989.~~

20 (d) It shall be the duty of an owner or operator of a
21 sanitary landfill to keep accurate records and to prove to
22 the satisfaction of the Agency the volume or weight of solid
23 waste received under an exemption during a calendar year.

24 (e) Exemptions under this Section shall expire upon the
25 expiration, renewal or amendment of the exempted contract,
26 whichever occurs first.

27 (Source: P.A. 85-1195.)

28 (415 ILCS 5/22.16a) (from Ch. 111 1/2, par. 1022.16a)
29 Sec. 22.16a. Additional fee exemptions.

30 (a) In accordance with the findings and purposes of the
31 Illinois Solid Waste Management Act, the Agency shall grant
32 exemptions from the fee requirements of Section 22.15 of this
33 Act for solid waste meeting all of the following criteria:

1 (1) the waste is non-putrescible and homogeneous
2 and does not contain free liquids;

3 (2) combustion of the waste would not provide
4 practical energy recovery or practical reduction in
5 volume; and

6 (3) the applicant for exemption demonstrates that
7 it is not technologically and economically reasonable to
8 recycle or reuse the waste.

9 (b) Exemptions granted under this Section shall cause
10 the solid waste exempted under subsection (a) which is
11 permanently disposed of by an owner or operator of a sanitary
12 landfill to be disregarded in calculating the volume or
13 weight of solid waste permanently disposed of during a
14 calendar year under Section 22.15 of this Act.

15 (c) Applications for exemptions under this Section must
16 be submitted on forms provided by the Agency for such
17 purpose, together with proof of satisfaction of all criteria
18 for granting the exemption. ~~For applications received before~~
19 ~~March 1, 1989, exemptions issued under subsection (a) shall~~
20 ~~be effective as of January 1, 1989.~~ For applications
21 received on or after March 1, 1989, exemptions issued under
22 subsection (a) shall be effective beginning with the next
23 calendar quarter following issuance of the exemption.

24 (d) If the Agency denies a request made pursuant to
25 subsection (a), the applicant may seek review before the
26 Board pursuant to Section 40 as if the Agency had denied an
27 application for a permit. If the Agency fails to act within
28 90 days after receipt of an application, the request shall be
29 deemed granted until such time as the Agency has taken final
30 action.

31 (e) It shall be the duty of an owner or operator of a
32 sanitary landfill to keep accurate records and to prove to
33 the satisfaction of the Agency the volume or weight of solid
34 waste received under an exemption during a calendar year.

1 (Source: P.A. 85-1195.)

2 (415 ILCS 5/22.22) (from Ch. 111 1/2, par. 1022.22)

3 Sec. 22.22. Landscape waste.

4 (a) Beginning July 1, 1990, no person may knowingly mix
5 landscape waste that is intended for collection or for
6 disposal at a landfill with any other municipal waste.

7 (b) Beginning July 1, 1990, no person may knowingly put
8 landscape waste into a container intended for collection or
9 disposal at a landfill, unless such container is
10 biodegradable.

11 (c) Beginning July 1, 1990, no owner or operator of a
12 sanitary landfill shall accept landscape waste for final
13 disposal, except that landscape waste separated from
14 municipal waste may be accepted by a sanitary landfill if (1)
15 the landfill provides and maintains for that purpose separate
16 landscape waste composting facilities and composts all
17 landscape waste, and (2) the composted waste is utilized, by
18 the operators of the landfill or by any other person, as part
19 of the final vegetative cover for the landfill or for such
20 other uses as soil conditioning material, or the landfill has
21 received an Agency permit to use source separated and
22 processed landscape waste as an alternative daily cover and
23 the landscape waste is processed at a site, other than the
24 sanitary landfill, that has received an Agency permit before
25 July 30, ~~the-effective-date-of-this-amendatory-Act-of~~ 1997 to
26 process landscape waste. For purposes of this Section, (i)
27 "source separated" means divided into its component parts at
28 the point of generation and collected separately from other
29 solid waste and (ii) "processed" means shredded by mechanical
30 means to reduce the landscape waste to a uniform consistency.

31 (d) The requirements of this Section shall not apply (i)
32 to landscape waste collected as part of a municipal street
33 sweeping operation where the intent is to provide street

1 sweeping service rather than leaf collection, nor (ii) to
2 landscape waste collected by bar screens or grates in a
3 sewage treatment system.

4 (Source: P.A. 90-266, eff. 7-30-97.)

5 (415 ILCS 5/22.23) (from Ch. 111 1/2, par. 1022.23)

6 Sec. 22.23. Batteries.

7 (a) Beginning September 1, 1990, any person selling
8 lead-acid batteries at retail or offering lead-acid batteries
9 for retail sale in this State shall:

10 (1) accept for recycling used lead-acid batteries
11 from customers, at the point of transfer, in a quantity
12 equal to the number of new batteries purchased; and

13 (2) post in a conspicuous place a written notice at
14 least 8.5 by 11 inches in size that includes the
15 universal recycling symbol and the following statements:
16 "DO NOT put motor vehicle batteries in the trash.";
17 "Recycle your used batteries."; and "State law requires
18 us to accept motor vehicle batteries for recycling, in
19 exchange for new batteries purchased."

20 (b) Any person selling lead-acid batteries at retail in
21 this State may either charge a recycling fee on each new
22 lead-acid battery sold for which the customer does not return
23 a used battery to the retailer, or provide a recycling credit
24 to each customer who returns a used battery for recycling at
25 the time of purchasing a new one.

26 (c) Beginning September 1, 1990, no lead-acid battery
27 retailer may dispose of a used lead-acid battery except by
28 delivering it (1) to a battery wholesaler or its agent, (2)
29 to a battery manufacturer, (3) to a collection or recycling
30 facility, or (4) to a secondary lead smelter permitted by
31 either a state or federal environmental agency.

32 (d) Any person selling lead-acid batteries at wholesale
33 or offering lead-acid batteries for sale at wholesale shall

1 accept for recycling used lead-acid batteries from customers,
2 at the point of transfer, in a quantity equal to the number
3 of new batteries purchased. Such used batteries shall be
4 disposed of as provided in subsection (c).

5 (e) A person who accepts used lead-acid batteries for
6 recycling pursuant to subsection (a) or (d) shall not allow
7 such batteries to accumulate for periods of more than 90
8 days.

9 (f) Beginning September 1, 1990, no person may knowingly
10 cause or allow:

11 (1) the placing of a lead-acid battery into any
12 container intended for collection and disposal at a
13 municipal waste sanitary landfill; or

14 (2) the disposal of any lead-acid battery in any
15 municipal waste sanitary landfill or incinerator.

16 (g) The Department of Commerce and Community Affairs
17 shall identify and assist in developing alternative
18 processing and recycling options for used batteries.

19 (h) For the purpose of this Section:

20 "Lead-acid battery" means a battery containing lead and
21 sulfuric acid that has a nominal voltage of at least 6 volts
22 and is intended for use in motor vehicles.

23 "Motor vehicle" includes automobiles, vans, trucks,
24 tractors, motorcycles and motorboats.

25 (i) (Blank.) ~~The--Department--shall--study--the--problems~~
26 ~~associated--with--household--batteries--that--are--processed--or~~
27 ~~disposed--of--as--part--of--mixed--solid--waste,--and--shall--develop~~
28 ~~and--implement--a--pilot--project--to--collect--and--recycle--used~~
29 ~~household--batteries,--The--Department--shall--report--its~~
30 ~~findings--to--the--Governor--and--the--General--Assembly,--together~~
31 ~~with--any--recommendations--for--legislation,--by--November--1,~~
32 ~~1991.~~

33 (j) Knowing violation of this Section shall be a petty
34 offense punishable by a fine of \$100.

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

2 (415 ILCS 5/22.23a)

3 Sec. 22.23a. Fluorescent and high intensity discharge
4 lamps.

5 (a) As used in this Section, "fluorescent or high
6 intensity discharge lamp" means a lighting device that
7 contains mercury and generates light through the discharge of
8 electricity either directly or indirectly through a
9 fluorescent coating, including a mercury vapor, high pressure
10 sodium, or metal halide lamp containing mercury, lead, or
11 cadmium.

12 (b) No person may knowingly cause or allow the disposal
13 of any fluorescent or high intensity discharge lamp in any
14 municipal waste incinerator beginning July 1, 1997. This
15 Section does not apply to lamps generated by households.

16 (c) (1) Hazardous fluorescent and high intensity
17 discharge lamps are hereby designated as a category of
18 universal waste subject to the streamlined hazardous
19 waste rules set forth in Title 35 of the Illinois
20 Administrative Code, Subtitle G, Chapter I, Subchapter c,
21 Part 733 ("Part 733"). Within 60 days of August 19, 1997
22 (the effective date of Public Act 90-502) ~~this-amendatory~~
23 ~~Act-of-1997~~ the Agency shall propose, and within 180 days
24 of receipt of the Agency's proposal the Board shall
25 adopt, rules that reflect this designation and that
26 prescribe procedures and standards for the management of
27 hazardous fluorescent and high intensity discharge lamps
28 as universal waste.

29 (2) If the United States Environmental Protection
30 Agency adopts streamlined hazardous waste regulations
31 pertaining to the management of fluorescent and high
32 intensity discharge lamps, or otherwise exempts those
33 lamps from regulation as hazardous waste, the Board shall

1 adopt an equivalent rule in accordance with Section 7.2
2 of this Act within 180 days of adoption of the federal
3 regulation. The equivalent Board rule may serve as an
4 alternative to the rules adopted under subdivision (1) of
5 this subsection.

6 (d) (Blank.) ~~Until the Board adopts rules pursuant to
7 subsection (c), fluorescent and high intensity discharge
8 lamps shall be managed in accordance with existing laws and
9 regulations or under the following conditions:~~

10 (1) ~~after being removed from service, the generator
11 stores the lamps in a safe manner that minimizes the
12 chance of breakage;~~

13 (2) ~~no lamps are stored longer than 6 months from
14 the time they are removed from service;~~

15 (3) ~~the generator delivers the lamps to a licensed
16 hauler that will deliver the lamps to a recycler; and~~

17 (4) ~~the lamps are transported in a safe manner that
18 minimizes the chance of breakage.~~

19 (e) (Blank.) ~~The Agency shall study the problem
20 associated with used fluorescent and high intensity discharge
21 lamps that are processed or disposed of as part of mixed
22 solid waste, and shall identify possible collection and
23 recycling systems for used fluorescent and high intensity
24 discharge lamps. The Agency shall report its findings to the
25 General Assembly and the Governor by January 1, 1998.~~

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

27 (415 ILCS 5/22.27) (from Ch. 111 1/2, par. 1022.27)
28 Sec. 22.27. Alternative Daily Cover for Sanitary
29 Landfills.

30 (a) ~~The Agency shall investigate alternative materials
31 to soil as daily cover at sanitary landfills, including
32 chemical foam, grit and nonputrescible residuals from solid
33 waste recycling facilities, shredded tire material,~~

1 hydromulch--produced--from-newsprint-or-other-wastepaper,--and
 2 finished--compost.---The--investigation---shall---include---a
 3 comparative--cost--analysis--of--each-alternative-material-to
 4 soil,--environmental-suitability-of--each--material,--and--any
 5 potential-savings-in-landfill-capacity-resulting-from-the-use
 6 of-an-alternative-cover-material.---The-Agency-shall-report-to
 7 the-General-Assembly-by-September-1,--1992,--on-the-feasibility
 8 of---alternative---materials--for--daily--cover--at--sanitary
 9 landfills. If the Agency determines that any or all chemical
 10 foams provides a cover material that is as good as, or better
 11 than, the traditional soil cover commonly used in this State,
 12 the Agency shall certify that material as meeting the
 13 requirements of this Section. If the Agency determines that
 14 any alternative materials other than chemical foams
 15 adequately satisfies daily cover requirements at sanitary
 16 landfills, it shall permit use of such materials at such
 17 facilities. The-Department-shall-cooperate-with--the--Agency
 18 in--the--conduct--of-the-investigation-and-report-required-by
 19 this-subsection-(a)-of-this-Section.

20 (b) In complying with the daily cover requirements
 21 imposed on sanitary landfills by Board regulation, the
 22 operator of a sanitary landfill may use any foam that has
 23 been certified by the Agency under this Section in place of a
 24 soil cover.

25 (Source: P.A. 87-727.)

26 (415 ILCS 5/22.33)

27 Sec. 22.33. Compost quality standards.

28 (a) By January 1, 1994, the Agency shall develop and
 29 make recommendations to the Board concerning (i) performance
 30 standards for landscape waste compost facilities and (ii)
 31 testing procedures and standards for the end-product compost
 32 produced by landscape waste compost facilities.

33 The--Agency,--in--cooperation--with-the-Department,--shall

1 appoint a Technical Advisory Committee for the purpose of
 2 developing these recommendations. Among other things, the
 3 Committee shall evaluate environmental and safety
 4 considerations, compliance costs, and regulations adopted in
 5 other states and countries. The Committee shall have
 6 balanced representation and shall include members
 7 representing academia, the composting industry, the
 8 Department of Agriculture, the landscaping industry,
 9 environmental organizations, municipalities, and counties.

10 Performance standards for landscape waste compost
 11 facilities shall at a minimum include:

- 12 (1) the management of odor;
- 13 (2) the management of surface water;
- 14 (3) contingency planning for handling end-product
 15 compost material that does not meet requirements of
 16 subsection (b);
- 17 (4) plans for intended purposes of end-use product;
- 18 and
- 19 (5) a financial assurance plan necessary to restore
 20 the site as specified in Agency permit.

21 (b) By December 1, 1997, the Board shall adopt:

- 22 (1) performance standards for landscape waste
 23 compost facilities; and
- 24 (2) testing procedures and standards for the
 25 end-product compost produced by landscape waste compost
 26 facilities.

27 The Board shall evaluate the merits of different
 28 standards for end-product compost applications.

29 (c) On-site composting that is used solely for the
 30 purpose of composting landscape waste generated on-site and
 31 that will not be offered for off-site sale or use is exempt
 32 from any standards promulgated under subsections (a) and (b).
 33 Subsection (b)(2) shall not apply to end-product compost used
 34 as daily cover or vegetative amendment in the final layer.

1 Subsection (b) applies to any end-product compost offered for
2 sale or use in Illinois.

3 (Source: P.A. 87-1227; 88-690, eff. 1-24-95.)

4 (415 ILCS 5/22.40)

5 Sec. 22.40. Municipal solid waste landfill rules.

6 (a) In accordance with Sec. 7.2, the Board shall adopt
7 rules that are identical in substance to federal regulations
8 or amendments thereto promulgated by the Administrator of the
9 United States Environmental Protection Agency to implement
10 Sections 4004 and 4010 of the Resource Conservation and
11 Recovery Act of 1976 (P.L. 94-580) insofar as those
12 regulations relate to a municipal solid waste landfill unit
13 program. The Board may consolidate into a single rulemaking
14 under this Section all such federal regulations adopted
15 within a period of time not to exceed 6 months. Where the
16 federal regulations authorize the State to adopt alternative
17 standards, schedules, or procedures to the standards,
18 schedules, or procedures contained in the federal
19 regulations, the Board may adopt alternative standards,
20 schedules, or procedures under subsection (b) or retain
21 existing Board rules that establish alternative standards,
22 schedules, or procedures that are not inconsistent with the
23 federal regulations. The Board may consolidate into a single
24 rulemaking under this Section all such federal regulations
25 adopted within a period of time not to exceed 6 months.

26 The provisions and requirements of Title VII of this Act
27 shall not apply to rules adopted under this subsection (a).
28 Section 5-35 of the Illinois Administrative Procedure Act
29 relating to the procedures for rulemaking shall not apply to
30 regulations adopted under this subsection (a).

31 (b) The Board may adopt regulations relating to a State
32 municipal solid waste landfill program that are not
33 inconsistent with the Resource Conservation and Recovery Act

1 of 1976 (P.L. 94-580), or regulations adopted thereunder.
 2 Rules adopted under this subsection shall be adopted in
 3 accordance with the provisions and requirements of Title VII
 4 of this Act and the procedures for rulemaking in Section 5-35
 5 of the Illinois Administrative Procedure Act.

6 (c) (Blank.) Notwithstanding--action--by-the-Board, and
 7 effective-October-9, 1993, only for those facilities--meeting
 8 the---conditions--of--40--C.F.R.--258.1(e)(2)--or--40--C.F.R.
 9 258.1(e)(3), the deadlines established in subsections--(d)(1)
 10 and--(t),--as--added--by-Public-Act-88-496, of Section 21 and
 11 subsections-(a.5),-(a.10), and-(b) of Section 22.17--of--this
 12 Act---are---extended---to--those--new--dates--established--in
 13 regulations-promulgated-by-the--United--States--Environmental
 14 Protection--Agency--at--58-Federal-Register-51536-(October-1,
 15 1993); provided, however, no deadline for receipt--of--solid
 16 waste-is-extended-past-October-9, 1994.

17 With--respect--to--those--facilities--that-qualify-for-an
 18 extension-in-accordance-with--the--provisions--of--40--C.F.R.
 19 258.1(e)(3), the--Agency shall determine that the facilities
 20 are-needed-to-receive-flood-related-waste--from--a--federally
 21 designated--area-within-a-major-disaster-area-declared-by-the
 22 President-during-the-summer-of-1993--pursuant--to--42--U.S.C.
 23 5121-et-seq.

24 (Source: P.A. 88-496; 88-512; 88-540.)

25 (415 ILCS 5/22.43)

26 Sec. 22.43. Permit modifications for lateral expansions.
 27 The Agency may issue a permit modification for a lateral
 28 expansion, as defined in Section 3.275 See.-3-88 of this Act,
 29 for an existing MSWLF unit under Section See. 39 of this Act
 30 on-or-after-the-effective-date-of-this-amendatory-Act-of-1993
 31 to a person required to obtain such a permit modification
 32 under subsection (t) of Section 21 of this Act.

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

1 (415 ILCS 5/22.44)

2 Sec. 22.44. Subtitle D management fees.

3 (a) There is created within the State treasury a special
4 fund to be known as the "Subtitle D Management Fund"
5 constituted from the fees collected by the State under this
6 Section.

7 (b) On and after January 1, 1994, the Agency shall
8 assess and collect a fee in the amount set forth in this
9 subsection from the owner or operator of each sanitary
10 landfill permitted or required to be permitted by the Agency
11 to dispose of solid waste if the sanitary landfill is located
12 off the site where the waste was produced and if the sanitary
13 landfill is owned, controlled, and operated by a person other
14 than the generator of the waste. The Agency shall deposit
15 all fees collected under this subsection into the Subtitle D
16 Management Fund. If a site is contiguous to one or more
17 landfills owned or operated by the same person, the volumes
18 permanently disposed of by each landfill shall be combined
19 for purposes of determining the fee under this subsection.

20 (1) If more than 150,000 cubic yards of
21 non-hazardous solid waste is permanently disposed of at a
22 site in a calendar year, the owner or operator shall
23 either pay a fee of 5.5 cents per cubic yard or,
24 alternatively, the owner or operator may weigh the
25 quantity of the solid waste permanently disposed of with
26 a device for which certification has been obtained under
27 the Weights and Measures Act and pay a fee of 12 cents
28 per ton of waste permanently disposed of.

29 (2) If more than 100,000 cubic yards, but not more
30 than 150,000 cubic yards, of non-hazardous waste is
31 permanently disposed of at a site in a calendar year, the
32 owner or operator shall pay a fee of \$3,825.

33 (3) If more than 50,000 cubic yards, but not more
34 than 100,000 cubic yards, of non-hazardous solid waste is

1 permanently disposed of at a site in a calendar year, the
2 owner or operator shall pay a fee of \$1,700.

3 (4) If more than 10,000 cubic yards, but not more
4 than 50,000 cubic yards, of non-hazardous solid waste is
5 permanently disposed of at a site in a calendar year, the
6 owner or operator shall pay a fee of \$530.

7 (5) If not more than 10,000 cubic yards of
8 non-hazardous solid waste is permanently disposed of at a
9 site in a calendar year, the owner or operator shall pay
10 a fee of \$110.

11 (c) The fee under subsection (b) shall not apply to any
12 of the following:

13 (1) Hazardous waste.

14 (2) Pollution control waste.

15 (3) Waste from recycling, reclamation, or reuse
16 processes that have been approved by the Agency as being
17 designed to remove any contaminant from wastes so as to
18 render the wastes reusable, provided that the process
19 renders at least 50% of the waste reusable.

20 (4) Non-hazardous solid waste that is received at a
21 sanitary landfill and composted or recycled through a
22 process permitted by the Agency.

23 (5) Any landfill that is permitted by the Agency to
24 receive only demolition or construction debris or
25 landscape waste.

26 (d) The Agency shall establish rules relating to the
27 collection of the fees authorized by this Section. These
28 rules shall include, but not be limited to the following:

29 (1) Necessary records identifying the quantities of
30 solid waste received or disposed.

31 (2) The form and submission of reports to accompany
32 the payment of fees to the Agency.

33 (3) The time and manner of payment of fees to the
34 Agency, which payments shall not be more often than

1 quarterly.

2 (4) Procedures setting forth criteria establishing
3 when an owner or operator may measure by weight or volume
4 during any given quarter or other fee payment period.

5 (e) Fees collected under this Section shall be in
6 addition to any other fees collected under any other Section.

7 (f) The Agency shall not refund any fee paid to it under
8 this Section.

9 (g) Pursuant to appropriation, all moneys in the
10 Subtitle D Management Fund shall be used by the Agency to
11 administer the United States Environmental Protection
12 Agency's Subtitle D Program provided in Sections 4004 and
13 4010 of the Resource Conservation and Recovery Act of 1976
14 (P.L. 94-580) as it relates to a municipal solid waste
15 landfill program in Illinois and to fund a delegation of
16 inspecting, investigating, and enforcement functions, within
17 the municipality only, pursuant to subsection (r) of Section
18 4 of this Act to a municipality having a population of more
19 than 1,000,000 inhabitants. The Agency shall execute a
20 delegation agreement pursuant to subsection (r) of Section 4
21 of this Act with a municipality having a population of more
22 than 1,000,000 inhabitants within 90 days of September 13,
23 ~~the--effective--date--of--this--amendatory--Act--of~~ 1993 and shall
24 on an annual basis distribute from the Subtitle D Management
25 Fund to that municipality no less than \$150,000.

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

27 (415 ILCS 5/22.45)

28 Sec. 22.45. Subtitle D management fee exemptions;
29 pre-existing contracts.

30 (a) The Agency shall grant exemptions from the fee
31 requirements of Section 22.44 of this Act for permanent
32 disposal or transport of solid waste meeting all of the
33 following criteria:

1 (1) Permanent disposal of the solid waste is
2 pursuant to a written contract between the owner or
3 operator of the sanitary landfill and some other person,
4 or transport of the solid waste is pursuant to a written
5 contract between the transporter and some other person.

6 (2) The contract for permanent disposal or
7 transport of solid waste was lawfully executed on or
8 before September 13, ~~the--effective--date--of--this~~
9 ~~amendatory-Act-of~~ 1993 and by its express terms continues
10 beyond January 1, 1994.

11 (3) The contract for permanent disposal or
12 transport of solid waste establishes a fixed fee or
13 compensation, does not allow the operator or transporter
14 to pass the fee through to another party, and does not
15 allow voluntary cancellation or renegotiation of the
16 compensation or fee during the term of the contract.

17 (4) The contract was lawfully executed on or before
18 September 13, ~~the-effective-date-of-this-amendatory-Act~~
19 ~~of~~ 1993 and has not been amended at any time after that
20 date.

21 (b) Exemptions granted under this Section shall cause
22 the solid waste received by an owner or operator of a
23 sanitary landfill pursuant to a contract exempted under this
24 Section to be disregarded in calculating the volume or weight
25 of solid waste permanently disposed of during a calendar year
26 under Section 22.44 of this Act.

27 (c) An owner or operator of a sanitary landfill shall
28 keep accurate records and prove, to the satisfaction of the
29 Agency, the volume or weight of solid waste received under an
30 exemption during a calendar year.

31 (d) Exemptions under this Section shall expire upon the
32 expiration, renewal, or amendment of the exempted contract,
33 whichever occurs first.

34 (e) For the purposes of this Section, the term "some

1 other person" shall only include persons that are independent
2 operating entities. For purposes of this Section, a person
3 is not an independent operating entity if:

4 (1) the person has any officers or directors that
5 are also officers or directors of the sanitary landfill
6 or transporter;

7 (2) the person is a parent corporation, subsidiary,
8 or affiliate of the owner or operator of the sanitary
9 landfill or transporter; or

10 (3) the person and the owner or operator of the
11 sanitary landfill or transporter are owned by the same
12 entity.

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

14 (415 ILCS 5/22.47)

15 Sec. 22.47. School district hazardous educational waste
16 collection.

17 (a) The Agency shall develop, implement, and fund
18 (through appropriations for that purpose from the General
19 Revenue Fund) a program to collect school district hazardous
20 educational waste from school districts and schools in the
21 State. The program shall provide for the availability for
22 collection, transportation, and appropriate management of
23 hazardous educational wastes for each school district or
24 school by private contractors at least every 3 years.

25 (b) A school district or school may participate in a
26 hazardous educational waste collection program by:

27 (1) Notifying the Agency of the hazardous
28 educational wastes used by the school district or school
29 and including the following information:

- 30 (A) Waste types.
- 31 (B) Waste volumes.
- 32 (C) Number of containers.
- 33 (D) Condition of containers.

1 (E) Location of containers.

2 (2) Maintaining wastes in the original containers,
3 if practical.

4 (3) Labeling each container if contents are known.

5 (4) Following Agency instructions on waste
6 segregation, preparation, or delivery for subsequent
7 handling.

8 (c) The Agency shall accept applications from school
9 districts or schools throughout the year. The Agency shall
10 designate waste haulers throughout the State qualified to
11 remove school district hazardous waste at the request of a
12 school district or school. By March 1 and September 1 of
13 each year the Agency shall prepare a schedule of school
14 districts or schools that have been selected for collections
15 over the next 6 months. The selections shall be based on the
16 waste types and volumes, geographic distribution, order of
17 application, and expected costs balanced by available
18 resources. The Agency shall notify each selected school or
19 school district of the date of collection and instruction on
20 waste preparation.

21 (d) For purposes of this Section "hazardous educational
22 waste" means a waste product that could pose a hazard during
23 normal storage, transportation, or disposal generated from an
24 instructional curriculum including laboratory wastes, expired
25 chemicals, unstable compounds, and toxic or flammable
26 materials. "Hazardous educational waste" does not include
27 wastes generated as a result of building, grounds, or vehicle
28 maintenance, asbestos abatement, lead paint abatement, or
29 other non-curriculum activities.

30 (e) (Blank.) ~~By January 1, 1997, the agency shall submit~~
31 ~~a report to the General Assembly on the status of the school~~
32 ~~district hazardous educational waste collection program~~
33 ~~detailing the amounts, types, and locations of wastes~~
34 ~~collected, costs of the program, evaluation of the program,~~

1 ~~and-recommendations-for-future-legislative-actions-~~

2 (f) The Agency is authorized to use funds from the Solid
3 Waste Management Fund to implement this Section.

4 (Source: P.A. 89-300, eff. 1-1-96.)

5 (415 ILCS 5/22.48)

6 Sec. 22.48. Non-special waste certification; effect on
7 permit.

8 (a) An industrial process waste or pollution control
9 waste not within the exception set forth in subdivision (2)
10 of subsection (c) of Section 3.475 3-45 of this Act must be
11 managed as special waste unless the generator first certifies
12 in a signed, dated, written statement that the waste is
13 outside the scope of the categories listed in subdivision (1)
14 of subsection (c) of Section 3.475 3-45 of this Act.

15 (b) All information used to determine that the waste is
16 not a special waste shall be attached to the certification.
17 The information shall include but not be limited to:

18 (1) the means by which the generator has determined
19 that the waste is not a hazardous waste;

20 (2) the means by which the generator has determined
21 that the waste is not a liquid;

22 (3) if the waste undergoes testing, the analytic
23 results obtained from testing, signed and dated by the
24 person responsible for completing the analysis;

25 (4) if the waste does not undergo testing, an
26 explanation as to why no testing is needed;

27 (5) a description of the process generating the
28 waste; and

29 (6) relevant Material Data Safety Sheets.

30 (c) Certification made pursuant to this Section shall be
31 effective from the date signed until there is a change in the
32 generator, in the raw materials used, or in the process
33 generating the waste.

1 (d) Certification made pursuant to this Section, with
2 the requisite attachments, shall be maintained by the
3 certifying generator while effective and for at least 3 years
4 following a change in the generator, a change in the raw
5 materials used, or a change in or termination of the process
6 generating the waste. The generator shall provide a copy of
7 the certification, upon request by the Agency, the waste
8 hauler, or the operator of the facility receiving the waste
9 for storage, treatment, or disposal, to the party requesting
10 the copy. If the Agency believes that the waste that is the
11 subject of the certification has been inaccurately certified
12 to, the Agency may require the generator to analytically test
13 the waste for the constituent believed to be present and
14 provide the Agency with a copy of the analytic results.

15 (e) A person who knowingly and falsely certifies that a
16 waste is not special waste is subject to the penalties set
17 forth in subdivision (6) of subsection (h) of Section 44 of
18 this Act.

19 (f) To the extent that a term or condition of an
20 existing permit requires the permittee to manage as special
21 waste a material that is made a non-special waste under
22 Public Act 90-502 ~~this-amendatory-Act-of-1997~~, that term or
23 condition is hereby superseded, and the permittee may manage
24 that material as a non-special waste, even if the material is
25 identified in the permit as part of a particular waste stream
26 rather than identified specifically as a special waste.

27 (Source: P.A. 90-502, eff. 8-19-97.)

28 (415 ILCS 5/25b-5) (from Ch. 111 1/2, par. 1025b-5)

29 Sec. 25b-5. Review of toxic chemical status. The Agency
30 shall periodically review the status of toxic chemicals and
31 types of facilities covered under the reporting requirements
32 of Section 313 of the federal Emergency Planning and
33 Community Right-to-Know Act of 1986. ~~On-or-before-January-17~~

1 1989, and after providing an opportunity for public comment,
2 the Agency shall submit to the Governor a list of toxic
3 chemicals and facilities not currently covered under that Act
4 which it believes may pose a threat to public health and the
5 environment in Illinois. Within 60 days thereafter, the
6 Governor shall either petition the Administrator of the
7 United States Environmental Protection Agency to modify the
8 lists of chemicals and facilities currently covered pursuant
9 to Section 313 according to the Agency's recommendations, or
10 refer the matter back to the Agency for further consideration
11 in accordance with his written recommendations for change.
12 (Source: P.A. 85-927.)

13 (415 ILCS 5/30) (from Ch. 111 1/2, par. 1030)
14 Sec. 30. Investigations. The Agency shall cause
15 investigations to be made upon the request of the Board or
16 upon receipt of information concerning an alleged violation
17 of this Act or of any rule or regulation promulgated
18 thereunder, or of any permit granted by the Agency or any
19 term or condition of any such permit, and may cause to be
20 made such other investigations as it shall deem advisable.
21 (Source: P.A. 78-862.)

22 (415 ILCS 5/31) (from Ch. 111 1/2, par. 1031)
23 Sec. 31. Notice; complaint; hearing.
24 (a) (1) Within 180 days of becoming aware of an alleged
25 violation of the Act or any rule adopted under the Act or
26 of a permit granted by the Agency or condition of the
27 permit, the Agency shall issue and serve, by certified
28 mail, upon the person complained against a written notice
29 informing that person that the Agency has evidence of the
30 alleged violation. At a minimum, the written notice
31 shall contain:
32 (A) notification to the person complained

1 against of the requirement to submit a written
2 response addressing the violations alleged and the
3 option to meet with appropriate agency personnel to
4 resolve any alleged violations that could lead to
5 the filing of a formal complaint;

6 (B) a detailed explanation by the Agency of
7 the violations alleged;

8 (C) an explanation by the Agency of the
9 actions that the Agency believes may resolve the
10 alleged violations, including an estimate of a
11 reasonable time period for the person complained
12 against to complete the suggested resolution; and

13 (D) an explanation of any alleged violation
14 that the Agency believes cannot be resolved without
15 the involvement of the Office of the Illinois
16 Attorney General or the State's Attorney of the
17 county in which the alleged violation occurred and
18 the basis for the Agency's belief.

19 (2) A written response to the violations alleged
20 shall be submitted to the Agency, by certified mail,
21 within 45 days of receipt of notice by the person
22 complained against, unless the Agency agrees to an
23 extension. The written response shall include:

24 (A) information in rebuttal, explanation or
25 justification of each alleged violation;

26 (B) a proposed Compliance Commitment Agreement
27 that includes specified times for achieving each
28 commitment and which may consist of a statement
29 indicating that the person complained against
30 believes that compliance has been achieved; and

31 (C) a request for a meeting with appropriate
32 Agency personnel if a meeting is desired by the
33 person complained against.

34 (3) If the person complained against fails to

1 respond in accordance with the requirements of
2 subdivision (2) of this subsection (a), the failure to
3 respond shall be considered a waiver of the requirements
4 of this subsection (a) and nothing in this Section shall
5 preclude the Agency from proceeding pursuant to
6 subsection (b) of this Section.

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

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

25 (A) additional information in rebuttal,
26 explanation or justification of each alleged
27 violation;

28 (B) a proposed Compliance Commitment Agreement
29 that includes specified times for achieving each
30 commitment and which may consist of a statement
31 indicating that the person complained against
32 believes that compliance has been achieved; and

33 (C) a statement indicating that, should the
34 person complained against so wish, the person

1 complained against chooses to rely upon the initial
2 written response submitted pursuant to subdivision
3 (2) of this subsection (a).

4 (6) If the person complained against fails to
5 respond in accordance with the requirements of
6 subdivision (5) of this subsection (a), the failure to
7 respond shall be considered a waiver of the requirements
8 of this subsection (a) and nothing in this Section shall
9 preclude the Agency from proceeding pursuant to
10 subsection (b) of this Section.

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

23 (8) Nothing in this subsection (a) is intended to
24 require the Agency to enter into Compliance Commitment
25 Agreements for any alleged violation that the Agency
26 believes cannot be resolved without the involvement of
27 the Office of the Attorney General or the State's
28 Attorney of the county in which the alleged violation
29 occurred, for, among other purposes, the imposition of
30 statutory penalties.

31 (9) The Agency's failure to respond to a written
32 response submitted pursuant to subdivision (2) of this
33 subsection (a), if a meeting is not requested, or
34 subdivision (5) of this subsection (a), if a meeting is

1 held, within 30 days, or within the time period otherwise
2 agreed to in writing by the Agency and the person
3 complained against, shall be deemed an acceptance by the
4 Agency of the proposed Compliance Commitment Agreement
5 for the violations alleged in the written notice issued
6 under subdivision (1) of this subsection (a) as contained
7 within the written response.

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

23 (11) Nothing in this subsection (a) is intended to
24 preclude the person complained against from submitting to
25 the Agency, by certified mail, at any time, notification
26 that the person complained against consents to waiver of
27 the requirements of subsections (a) and (b) of this
28 Section.

29 (b) For alleged violations that remain the subject of
30 disagreement between the Agency and the person complained
31 against following fulfillment of the requirements of
32 subsection (a) of this Section, and as a precondition to the
33 Agency's referral or request to the Office of the Illinois
34 Attorney General or the State's Attorney of the county in

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

26 (c) (1) For alleged violations which remain the subject
27 of disagreement between the Agency and the person
28 complained against following waiver, pursuant to
29 subdivision (10) of subsection (a) of this Section, or
30 fulfillment of the requirements of subsections (a) and
31 (b) of this Section, the Office of the Illinois Attorney
32 General or the State's Attorney of the county in which
33 the alleged violation occurred shall issue and serve upon
34 the person complained against a written notice, together

1 with a formal complaint, which shall specify the
2 provision of the Act or the rule or regulation or permit
3 or term or condition thereof under which such person is
4 said to be in violation, and a statement of the manner
5 in, and the extent to which such person is said to
6 violate the Act or such rule or regulation or permit or
7 term or condition thereof and shall require the person so
8 complained against to answer the charges of such formal
9 complaint at a hearing before the Board at a time not
10 less than 21 days after the date of notice by the Board,
11 except as provided in Section 34 of this Act. Such
12 complaint shall be accompanied by a notification to the
13 defendant that financing may be available, through the
14 Illinois Environmental Facilities Financing Act, to
15 correct such violation. A copy of such notice of such
16 hearings shall also be sent to any person that has
17 complained to the Agency respecting the respondent within
18 the six months preceding the date of the complaint, and
19 to any person in the county in which the offending
20 activity occurred that has requested notice of
21 enforcement proceedings; 21 days notice of such hearings
22 shall also be published in a newspaper of general
23 circulation in such county. The respondent may file a
24 written answer, and at such hearing the rules prescribed
25 in Sections 32 and 33 of this Act shall apply. In the
26 case of actual or threatened acts outside Illinois
27 contributing to environmental damage in Illinois, the
28 extraterritorial service-of-process provisions of
29 Sections 2-208 and 2-209 of the Code of Civil Procedure
30 shall apply.

31 With respect to notices served pursuant to this
32 subsection (c)(1) which involve hazardous material or
33 wastes in any manner, the Agency shall annually publish a
34 list of all such notices served. The list shall include

1 the date the investigation commenced, the date notice was
2 sent, the date the matter was referred to the Attorney
3 General, if applicable, and the current status of the
4 matter.

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

23 (3) Notwithstanding the provisions of subdivision
24 (1) of this subsection (c), if the Agency becomes aware
25 of a violation of this Act arising from, or as a result
26 of, voluntary pollution prevention activities, the Agency
27 shall not proceed with the written notice required by
28 subsection (a) of this Section unless:

29 (A) the person fails to take corrective action
30 or eliminate the reported violation within a
31 reasonable time; or

32 (B) the Agency believes that the violation
33 poses a substantial and imminent danger to the
34 public health or welfare or the environment. For

1 the purposes of this item (B), "substantial and
2 imminent danger" means a danger with a likelihood of
3 serious or irreversible harm.

4 (d) Any person may file with the Board a complaint,
5 meeting the requirements of subsection (c) of this Section,
6 against any person allegedly violating this Act or any rule
7 or regulation thereunder or any permit or term or condition
8 thereof. The complainant shall immediately serve a copy of
9 such complaint upon the person or persons named therein.
10 Unless the Board determines that such complaint is
11 duplicative ~~duplieiteous~~ or frivolous, it shall schedule a
12 hearing and serve written notice thereof upon the person or
13 persons named therein, in accord with subsection (c) of this
14 Section.

15 (e) In hearings before the Board under this Title the
16 burden shall be on the Agency or other complainant to show
17 either that the respondent has caused or threatened to cause
18 air or water pollution or that the respondent has violated or
19 threatens to violate any provision of this Act or any rule or
20 regulation of the Board or permit or term or condition
21 thereof. If such proof has been made, the burden shall be on
22 the respondent to show that compliance with the Board's
23 regulations would impose an arbitrary or unreasonable
24 hardship.

25 (f) The provisions of this Section shall not apply to
26 administrative citation actions commenced under Section 31.1
27 of this Act.

28 (Source: P.A. 88-145; 89-596, eff. 8-1-96.)

29 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)
30 Sec. 39. Issuance of permits; procedures.

31 (a) When the Board has by regulation required a permit
32 for the construction, installation, or operation of any type
33 of facility, equipment, vehicle, vessel, or aircraft, the

1 applicant shall apply to the Agency for such permit and it
2 shall be the duty of the Agency to issue such a permit upon
3 proof by the applicant that the facility, equipment, vehicle,
4 vessel, or aircraft will not cause a violation of this Act or
5 of regulations hereunder. The Agency shall adopt such
6 procedures as are necessary to carry out its duties under
7 this Section. In granting permits the Agency may impose such
8 conditions as may be necessary to accomplish the purposes of
9 this Act, and as are not inconsistent with the regulations
10 promulgated by the Board hereunder. Except as otherwise
11 provided in this Act, a bond or other security shall not be
12 required as a condition for the issuance of a permit. If the
13 Agency denies any permit under this Section, the Agency shall
14 transmit to the applicant within the time limitations of this
15 Section specific, detailed statements as to the reasons the
16 permit application was denied. Such statements shall
17 include, but not be limited to the following:

18 (i) the Sections of this Act which may be violated
19 if the permit were granted;

20 (ii) the provision of the regulations, promulgated
21 under this Act, which may be violated if the permit were
22 granted;

23 (iii) the specific type of information, if any,
24 which the Agency deems the applicant did not provide the
25 Agency; and

26 (iv) a statement of specific reasons why the Act
27 and the regulations might not be met if the permit were
28 granted.

29 If there is no final action by the Agency within 90 days
30 after the filing of the application for permit, the applicant
31 may deem the permit issued; except that this time period
32 shall be extended to 180 days when (1) notice and opportunity
33 for public hearing are required by State or federal law or
34 regulation, (2) the application which was filed is for any

1 permit to develop a landfill subject to issuance pursuant to
2 this subsection, or (3) the application that was filed is for
3 a MSWLF unit required to issue public notice under subsection
4 (p) of Section 39. The 90-day and 180-day time periods for
5 the Agency to take final action do not apply to NPDES permit
6 applications under subsection (b) of this Section, to RCRA
7 permit applications under subsection (d) of this Section, or
8 to UIC permit applications under subsection (e) of this
9 Section.

10 The Agency shall publish notice of all final permit
11 determinations for development permits for MSWLF units and
12 for significant permit modifications for lateral expansions
13 for existing MSWLF units one time in a newspaper of general
14 circulation in the county in which the unit is or is proposed
15 to be located.

16 After January 1, 1994 and until July 1, 1998, operating
17 permits issued under this Section by the Agency for sources
18 of air pollution permitted to emit less than 25 tons per year
19 of any combination of regulated air pollutants, as defined in
20 Section 39.5 of this Act, shall be required to be renewed
21 only upon written request by the Agency consistent with
22 applicable provisions of this Act and regulations promulgated
23 hereunder. Such operating permits shall expire 180 days
24 after the date of such a request. The Board shall revise its
25 regulations for the existing State air pollution operating
26 permit program consistent with this provision by January 1,
27 1994.

28 After June 30, 1998, operating permits issued under this
29 Section by the Agency for sources of air pollution that are
30 not subject to Section 39.5 of this Act and are not required
31 to have a federally enforceable State operating permit shall
32 be required to be renewed only upon written request by the
33 Agency consistent with applicable provisions of this Act and
34 its rules. Such operating permits shall expire 180 days

1 after the date of such a request. Before July 1, 1998, the
2 Board shall revise its rules for the existing State air
3 pollution operating permit program consistent with this
4 paragraph and shall adopt rules that require a source to
5 demonstrate that it qualifies for a permit under this
6 paragraph.

7 (b) The Agency may issue NPDES permits exclusively under
8 this subsection for the discharge of contaminants from point
9 sources into navigable waters, all as defined in the Federal
10 Water Pollution Control Act, as now or hereafter amended,
11 within the jurisdiction of the State, or into any well.

12 All NPDES permits shall contain those terms and
13 conditions, including but not limited to schedules of
14 compliance, which may be required to accomplish the purposes
15 and provisions of this Act.

16 The Agency may issue general NPDES permits for discharges
17 from categories of point sources which are subject to the
18 same permit limitations and conditions. Such general permits
19 may be issued without individual applications and shall
20 conform to regulations promulgated under Section 402 of the
21 Federal Water Pollution Control Act, as now or hereafter
22 amended.

23 The Agency may include, among such conditions, effluent
24 limitations and other requirements established under this
25 Act, Board regulations, the Federal Water Pollution Control
26 Act, as now or hereafter amended, and regulations pursuant
27 thereto, and schedules for achieving compliance therewith at
28 the earliest reasonable date.

29 The Agency shall adopt filing requirements and procedures
30 which are necessary and appropriate for the issuance of NPDES
31 permits, and which are consistent with the Act or regulations
32 adopted by the Board, and with the Federal Water Pollution
33 Control Act, as now or hereafter amended, and regulations
34 pursuant thereto.

1 The Agency, subject to any conditions which may be
2 prescribed by Board regulations, may issue NPDES permits to
3 allow discharges beyond deadlines established by this Act or
4 by regulations of the Board without the requirement of a
5 variance, subject to the Federal Water Pollution Control Act,
6 as now or hereafter amended, and regulations pursuant
7 thereto.

8 (c) Except for those facilities owned or operated by
9 sanitary districts organized under the Metropolitan Water
10 Reclamation District Act, no permit for the development or
11 construction of a new pollution control facility may be
12 granted by the Agency unless the applicant submits proof to
13 the Agency that the location of the facility has been
14 approved by the County Board of the county if in an
15 unincorporated area, or the governing body of the
16 municipality when in an incorporated area, in which the
17 facility is to be located in accordance with Section 39.2 of
18 this Act.

19 In the event that siting approval granted pursuant to
20 Section 39.2 has been transferred to a subsequent owner or
21 operator, that subsequent owner or operator may apply to the
22 Agency for, and the Agency may grant, a development or
23 construction permit for the facility for which local siting
24 approval was granted. Upon application to the Agency for a
25 development or construction permit by that subsequent owner
26 or operator, the permit applicant shall cause written notice
27 of the permit application to be served upon the appropriate
28 county board or governing body of the municipality that
29 granted siting approval for that facility and upon any party
30 to the siting proceeding pursuant to which siting approval
31 was granted. In that event, the Agency shall conduct an
32 evaluation of the subsequent owner or operator's prior
33 experience in waste management operations in the manner
34 conducted under subsection (i) of Section 39 of this Act.

1 Beginning August 20, 1993, if the pollution control
2 facility consists of a hazardous or solid waste disposal
3 facility for which the proposed site is located in an
4 unincorporated area of a county with a population of less
5 than 100,000 and includes all or a portion of a parcel of
6 land that was, on April 1, 1993, adjacent to a municipality
7 having a population of less than 5,000, then the local siting
8 review required under this subsection (c) in conjunction with
9 any permit applied for after that date shall be performed by
10 the governing body of that adjacent municipality rather than
11 the county board of the county in which the proposed site is
12 located; and for the purposes of that local siting review,
13 any references in this Act to the county board shall be
14 deemed to mean the governing body of that adjacent
15 municipality; provided, however, that the provisions of this
16 paragraph shall not apply to any proposed site which was, on
17 April 1, 1993, owned in whole or in part by another
18 municipality.

19 In the case of a pollution control facility for which a
20 development permit was issued before November 12, 1981, if an
21 operating permit has not been issued by the Agency prior to
22 August 31, 1989 for any portion of the facility, then the
23 Agency may not issue or renew any development permit nor
24 issue an original operating permit for any portion of such
25 facility unless the applicant has submitted proof to the
26 Agency that the location of the facility has been approved by
27 the appropriate county board or municipal governing body
28 pursuant to Section 39.2 of this Act.

29 After January 1, 1994, if a solid waste disposal
30 facility, any portion for which an operating permit has been
31 issued by the Agency, has not accepted waste disposal for 5
32 or more consecutive calendar years, before that facility may
33 accept any new or additional waste for disposal, the owner
34 and operator must obtain a new operating permit under this

1 Act for that facility unless the owner and operator have
2 applied to the Agency for a permit authorizing the temporary
3 suspension of waste acceptance. The Agency may not issue a
4 new operation permit under this Act for the facility unless
5 the applicant has submitted proof to the Agency that the
6 location of the facility has been approved or re-approved by
7 the appropriate county board or municipal governing body
8 under Section 39.2 of this Act after the facility ceased
9 accepting waste.

10 Except for those facilities owned or operated by sanitary
11 districts organized under the Metropolitan Water Reclamation
12 District Act, and except for new pollution control facilities
13 governed by Section 39.2, and except for fossil fuel mining
14 facilities, the granting of a permit under this Act shall not
15 relieve the applicant from meeting and securing all necessary
16 zoning approvals from the unit of government having zoning
17 jurisdiction over the proposed facility.

18 Before beginning construction on any new sewage treatment
19 plant or sludge drying site to be owned or operated by a
20 sanitary district organized under the Metropolitan Water
21 Reclamation District Act for which a new permit (rather than
22 the renewal or amendment of an existing permit) is required,
23 such sanitary district shall hold a public hearing within the
24 municipality within which the proposed facility is to be
25 located, or within the nearest community if the proposed
26 facility is to be located within an unincorporated area, at
27 which information concerning the proposed facility shall be
28 made available to the public, and members of the public shall
29 be given the opportunity to express their views concerning
30 the proposed facility.

31 The Agency may issue a permit for a municipal waste
32 transfer station without requiring approval pursuant to
33 Section 39.2 provided that the following demonstration is
34 made:

1 (1) the municipal waste transfer station was in
2 existence on or before January 1, 1979 and was in
3 continuous operation from January 1, 1979 to January 1,
4 1993;

5 (2) the operator submitted a permit application to
6 the Agency to develop and operate the municipal waste
7 transfer station during April of 1994;

8 (3) the operator can demonstrate that the county
9 board of the county, if the municipal waste transfer
10 station is in an unincorporated area, or the governing
11 body of the municipality, if the station is in an
12 incorporated area, does not object to resumption of the
13 operation of the station; and

14 (4) the site has local zoning approval.

15 (d) The Agency may issue RCRA permits exclusively under
16 this subsection to persons owning or operating a facility for
17 the treatment, storage, or disposal of hazardous waste as
18 defined under this Act.

19 All RCRA permits shall contain those terms and
20 conditions, including but not limited to schedules of
21 compliance, which may be required to accomplish the purposes
22 and provisions of this Act. The Agency may include among
23 such conditions standards and other requirements established
24 under this Act, Board regulations, the Resource Conservation
25 and Recovery Act of 1976 (P.L. 94-580), as amended, and
26 regulations pursuant thereto, and may include schedules for
27 achieving compliance therewith as soon as possible. The
28 Agency shall require that a performance bond or other
29 security be provided as a condition for the issuance of a
30 RCRA permit.

31 In the case of a permit to operate a hazardous waste or
32 PCB incinerator as defined in subsection (k) of Section 44,
33 the Agency shall require, as a condition of the permit, that
34 the operator of the facility perform such analyses of the

1 waste to be incinerated as may be necessary and appropriate
2 to ensure the safe operation of the incinerator.

3 The Agency shall adopt filing requirements and procedures
4 which are necessary and appropriate for the issuance of RCRA
5 permits, and which are consistent with the Act or regulations
6 adopted by the Board, and with the Resource Conservation and
7 Recovery Act of 1976 (P.L. 94-580), as amended, and
8 regulations pursuant thereto.

9 The applicant shall make available to the public for
10 inspection all documents submitted by the applicant to the
11 Agency in furtherance of an application, with the exception
12 of trade secrets, at the office of the county board or
13 governing body of the municipality. Such documents may be
14 copied upon payment of the actual cost of reproduction during
15 regular business hours of the local office. The Agency shall
16 issue a written statement concurrent with its grant or denial
17 of the permit explaining the basis for its decision.

18 (e) The Agency may issue UIC permits exclusively under
19 this subsection to persons owning or operating a facility for
20 the underground injection of contaminants as defined under
21 this Act.

22 All UIC permits shall contain those terms and conditions,
23 including but not limited to schedules of compliance, which
24 may be required to accomplish the purposes and provisions of
25 this Act. The Agency may include among such conditions
26 standards and other requirements established under this Act,
27 Board regulations, the Safe Drinking Water Act (P.L. 93-523),
28 as amended, and regulations pursuant thereto, and may include
29 schedules for achieving compliance therewith. The Agency
30 shall require that a performance bond or other security be
31 provided as a condition for the issuance of a UIC permit.

32 The Agency shall adopt filing requirements and procedures
33 which are necessary and appropriate for the issuance of UIC
34 permits, and which are consistent with the Act or regulations

1 adopted by the Board, and with the Safe Drinking Water Act
2 (P.L. 93-523), as amended, and regulations pursuant thereto.

3 The applicant shall make available to the public for
4 inspection, all documents submitted by the applicant to the
5 Agency in furtherance of an application, with the exception
6 of trade secrets, at the office of the county board or
7 governing body of the municipality. Such documents may be
8 copied upon payment of the actual cost of reproduction during
9 regular business hours of the local office. The Agency shall
10 issue a written statement concurrent with its grant or denial
11 of the permit explaining the basis for its decision.

12 (f) In making any determination pursuant to Section 9.1
13 of this Act:

14 (1) The Agency shall have authority to make the
15 determination of any question required to be determined
16 by the Clean Air Act, as now or hereafter amended, this
17 Act, or the regulations of the Board, including the
18 determination of the Lowest Achievable Emission Rate,
19 Maximum Achievable Control Technology, or Best Available
20 Control Technology, consistent with the Board's
21 regulations, if any.

22 (2) The Agency shall, after conferring with the
23 applicant, give written notice to the applicant of its
24 proposed decision on the application including the terms
25 and conditions of the permit to be issued and the facts,
26 conduct or other basis upon which the Agency will rely to
27 support its proposed action.

28 (3) Following such notice, the Agency shall give
29 the applicant an opportunity for a hearing in accordance
30 with the provisions of Sections 10-25 through 10-60 of
31 the Illinois Administrative Procedure Act.

32 (g) The Agency shall include as conditions upon all
33 permits issued for hazardous waste disposal sites such
34 restrictions upon the future use of such sites as are

1 reasonably necessary to protect public health and the
2 environment, including permanent prohibition of the use of
3 such sites for purposes which may create an unreasonable risk
4 of injury to human health or to the environment. After
5 administrative and judicial challenges to such restrictions
6 have been exhausted, the Agency shall file such restrictions
7 of record in the Office of the Recorder of the county in
8 which the hazardous waste disposal site is located.

9 (h) A hazardous waste stream may not be deposited in a
10 permitted hazardous waste site unless specific authorization
11 is obtained from the Agency by the generator and disposal
12 site owner and operator for the deposit of that specific
13 hazardous waste stream. The Agency may grant specific
14 authorization for disposal of hazardous waste streams only
15 after the generator has reasonably demonstrated that,
16 considering technological feasibility and economic
17 reasonableness, the hazardous waste cannot be reasonably
18 recycled for reuse, nor incinerated or chemically, physically
19 or biologically treated so as to neutralize the hazardous
20 waste and render it nonhazardous. In granting authorization
21 under this Section, the Agency may impose such conditions as
22 may be necessary to accomplish the purposes of the Act and
23 are consistent with this Act and regulations promulgated by
24 the Board hereunder. If the Agency refuses to grant
25 authorization under this Section, the applicant may appeal as
26 if the Agency refused to grant a permit, pursuant to the
27 provisions of subsection (a) of Section 40 of this Act. For
28 purposes of this subsection (h), the term "generator" has the
29 meaning given in Section 3.205 ~~3-12~~ of this Act, unless: (1)
30 the hazardous waste is treated, incinerated, or partially
31 recycled for reuse prior to disposal, in which case the last
32 person who treats, incinerates, or partially recycles the
33 hazardous waste prior to disposal is the generator; or (2)
34 the hazardous waste is from a response action, in which case

1 the person performing the response action is the generator.
2 This subsection (h) does not apply to any hazardous waste
3 that is restricted from land disposal under 35 Ill. Adm. Code
4 728.

5 (i) Before issuing any RCRA permit or any permit for a
6 waste storage site, sanitary landfill, waste disposal site,
7 waste transfer station, waste treatment facility, waste
8 incinerator, or any waste-transportation operation, the
9 Agency shall conduct an evaluation of the prospective owner's
10 or operator's prior experience in waste management
11 operations. The Agency may deny such a permit if the
12 prospective owner or operator or any employee or officer of
13 the prospective owner or operator has a history of:

14 (1) repeated violations of federal, State, or local
15 laws, regulations, standards, or ordinances in the
16 operation of waste management facilities or sites; or

17 (2) conviction in this or another State of any
18 crime which is a felony under the laws of this State, or
19 conviction of a felony in a federal court; or

20 (3) proof of gross carelessness or incompetence in
21 handling, storing, processing, transporting or disposing
22 of waste.

23 (j) The issuance under this Act of a permit to engage in
24 the surface mining of any resources other than fossil fuels
25 shall not relieve the permittee from its duty to comply with
26 any applicable local law regulating the commencement,
27 location or operation of surface mining facilities.

28 (k) A development permit issued under subsection (a) of
29 Section 39 for any facility or site which is required to have
30 a permit under subsection (d) of Section 21 shall expire at
31 the end of 2 calendar years from the date upon which it was
32 issued, unless within that period the applicant has taken
33 action to develop the facility or the site. In the event that
34 review of the conditions of the development permit is sought

1 pursuant to Section 40 or 41, or permittee is prevented from
2 commencing development of the facility or site by any other
3 litigation beyond the permittee's control, such two-year
4 period shall be deemed to begin on the date upon which such
5 review process or litigation is concluded.

6 (l) No permit shall be issued by the Agency under this
7 Act for construction or operation of any facility or site
8 located within the boundaries of any setback zone established
9 pursuant to this Act, where such construction or operation is
10 prohibited.

11 (m) The Agency may issue permits to persons owning or
12 operating a facility for composting landscape waste. In
13 granting such permits, the Agency may impose such conditions
14 as may be necessary to accomplish the purposes of this Act,
15 and as are not inconsistent with applicable regulations
16 promulgated by the Board. Except as otherwise provided in
17 this Act, a bond or other security shall not be required as a
18 condition for the issuance of a permit. If the Agency denies
19 any permit pursuant to this subsection, the Agency shall
20 transmit to the applicant within the time limitations of this
21 subsection specific, detailed statements as to the reasons
22 the permit application was denied. Such statements shall
23 include but not be limited to the following:

24 (1) the Sections of this Act that may be violated
25 if the permit were granted;

26 (2) the specific regulations promulgated pursuant
27 to this Act that may be violated if the permit were
28 granted;

29 (3) the specific information, if any, the Agency
30 deems the applicant did not provide in its application to
31 the Agency; and

32 (4) a statement of specific reasons why the Act and
33 the regulations might be violated if the permit were
34 granted.

1 If no final action is taken by the Agency within 90 days
2 after the filing of the application for permit, the applicant
3 may deem the permit issued. Any applicant for a permit may
4 waive the 90 day limitation by filing a written statement
5 with the Agency.

6 The Agency shall issue permits for such facilities upon
7 receipt of an application that includes a legal description
8 of the site, a topographic map of the site drawn to the scale
9 of 200 feet to the inch or larger, a description of the
10 operation, including the area served, an estimate of the
11 volume of materials to be processed, and documentation that:

12 (1) the facility includes a setback of at least 200
13 feet from the nearest potable water supply well;

14 (2) the facility is located outside the boundary of
15 the 10-year floodplain or the site will be floodproofed;

16 (3) the facility is located so as to minimize
17 incompatibility with the character of the surrounding
18 area, including at least a 200 foot setback from any
19 residence, and in the case of a facility that is
20 developed or the permitted composting area of which is
21 expanded after November 17, 1991, the composting area is
22 located at least 1/8 mile from the nearest residence
23 (other than a residence located on the same property as
24 the facility);

25 (4) the design of the facility will prevent any
26 compost material from being placed within 5 feet of the
27 water table, will adequately control runoff from the
28 site, and will collect and manage any leachate that is
29 generated on the site;

30 (5) the operation of the facility will include
31 appropriate dust and odor control measures, limitations
32 on operating hours, appropriate noise control measures
33 for shredding, chipping and similar equipment, management
34 procedures for composting, containment and disposal of

1 non-compostable wastes, procedures to be used for
 2 terminating operations at the site, and recordkeeping
 3 sufficient to document the amount of materials received,
 4 composted and otherwise disposed of; and

5 (6) the operation will be conducted in accordance
 6 with any applicable rules adopted by the Board.

7 The Agency shall issue renewable permits of not longer
 8 than 10 years in duration for the composting of landscape
 9 wastes, as defined in Section 3.155 3-70 of this Act, based
 10 on the above requirements.

11 The operator of any facility permitted under this
 12 subsection (m) must submit a written annual statement to the
 13 Agency on or before April 1 of each year that includes an
 14 estimate of the amount of material, in tons, received for
 15 composting.

16 (n) The Agency shall issue permits jointly with the
 17 Department of Transportation for the dredging or deposit of
 18 material in Lake Michigan in accordance with Section 18 of
 19 the Rivers, Lakes, and Streams Act.

20 (o) (Blank.) ~~From--September-4,1990-until-December-31,~~
 21 ~~1993, no permit--shall--be--issued--by--the--Agency--for--the~~
 22 ~~development--or--construction-of-any-new-facility-intended-to~~
 23 ~~be-used-for-the-incineration--of-any-hazardous--waste.---This~~
 24 ~~subsection-shall-not-apply-to-facilities-intended-for-use-for~~
 25 ~~combustion--of--potentially-infectious-medical-waste,--for-use~~
 26 ~~as-part-of-a-State-or-federally-designated--clean-up--action,~~
 27 ~~or--for--use--solely--for--the--conduct--of--research-and-the~~
 28 ~~development--and--demonstration--of--technologies---for---the~~
 29 ~~incineration-of-hazardous-waste.~~

30 (p) (1) Any person submitting an application for a
 31 permit for a new MSWLF unit or for a lateral expansion under
 32 subsection (t) of Section 21 of this Act for an existing
 33 MSWLF unit that has not received and is not subject to local
 34 siting approval under Section 39.2 of this Act shall publish

1 notice of the application in a newspaper of general
2 circulation in the county in which the MSWLF unit is or is
3 proposed to be located. The notice must be published at
4 least 15 days before submission of the permit application to
5 the Agency. The notice shall state the name and address of
6 the applicant, the location of the MSWLF unit or proposed
7 MSWLF unit, the nature and size of the MSWLF unit or proposed
8 MSWLF unit, the nature of the activity proposed, the probable
9 life of the proposed activity, the date the permit
10 application will be submitted, and a statement that persons
11 may file written comments with the Agency concerning the
12 permit application within 30 days after the filing of the
13 permit application unless the time period to submit comments
14 is extended by the Agency.

15 When a permit applicant submits information to the Agency
16 to supplement a permit application being reviewed by the
17 Agency, the applicant shall not be required to reissue the
18 notice under this subsection.

19 (2) The Agency shall accept written comments concerning
20 the permit application that are postmarked no later than 30
21 days after the filing of the permit application, unless the
22 time period to accept comments is extended by the Agency.

23 (3) Each applicant for a permit described in part (1) of
24 this subsection shall file a copy of the permit application
25 with the county board or governing body of the municipality
26 in which the MSWLF unit is or is proposed to be located at
27 the same time the application is submitted to the Agency.
28 The permit application filed with the county board or
29 governing body of the municipality shall include all
30 documents submitted to or to be submitted to the Agency,
31 except trade secrets as determined under Section 7.1 of this
32 Act. The permit application and other documents on file with
33 the county board or governing body of the municipality shall
34 be made available for public inspection during regular

1 business hours at the office of the county board or the
2 governing body of the municipality and may be copied upon
3 payment of the actual cost of reproduction.

4 (Source: P.A. 89-487, eff. 6-21-96; 89-556, eff. 7-26-96;
5 90-14, eff. 7-1-97; 90-367, eff. 8-10-97; 90-537, eff.
6 11-26-97; 90-655, eff 7-30-98.)

7 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

8 Sec. 39.2. Local siting review.

9 (a) The county board of the county or the governing body
10 of the municipality, as determined by paragraph (c) of
11 Section 39 of this Act, shall approve or disapprove the
12 request for local siting approval for each pollution control
13 facility which is subject to such review. An applicant for
14 local siting approval shall submit sufficient details
15 describing the proposed facility to demonstrate compliance,
16 and local siting approval shall be granted only if the
17 proposed facility meets the following criteria:

18 (i) the facility is necessary to accommodate the
19 waste needs of the area it is intended to serve;

20 (ii) the facility is so designed, located and
21 proposed to be operated that the public health, safety
22 and welfare will be protected;

23 (iii) the facility is located so as to minimize
24 incompatibility with the character of the surrounding
25 area and to minimize the effect on the value of the
26 surrounding property;

27 (iv) (A) for a facility other than a sanitary
28 landfill or waste disposal site, the facility is located
29 outside the boundary of the 100 year flood plain or the
30 site is flood-proofed; (B) for a facility that is a
31 sanitary landfill or waste disposal site, the facility is
32 located outside the boundary of the 100-year floodplain,
33 or if the facility is a facility described in subsection

1 (b)(3) of Section 22.19a, the site is flood-proofed;

2 (v) the plan of operations for the facility is
3 designed to minimize the danger to the surrounding area
4 from fire, spills, or other operational accidents;

5 (vi) the traffic patterns to or from the facility
6 are so designed as to minimize the impact on existing
7 traffic flows;

8 (vii) if the facility will be treating, storing or
9 disposing of hazardous waste, an emergency response plan
10 exists for the facility which includes notification,
11 containment and evacuation procedures to be used in case
12 of an accidental release;

13 (viii) if the facility is to be located in a county
14 where the county board has adopted a solid waste
15 management plan consistent with the planning requirements
16 of the Local Solid Waste Disposal Act or the Solid Waste
17 Planning and Recycling Act, the facility is consistent
18 with that plan; and

19 (ix) if the facility will be located within a
20 regulated recharge area, any applicable requirements
21 specified by the Board for such areas have been met.

22 The county board or the governing body of the
23 municipality may also consider as evidence the previous
24 operating experience and past record of convictions or
25 admissions of violations of the applicant (and any subsidiary
26 or parent corporation) in the field of solid waste management
27 when considering criteria (ii) and (v) under this Section.

28 (b) No later than 14 days before the date on which the
29 county board or governing body of the municipality receives
30 ~~prior--to~~ a request for site location approval, the applicant
31 shall cause written notice of such request to be served
32 either in person or by registered mail, return receipt
33 requested, on the owners of all property within the subject
34 area not solely owned by the applicant, and on the owners of

1 all property within 250 feet in each direction of the lot
2 line of the subject property, said owners being such persons
3 or entities which appear from the authentic tax records of
4 the County in which such facility is to be located; provided,
5 that the number of all feet occupied by all public roads,
6 streets, alleys and other public ways shall be excluded in
7 computing the 250 feet requirement; provided further, that in
8 no event shall this requirement exceed 400 feet, including
9 public streets, alleys and other public ways.

10 Such written notice shall also be served upon members of
11 the General Assembly from the legislative district in which
12 the proposed facility is located and shall be published in a
13 newspaper of general circulation published in the county in
14 which the site is located.

15 Such notice shall state the name and address of the
16 applicant, the location of the proposed site, the nature and
17 size of the development, the nature of the activity proposed,
18 the probable life of the proposed activity, the date when the
19 request for site approval will be submitted, and a
20 description of the right of persons to comment on such
21 request as hereafter provided.

22 (c) An applicant shall file a copy of its request with
23 the county board of the county or the governing body of the
24 municipality in which the proposed site is located. The
25 request shall include (i) the substance of the applicant's
26 proposal and (ii) all documents, if any, submitted as of that
27 date to the Agency pertaining to the proposed facility,
28 except trade secrets as determined under Section 7.1 of this
29 Act. All such documents or other materials on file with the
30 county board or governing body of the municipality shall be
31 made available for public inspection at the office of the
32 county board or the governing body of the municipality and
33 may be copied upon payment of the actual cost of
34 reproduction.

1 Any person may file written comment with the county board
2 or governing body of the municipality concerning the
3 appropriateness of the proposed site for its intended
4 purpose. The county board or governing body of the
5 municipality shall consider any comment received or
6 postmarked not later than 30 days after the date of the last
7 public hearing.

8 (d) At least one public hearing is to be held by the
9 county board or governing body of the municipality no sooner
10 than 90 days but no later than 120 days after the date on
11 which it received ~~from--receipt--of~~ the request for site
12 approval. No later than 14 days prior to such hearing,
13 notice shall be published in a newspaper of general
14 circulation published in the county of the proposed site, and
15 delivered by certified mail to all members of the General
16 Assembly from the district in which the proposed site is
17 located, to the governing authority of every municipality
18 contiguous to the proposed site or contiguous to the
19 municipality in which the proposed site is to be located, to
20 the county board of the county where the proposed site is to
21 be located, if the proposed site is located within the
22 boundaries of a municipality, and to the Agency. Members or
23 representatives of the governing authority of a municipality
24 contiguous to the proposed site or contiguous to the
25 municipality in which the proposed site is to be located
26 and, if the proposed site is located in a municipality,
27 members or representatives of the county board of a county in
28 which the proposed site is to be located may appear at and
29 participate in public hearings held pursuant to this Section.
30 The public hearing shall develop a record sufficient to form
31 the basis of appeal of the decision in accordance with
32 Section 40.1 of this Act. The fact that a member of the
33 county board or governing body of the municipality has
34 publicly expressed an opinion on an issue related to a site

1 review proceeding shall not preclude the member from taking
2 part in the proceeding and voting on the issue.

3 (e) Decisions of the county board or governing body of
4 the municipality are to be in writing, specifying the reasons
5 for the decision, such reasons to be in conformance with
6 subsection (a) of this Section. In granting approval for a
7 site the county board or governing body of the municipality
8 may impose such conditions as may be reasonable and necessary
9 to accomplish the purposes of this Section and as are not
10 inconsistent with regulations promulgated by the Board. Such
11 decision shall be available for public inspection at the
12 office of the county board or governing body of the
13 municipality and may be copied upon payment of the actual
14 cost of reproduction. If there is no final action by the
15 county board or governing body of the municipality within 180
16 days after the date on which it received filing--of the
17 request for site approval, the applicant may deem the request
18 approved.

19 At any time prior to completion by the applicant of the
20 presentation of the applicant's factual evidence and an
21 opportunity for cross-questioning by the county board or
22 governing body of the municipality and any participants, the
23 applicant may file not more than one amended application upon
24 payment of additional fees pursuant to subsection (k); in
25 which case the time limitation for final action set forth in
26 this subsection (e) shall be extended for an additional
27 period of 90 days.

28 If, prior to making a final local siting decision, a
29 county board or governing body of a municipality has
30 negotiated and entered into a host agreement with the local
31 siting applicant, the terms and conditions of the host
32 agreement, whether written or oral, shall be disclosed and
33 made a part of the hearing record for that local siting
34 proceeding. In the case of an oral agreement, the disclosure

1 shall be made in the form of a written summary jointly
2 prepared and submitted by the county board or governing body
3 of the municipality and the siting applicant and shall
4 describe the terms and conditions of the oral agreement.

5 (e-5) Siting approval obtained pursuant to this Section
6 is transferable and may be transferred to a subsequent owner
7 or operator. In the event that siting approval has been
8 transferred to a subsequent owner or operator, that
9 subsequent owner or operator assumes and takes subject to any
10 and all conditions imposed upon the prior owner or operator
11 by the county board of the county or governing body of the
12 municipality pursuant to subsection (e). However, any such
13 conditions imposed pursuant to this Section may be modified
14 by agreement between the subsequent owner or operator and the
15 appropriate county board or governing body. Further, in the
16 event that siting approval obtained pursuant to this Section
17 has been transferred to a subsequent owner or operator, that
18 subsequent owner or operator assumes all rights and
19 obligations and takes the facility subject to any and all
20 terms and conditions of any existing host agreement between
21 the prior owner or operator and the appropriate county board
22 or governing body.

23 (f) A local siting approval granted under this Section
24 shall expire at the end of 2 calendar years from the date
25 upon which it was granted, unless the local siting approval
26 granted under this Section is for a sanitary landfill
27 operation, in which case the approval shall expire at the end
28 of 3 calendar years from the date upon which it was granted,
29 and unless within that period the applicant has made
30 application to the Agency for a permit to develop the site.
31 In the event that the local siting decision has been
32 appealed, such expiration period shall be deemed to begin on
33 the date upon which the appeal process is concluded.

34 Except as otherwise provided in this subsection, upon the

1 expiration of a development permit under subsection (k) of
2 Section 39, any associated local siting approval granted for
3 the facility under this Section shall also expire.

4 If a first development permit for a municipal waste
5 incineration facility expires under subsection (k) of Section
6 39 after September 30, 1989 due to circumstances beyond the
7 control of the applicant, any associated local siting
8 approval granted for the facility under this Section may be
9 used to fulfill the local siting approval requirement upon
10 application for a second development permit for the same
11 site, provided that the proposal in the new application is
12 materially the same, with respect to the criteria in
13 subsection (a) of this Section, as the proposal that received
14 the original siting approval, and application for the second
15 development permit is made before January 1, 1990.

16 (g) The siting approval procedures, criteria and appeal
17 procedures provided for in this Act for new pollution control
18 facilities shall be the exclusive siting procedures and rules
19 and appeal procedures for facilities subject to such
20 procedures. Local zoning or other local land use requirements
21 shall not be applicable to such siting decisions.

22 (h) Nothing in this Section shall apply to any existing
23 or new pollution control facility located within the
24 corporate limits of a municipality with a population of over
25 1,000,000.

26 (i) (Blank.) ~~The--Department--shall--make--a--study--of~~
27 ~~technical--considerations--relating--to--the--siting--of--new~~
28 ~~pollution--control--facilities.--Such--study--shall--include,--but~~
29 ~~need--not--be--limited--to,--a--determination--of--the--geologic--and~~
30 ~~hydrologic--conditions--in--the--State--most--suitable--for--the~~
31 ~~siting--of--such--facilities,--the--establishment--of--a--data--base~~
32 ~~on--such--conditions--in--Illinois,--and--recommendations--for--the~~
33 ~~establishment--of--technical--guidelines--and--criteria--to--be--used~~
34 ~~in--making--such--siting--decisions.--The--Department--shall--report~~

1 ~~such study and recommendations to the General Assembly, the~~
2 ~~Governor, the Board and the public no later than October 1,~~
3 ~~1984.~~

4 The Board shall adopt regulations establishing the
5 geologic and hydrologic siting criteria necessary to protect
6 usable groundwater resources which are to be followed by the
7 Agency in its review of permit applications for new pollution
8 control facilities. Such regulations, insofar as they apply
9 to new pollution control facilities authorized to store,
10 treat or dispose of any hazardous waste, shall be at least as
11 stringent as the requirements of the Resource Conservation
12 and Recovery Act and any State or federal regulations adopted
13 pursuant thereto.

14 (j) Any new pollution control facility which has never
15 obtained local siting approval under the provisions of this
16 Section shall be required to obtain such approval after a
17 final decision on an appeal of a permit denial.

18 (k) A county board or governing body of a municipality
19 may charge applicants for siting review under this Section a
20 reasonable fee to cover the reasonable and necessary costs
21 incurred by such county or municipality in the siting review
22 process.

23 (l) The governing Authority as determined by subsection
24 (c) of Section 39 of this Act may request the Department of
25 Transportation to perform traffic impact studies of proposed
26 or potential locations for required pollution control
27 facilities.

28 (m) An applicant may not file a request for local siting
29 approval which is substantially the same as a request which
30 was disapproved pursuant to a finding against the applicant
31 under any of criteria (i) through (ix) of subsection (a) of
32 this Section within the preceding 2 years.

33 (n) In any review proceeding of a decision of the county
34 board or governing body of a municipality made pursuant to

1 the local siting review process, the petitioner in the review
2 proceeding shall pay to the county or municipality the cost
3 of preparing and certifying the record of proceedings.
4 Should the petitioner in the review proceeding fail to make
5 payment, the provisions of Section 3-109 of the Code of Civil
6 Procedure shall apply.

7 In the event the petitioner is a citizens' group that
8 participated in the siting proceeding and is so located as to
9 be affected by the proposed facility, such petitioner shall
10 be exempt from paying the costs of preparing and certifying
11 the record.

12 (o) Notwithstanding any other provision of this Section,
13 a transfer station used exclusively for landscape waste,
14 where landscape waste is held no longer than 24 hours from
15 the time it was received, is not subject to the requirements
16 of local siting approval under this Section, but is subject
17 only to local zoning approval.

18 (Source: P.A. 90-217, eff. 1-1-98; 90-409, eff. 8-15-97;
19 90-503, eff. 8-19-97; 90-537, eff. 11-26-97; 90-655, eff.
20 7-30-98; 91-588, eff. 8-14-99.)

21 (415 ILCS 5/39.3) (from Ch. 111 1/2, par. 1039.3)

22 Sec. 39.3. Hazardous waste facilities.

23 (a) The provisions of this Section apply to any
24 application for a permit under the Solid Waste Rules of the
25 Board's Rules and Regulations to develop a new pollution
26 control facility for the disposal of hazardous waste, and to
27 any application to modify the development of an existing site
28 or facility which would allow the disposal of hazardous waste
29 for the first time. The requirements of this Section are in
30 addition to any other procedures as may be required by law.

31 (b) Any application for a permit under this Section
32 shall be made to the Agency, and shall be accompanied by
33 proof that notice of the application has been served upon the

1 Attorney General, the State's Attorney and the Chairman of
2 the County Board of the county in which the facility is
3 proposed to be located, each member of the General Assembly
4 from the legislative district in which the facility is
5 proposed to be located, and the clerk of each municipality,
6 any portion of which is within three miles of the boundary of
7 the facility. Upon the request of any person upon whom
8 notice is required to be served, the applicant shall promptly
9 furnish a copy of the application to the person making the
10 request.

11 (c) (i) Not more than 90 days after receipt of a
12 complete application for a permit under this Section, the
13 Agency shall give public notice of its preliminary
14 determination to either issue or deny the permit, and shall
15 give notice of the opportunity for a public hearing on that
16 preliminary determination under this Section. Upon the
17 request of the permit applicant, or of any other person who
18 is admitted as a party pursuant to subsection (d), the Agency
19 shall schedule a public hearing pursuant to subsection (e).

20 (ii) The Agency notice shall be published in a newspaper
21 of general circulation in the county in which the site is
22 proposed to be located, and shall be served upon the Attorney
23 General, the State's Attorney and the Chairman of the County
24 Board of the county in which the facility is proposed to be
25 located, each member of the General Assembly from the
26 legislative district in which the facility is proposed to be
27 located, and the clerk of each municipality, any portion of
28 which is within three miles of the boundary of the facility.

29 (iii) The contents, form, and manner of service of the
30 Agency notice shall conform to the requirements of Section
31 10-25 of the Illinois Administrative Procedure Act.

32 (d) Within 60 days after the date of the Agency notice
33 required by subsection (c) of this Section, any person who
34 may be adversely affected by an Agency decision on the permit

1 application may petition the Agency to intervene before the
2 Agency as a party. The petition to intervene shall contain a
3 short and plain statement identifying the petitioner and
4 stating the petitioner's interest. The petitioner shall
5 serve the petition upon the applicant for the permit and upon
6 any other persons who have petitioned to intervene. Unless
7 the Agency determines that the petition is duplicative
8 ~~duplieiteus~~ or frivolous, it shall admit the petitioner as a
9 party.

10 (e) (i) Not less than 60 days nor more than 180 days
11 after the date of the Agency notice required by subsection
12 (c) of this Section, the Agency shall commence the public
13 hearing required by this Section.

14 (ii) The public hearing and other proceedings required
15 by this Section shall be conducted in accordance with the
16 provisions concerning contested cases of the Illinois
17 Administrative Procedure Act.

18 (iii) The public hearing required by this Section may,
19 with the concurrence of the Agency, the permit applicant and
20 the County Board of the county or the governing body of the
21 municipality, be conducted jointly with the public hearing
22 required by Section 39.2 of this Act.

23 (iv) All documents submitted to the Agency in connection
24 with the public hearing shall be reproduced and filed at the
25 office of the county board or governing body of the
26 municipality and may be copied upon payment of the actual
27 cost of reproduction.

28 (f) Within sixty days of the completion of the public
29 hearing required by this Section the Agency shall render a
30 final decision either granting or denying the permit.

31 (g) The Agency shall adopt such procedural rules as may
32 be necessary and appropriate to carry out its duties under
33 this Section which are not inconsistent with the requirements
34 of this Section. In adopting such procedural rules the

1 Agency shall follow the requirements concerning rulemaking of
2 the Illinois Administrative Procedure Act.

3 (h) This Section shall not apply to permits issued by
4 the Agency pursuant to authority delegated from the United
5 States pursuant to the Resource Conservation and Recovery Act
6 of 1976, P.L. 94-580, as amended, or the Safe Drinking Water
7 Act, P.L. 93-523, as amended.

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

9 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

10 Sec. 40. Appeal of permit denial.

11 (a) (1) If the Agency refuses to grant or grants with
12 conditions a permit under Section 39 of this Act, the
13 applicant may, within 35 days after the date on which the
14 Agency served its decision on the applicant, petition for a
15 hearing before the Board to contest the decision of the
16 Agency. However, the 35-day period for petitioning for a
17 hearing may be extended for an additional a period of time
18 not to exceed 90 days by written notice provided to the Board
19 from the applicant and the Agency within the initial appeal
20 period. The Board shall give 21 day notice to any person in
21 the county where is located the facility in issue who has
22 requested notice of enforcement proceedings and to each
23 member of the General Assembly in whose legislative district
24 that installation or property is located; and shall publish
25 that 21 day notice in a newspaper of general circulation in
26 that county. The Agency shall appear as respondent in such
27 hearing. At such hearing the rules prescribed in Section 32
28 and subsection (a) of Section 33 of this Act shall apply, and
29 the burden of proof shall be on the petitioner. If, however,
30 the Agency issues an NPDES permit that imposes limits which
31 are based upon a criterion or denies a permit based upon
32 application of a criterion, then the Agency shall have the
33 burden of going forward with the basis for the derivation of

1 those limits or criterion which were derived under the
2 Board's rules.

3 (2) Except as provided in paragraph (a)(3), if there is
4 no final action by the Board within 120 days after the date
5 on which it received the petition, the petitioner may deem
6 the permit issued under this Act, provided, however, that
7 that period of 120 days shall not run for any period of time,
8 not to exceed 30 days, during which the Board is without
9 sufficient membership to constitute the quorum required by
10 subsection (a) of Section 5 of this Act, and provided further
11 that such 120 day period shall not be stayed for lack of
12 quorum beyond 30 days regardless of whether the lack of
13 quorum exists at the beginning of such 120 day period or
14 occurs during the running of such 120 day period.

15 (3) Paragraph (a)(2) shall not apply to any permit which
16 is subject to subsection (b), (d) or (e) of Section 39. If
17 there is no final action by the Board within 120 days after
18 the date on which it received the petition, the petitioner
19 shall be entitled to an Appellate Court order pursuant to
20 subsection (d) of Section 41 of this Act.

21 (b) If the Agency grants a RCRA permit for a hazardous
22 waste disposal site, a third party, other than the permit
23 applicant or Agency, may, within 35 days after the date on
24 which the Agency issued its decision, petition the Board
25 ~~within-35-days~~ for a hearing to contest the issuance of the
26 permit. Unless the Board determines that such petition is
27 duplicative duplieiteus or frivolous, or that the petitioner
28 is so located as to not be affected by the permitted
29 facility, the Board shall hear the petition in accordance
30 with the terms of subsection (a) of this Section and its
31 procedural rules governing denial appeals, such hearing to be
32 based exclusively on the record before the Agency. The
33 burden of proof shall be on the petitioner. The Agency and
34 the permit applicant shall be named co-respondents.

1 The provisions of this subsection do not apply to the
2 granting of permits issued for the disposal or utilization of
3 sludge from publicly-owned sewage works.

4 (c) Any party to an Agency proceeding conducted pursuant
5 to Section 39.3 of this Act may petition as of right to the
6 Board for review of the Agency's decision within 35 days from
7 the date of issuance of the Agency's decision, provided that
8 such appeal is not duplicative ~~duplieiteous~~ or frivolous.
9 However, the 35-day period for petitioning for a hearing may
10 be extended by the applicant for a period of time not to
11 exceed 90 days by written notice provided to the Board from
12 the applicant and the Agency within the initial appeal
13 period. If another person with standing to appeal wishes to
14 obtain an extension, there must be a written notice provided
15 to the Board by that person, the Agency, and the applicant,
16 within the initial appeal period. The decision of the Board
17 shall be based exclusively on the record compiled in the
18 Agency proceeding. In other respects the Board's review
19 shall be conducted in accordance with subsection (a) of this
20 Section and the Board's procedural rules governing permit
21 denial appeals.

22 (d) In reviewing the denial or any condition of a permit
23 issued by the Agency pursuant to rules and regulations
24 adopted under subsection (c) of Section 9.1 of this Act, the
25 decision of the Board shall be based exclusively on the
26 record before the Agency including the record of the hearing,
27 if any, held pursuant to paragraph (f)(3) of Section 39
28 unless the parties agree to supplement the record. The Board
29 shall, if it finds the Agency is in error, make a final
30 determination as to the substantive limitations of the permit
31 including a final determination of Lowest Achievable Emission
32 Rate or Best Available Control Technology.

33 (e) (1) If the Agency grants or denies a permit under
34 subsection (b) of Section 39 of this Act, a third party,

1 other than the permit applicant or Agency, may petition
 2 the Board within 35 days from the date of issuance of the
 3 Agency's decision, for a hearing to contest the decision
 4 of the Agency.

5 (2) A petitioner shall include the following within
 6 a petition submitted under subdivision (1) of this
 7 subsection:

8 (A) a demonstration that the petitioner raised
 9 the issues contained within the petition during the
 10 public notice period or during the public hearing on
 11 the NPDES permit application, if a public hearing
 12 was held; and

13 (B) a demonstration that the petitioner is so
 14 situated as to be affected by the permitted
 15 facility.

16 (3) If the Board determines that the petition is
 17 not duplicative ~~duplieiteus~~ or frivolous and contains a
 18 satisfactory demonstration under subdivision (2) of this
 19 subsection, the Board shall hear the petition (i) in
 20 accordance with the terms of subsection (a) of this
 21 Section and its procedural rules governing permit denial
 22 appeals and (ii) exclusively on the basis of the record
 23 before the Agency. The burden of proof shall be on the
 24 petitioner. The Agency and permit applicant shall be
 25 named co-respondents.

26 (f) Any person who files a petition to contest the
 27 issuance of a permit by the Agency shall pay a filing fee.

28 (Source: P.A. 90-274, eff. 7-30-97.)

29 (415 ILCS 5/40.1) (from Ch. 111 1/2, par. 1040.1)
 30 Sec. 40.1. Appeal of siting approval.

31 (a) If the county board or the governing body of the
 32 municipality, as determined by paragraph (c) of Section 39 of
 33 this Act, refuses to grant or grants with conditions approval

1 under Section 39.2 of this Act, the applicant may, within 35
2 days after the date on which the local siting authority
3 disapproved or conditionally approved siting, petition for a
4 hearing before the Board to contest the decision of the
5 county board or the governing body of the municipality. The
6 Board shall publish 21 day notice of the hearing on the
7 appeal in a newspaper of general circulation published in
8 that county. The county board or governing body of the
9 municipality shall appear as respondent in such hearing, and
10 such hearing shall be based exclusively on the record before
11 the county board or the governing body of the municipality.
12 At such hearing the rules prescribed in Sections 32 and 33
13 (a) of this Act shall apply, and the burden of proof shall be
14 on the petitioner; however, no new or additional evidence in
15 support of or in opposition to any finding, order,
16 determination or decision of the appropriate county board or
17 governing body of the municipality shall be heard by the
18 Board. In making its orders and determinations under this
19 Section the Board shall include in its consideration the
20 written decision and reasons for the decision of the county
21 board or the governing body of the municipality, the
22 transcribed record of the hearing held pursuant to subsection
23 (d) of Section 39.2, and the fundamental fairness of the
24 procedures used by the county board or the governing body of
25 the municipality in reaching its decision. The Board shall
26 transmit a copy of its decision to the office of the county
27 board or governing body of the municipality where it shall be
28 available for public inspection and copied upon payment of
29 the actual cost of reproduction. If there is no final action
30 by the Board within 120 days after the date on which it
31 received the petition, the petitioner may deem the site
32 location approved; provided, however, that that period of 120
33 days shall not run for any period of time, not to exceed 30
34 days, during which the Board is without sufficient membership

1 to constitute the quorum required by subsection (a) of
2 Section 5 of this Act, and provided further, that such 120
3 day period shall not be stayed for lack of quorum beyond 30
4 days regardless of whether the lack of quorum exists at the
5 beginning of such 120 day period or occurs during the running
6 of such 120 day period.

7 (b) If the county board or the governing body of the
8 municipality as determined by paragraph (c) of Section 39 of
9 this Act, grants approval under Section 39.2 of this Act, a
10 third party other than the applicant who participated in the
11 public hearing conducted by the county board or governing
12 body of the municipality may, ~~petition the~~ Board within 35
13 days after the date on which the local siting authority
14 granted siting approval, petition the Board for a hearing to
15 contest the approval of the county board or the governing
16 body of the municipality. Unless the Board determines that
17 such petition is duplicative ~~duplieiteous~~ or frivolous, or
18 that the petitioner is so located as to not be affected by
19 the proposed facility, the Board shall hear the petition in
20 accordance with the terms of subsection (a) of this Section
21 and its procedural rules governing denial appeals, such
22 hearing to be based exclusively on the record before county
23 board or the governing body of the municipality. The burden
24 of proof shall be on the petitioner. The county board or the
25 governing body of the municipality and the applicant shall be
26 named as co-respondents.

27 The Board shall transmit a copy of its decision to the
28 office of the county board or governing body of the
29 municipality where it shall be available for public
30 inspection and may be copied upon payment of the actual cost
31 of reproduction.

32 (c) Any person who files a petition to contest a
33 decision of the county board or governing body of the
34 municipality shall pay a filing fee.

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

2 (415 ILCS 5/40.2) (from Ch. 111 1/2, par. 1040.2)

3 Sec. 40.2. Application of review process.

4 (a) Subsection (a) of Section 40 does not apply to any
5 permit which is subject to Section 39.5. If the Agency
6 refuses to grant or grants with conditions a CAAPP permit,
7 makes a determination of incompleteness regarding a submitted
8 CAAPP application, or fails to act on an application for a
9 CAAPP permit, permit renewal, or permit revision within the
10 time specified in paragraph 5(j) of Section 39.5 of this Act,
11 the applicant, any person who participated in the public
12 comment process pursuant to subsection 8 of Section 39.5 of
13 this Act, or any other person who could obtain judicial
14 review ~~a--hearing-before-the-Board~~ pursuant to Section 41(a)
15 of this Act, may, within 35 days after final permit action,
16 petition for a hearing before the Board to contest the
17 decision of the Agency. However, the 35-day period for
18 petitioning for a hearing may be extended by the applicant
19 for an additional a period of time not to exceed 90 days by
20 written notice provided to the Board from the applicant and
21 the Agency within the initial appeal period. If another
22 person with standing to appeal wishes to obtain an extension,
23 there must be a written notice provided to the Board by that
24 person, the Agency, and the applicant, within the initial
25 appeal period. Notwithstanding the preceding requirements,
26 petitions for a hearing before the Board under this
27 subsection may be filed after the 35-day period, only if such
28 petitions are based solely on grounds arising after the
29 35-day period expires. Such petitions shall be filed within
30 35 days after the new grounds for review arise. If the final
31 permit action being challenged is the Agency's failure to
32 take final action, a petition for a hearing before the Board
33 shall be filed before the Agency denies or issues the final

1 permit.

2 The Agency shall appear as respondent in such hearing.
3 At such hearing the rules prescribed in Sections 32 and 33(a)
4 of this Act shall apply, and the burden of proof shall be on
5 the petitioner.

6 (b) The Agency's failure to take final action within 90
7 days of receipt of an application requesting minor permit
8 modification procedures (or 180 days for modifications
9 subject to group processing requirements), pursuant to
10 subsection 14 of Section 39.5, will be subject to this
11 Section and Section 41 of this Act.

12 (c) If there is no final action by the Board within 120
13 days after the date on which it received the petition, the
14 permit shall not be deemed issued; rather, the petitioner
15 shall be entitled to an Appellate Court order pursuant to
16 Section 41(d) of this Act. The period of 120 days shall not
17 run for any period of time, not to exceed 30 days, during
18 which the Board is without sufficient membership to
19 constitute the quorum required by subsection (a) of Section 5
20 of this Act; the 120 day period shall not be stayed for lack
21 of quorum beyond 30 days, regardless of whether the lack of
22 quorum exists at the beginning of the 120 day period or
23 occurs during the running of the 120 day period.

24 (d) Any person who files a petition to contest the final
25 permit action by the Agency under this Section shall pay a
26 filing fee.

27 (e) The Agency shall notify USEPA, in writing, of any
28 petition for hearing brought under this Section involving a
29 provision or denial of a Phase II acid rain permit within 30
30 days of the filing of the petition. USEPA may intervene as a
31 matter of right in any such hearing. The Agency shall notify
32 USEPA, in writing, of any determination or order in a hearing
33 brought under this Section that interprets, voids, or
34 otherwise relates to any portion of a Phase II acid rain

1 permit.

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

3 (415 ILCS 5/45) (from Ch. 111 1/2, par. 1045)

4 Sec. 45. Injunctive and other relief.

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

20 (b) Any person adversely affected in fact by a violation
21 of this Act, any rule or regulation adopted under this Act,
22 or any permit or term or condition of a permit, or of
23 regulations-adopted-thereunder may sue for injunctive relief
24 against such violation. However, except as provided in
25 subsection (d), no action shall be brought under this Section
26 until 30 days after the plaintiff has been denied relief by
27 the Board in a proceeding brought under subsection (d) ~~(b)~~ of
28 Section 31 of this Act. The prevailing party shall be
29 awarded costs and reasonable attorneys' fees.

30 (c) Nothing in Section 39.4 of this Act shall limit the
31 authority of the Agency to proceed with enforcement under the
32 provisions of this Act for violations of terms and conditions
33 of an endorsed agrichemical facility permit, an endorsed

1 lawncare containment permit, or this Act or regulations
 2 hereunder caused or threatened by an agrichemical facility or
 3 a lawncare wash water containment area, provided that prior
 4 notice is given to the Department of Agriculture which
 5 provides that Department an opportunity to respond as
 6 appropriate.

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

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

28 (415 ILCS 5/49) (from Ch. 111 1/2, par. 1049)

29 Sec. 49. Proceedings governed by Act; compliance as
 30 defense.

31 (a) (Blank.) ~~Until-the-Board-and-the-Agency-established~~
 32 ~~by--this--Act--has--been--appointed--and--taken--office,--the~~
 33 ~~functions--assigned--to--the--Board--and--to--the--Agency--shall--be~~

1 performed--by--the--members--of--the--existing--Air-Pollution
2 Control-Board-and-Sanitary-Water-Board-and-by-the--Department
3 of-Public-Health.

4 (b) All proceedings respecting acts done before the
5 effective date of this Act shall be determined in accordance
6 with the law and regulations in force at the time such acts
7 occurred. All proceedings instituted for actions taken after
8 the effective date of this Act (July 1, 1970) shall be
9 governed by this Act.

10 (c) (Blank.) All--rules--and--regulations--of--the--Air
11 Pollution--Control--Board,--the--Sanitary-Water-Board,--or--the
12 Department-of-Public-Health--relating--to--subjects--embraced
13 within--this--Act--shall--remain--in--full--force--and--effect--until
14 repealed,--amended,--or--superseded--by--regulations--under--this
15 Act.

16 (d) (Blank.) All----orders----entered,---permits---or
17 eertifications-granted,--and-pending-proceedings-instituted-by
18 the-Air-Pollution-Control-Board,--the-Sanitary-Water-Board,--or
19 the-Department-of-Public-Health-relating-to-subjects-embraced
20 within-this-Act--shall--remain--in--full--force--and--effect--until
21 superseded-by-actions-taken-under-this-Act.

22 (e) Compliance with the rules and regulations
23 promulgated by the Board under this Act shall constitute a
24 prima facie defense to any action, legal, equitable, or
25 criminal, or an administrative proceeding for a violation of
26 this Act, brought by any person.

27 (Source: P.A. 76-2429.)

28 (415 ILCS 5/55) (from Ch. 111 1/2, par. 1055)
29 Sec. 55. Prohibited activities.

30 (a) No person shall:

31 (1) Cause or allow the open dumping of any used or
32 waste tire.

33 (2) Cause or allow the open burning of any used or

1 waste tire.

2 (3) Except at a tire storage site which contains
3 more than 50 used tires, cause or allow the storage of
4 any used tire unless the tire is altered, reprocessed,
5 converted, covered, or otherwise prevented from
6 accumulating water.

7 (4) Cause or allow the operation of a tire storage
8 site except in compliance with Board regulations.

9 (5) Abandon, dump or dispose of any used or waste
10 tire on private or public property, except in a sanitary
11 landfill approved by the Agency pursuant to regulations
12 adopted by the Board.

13 (6) Fail to submit required reports, tire removal
14 agreements, or Board regulations.

15 (b) (Blank.) Beginning July 1, 1994 through December 31,
16 1994, no person shall knowingly mix any whole used or waste
17 tire with municipal waste, and no owner or operator of a
18 sanitary landfill shall accept any whole used or waste tire
19 for final disposal, except that such tires when separated
20 from other waste may be accepted if: (1) the sanitary
21 landfill provides and maintains a means for shredding,
22 slitting or chopping such tires and so treats all such tires
23 prior to disposal; and (2) the sanitary landfill implements a
24 program to actively seek alternative uses for the tire scraps
25 so as to minimize the need for on-site disposal, including at
26 a minimum participation in the Illinois Industrial Materials
27 Exchange Service to communicate the availability of the tire
28 scraps, and consultation with the Department of Commerce and
29 Community Affairs regarding the status of regional marketing
30 of tire scraps to facilities for reuse, reprocessing or
31 converting. Such alternative uses may also include on-site
32 practices such as lining of roadways with tire scraps.

33 (b-1) Beginning January 1, 1995, no person shall
34 knowingly mix any used or waste tire, either whole or cut,

1 with municipal waste, and no owner or operator of a sanitary
2 landfill shall accept any used or waste tire for final
3 disposal; except that used or waste tires, when separated
4 from other waste, may be accepted if: (1) the sanitary
5 landfill provides and maintains a means for shredding,
6 slitting, or chopping whole tires and so treats whole tires
7 and, if approved by the Agency in a permit issued under this
8 Act, uses the used or waste tires for alternative uses, which
9 may include on-site practices such as lining of roadways with
10 tire scraps, alternative daily cover, or use in a leachate
11 collection system or (2) the sanitary landfill, by its
12 notification to the Illinois Industrial Materials Exchange
13 Service, makes available the used or waste tire to an
14 appropriate facility for reuse, reprocessing, or converting,
15 including use as an alternate energy fuel. If, within 30
16 days after notification to the Illinois Industrial Materials
17 Exchange Service of the availability of waste tires, no
18 specific request for the used or waste tires is received by
19 the sanitary landfill, and the sanitary landfill determines
20 it has no alternative use for those used or waste tires, the
21 sanitary landfill may dispose of slit, chopped, or shredded
22 used or waste tires in the sanitary landfill. In the event
23 the physical condition of a used or waste tire makes
24 shredding, slitting, chopping, reuse, reprocessing, or other
25 alternative use of the used or waste tire impractical or
26 infeasible, then the sanitary landfill, after authorization
27 by the Agency, may accept the used or waste tire for
28 disposal.

29 Sanitary landfills and facilities for reuse,
30 reprocessing, or converting, including use as alternative
31 fuel, shall (i) notify the Illinois Industrial Materials
32 Exchange Service of the availability of and demand for used
33 or waste tires and (ii) consult with the Department of
34 Commerce and Community Affairs regarding the status of

1 marketing of waste tires to facilities for reuse.

2 (c) On or before January 1, 1990, any person who
3 operates a tire storage site or a tire disposal site which
4 contains more than 50 used or waste tires shall give notice
5 of such activity to the Agency. Any person engaging in such
6 activity for the first time after January 1, 1990, shall give
7 notice to the Agency within 30 days after the date of
8 commencement of the activity. The form of such notice shall
9 be specified by the Agency and shall be limited to
10 information regarding the following:

- 11 (1) the name and address of the owner and operator;
- 12 (2) the name, address and location of the
13 operation;
- 14 (3) the type of operations involving used and waste
15 tires (storage, disposal, conversion or processing); and
- 16 (4) the number of used and waste tires present at
17 the location.

18 (d) Beginning January 1, 1992, no person shall cause or
19 allow the operation of:

- 20 (1) a tire storage site which contains more than 50
21 used tires, unless the owner or operator, by January 1,
22 1992 (or the January 1 following commencement of
23 operation, whichever is later) and January 1 of each year
24 thereafter, (i) registers the site with the Agency, (ii)
25 certifies to the Agency that the site complies with any
26 applicable standards adopted by the Board pursuant to
27 Section 55.2, (iii) reports to the Agency the number of
28 tires accumulated, the status of vector controls, and the
29 actions taken to handle and process the tires, and (iv)
30 pays the fee required under subsection (b) of Section
31 55.6; or
- 32 (2) a tire disposal site, unless the owner or
33 operator (i) has received approval from the Agency after
34 filing a tire removal agreement pursuant to Section 55.4,

1 or (ii) has entered into a written agreement to
2 participate in a consensual removal action under Section
3 55.3.

4 The Agency shall provide written forms for the annual
5 registration and certification required under this subsection
6 (d).

7 (e) No person shall cause or allow the storage,
8 disposal, treatment or processing of any used or waste tire
9 in violation of any regulation or standard adopted by the
10 Board.

11 (f) No person shall arrange for the transportation of
12 used or waste tires away from the site of generation with a
13 person known to openly dump such tires.

14 (g) No person shall engage in any operation as a used or
15 waste tire transporter except in compliance with Board
16 regulations.

17 (h) No person shall cause or allow the combustion of any
18 used or waste tire in an enclosed device unless a permit has
19 been issued by the Agency authorizing such combustion
20 pursuant to regulations adopted by the Board for the control
21 of air pollution and consistent with the provisions of
22 Section 9.4 of this Act.

23 (i) No person shall cause or allow the use of pesticides
24 to treat tires except as prescribed by Board regulations.

25 (j) No person shall fail to comply with the terms of a
26 tire removal agreement approved by the Agency pursuant to
27 Section 55.4.

28 (Source: P.A. 88-690, eff. 1-24-95; 89-445, eff. 2-7-96.)

29 (415 ILCS 5/56.1) (from Ch. 111 1/2, par. 1056.1)

30 Sec. 56.1. Acts prohibited.

31 (A) No person shall:

32 (a) Cause or allow the disposal of any potentially
33 infectious medical waste. Sharps may be disposed in any

1 landfill permitted by the Agency under Section 21 of this Act
2 to accept municipal waste for disposal, if both:

3 (1) the infectious potential has been eliminated
4 from the sharps by treatment; and

5 (2) the sharps are packaged in accordance with
6 Board regulations.‡

7 (A) ~~--Board-regulations;--or~~

8 (B) ~~--subsection-(b)(2),--until-Board-regulations~~
9 ~~relating-to-the-packaging-of-potentially--infectious~~
10 ~~medical-waste-are-adopted-and-effective.~~

11 (b) Cause or allow the delivery of any potentially
12 infectious medical waste for transport, storage, treatment,
13 or transfer except in accordance with Board regulations.‡

14 (1) ~~--Board-regulations;--or~~

15 (2) ~~--the-following,--until-Board-regulations-relating~~
16 ~~to--the-packaging-of-potentially-infectious-medical-waste~~
17 ~~are-adopted-and-effective:~~

18 (A) ~~--All-potentially-infectious--medical--waste~~
19 ~~shall--be--placed--in-a-container-or-containers-that~~
20 ~~are-(i)-rigid;-(ii)-leak-resistant;-(iii)-impervious~~
21 ~~to--moisture;--(iv)--of--a--strength--sufficient--to~~
22 ~~prevent-tearing-or-bursting-under-normal--conditions~~
23 ~~of--use--and--handling;--and--(v)--sealed-to-prevent~~
24 ~~leakage-during-transport.~~

25 (B) ~~--In--addition--to---the---requirements---of~~
26 ~~subsection---(b)(2)(A),---sharps---and--sharps--with~~
27 ~~residual-fluids-shall-be-packaged-in-packaging--that~~
28 ~~is-puncture-resistant.~~

29 (C) ~~--Oversized--potentially--infectious-medical~~
30 ~~waste-need-not-be-placed-in-containers.~~

31 (c) Beginning July 1, 1992, cause or allow the delivery
32 of any potentially infectious medical waste to a person or
33 facility for storage, treatment, or transfer that does not
34 have a permit issued by the agency to receive potentially

1 infectious medical waste, unless no permit is required under
2 subsection (g)(1).

3 (d) Beginning July 1, 1992, cause or allow the delivery
4 or transfer of any potentially infectious medical waste for
5 transport unless:

6 (1) the transporter has a permit issued by the
7 Agency to transport potentially infectious medical waste,
8 or the transporter is exempt from the permit requirement
9 set forth in subsection (f)(1).

10 (2) a potentially infectious medical waste manifest
11 is completed for the waste if a manifest is required
12 under subsection (h).

13 (e) Cause or allow the acceptance of any potentially
14 infectious medical waste for purposes of transport, storage,
15 treatment, or transfer except in accordance with Board
16 regulations.‡

17 ~~{1}--Board-regulations;-or~~

18 ~~{2}--The-following,-until-Board-regulations-relating~~
19 ~~to-the-packaging-and-storage--of--potentially--infectious~~
20 ~~medical-waste-are-adopted-and-effective:~~

21 ~~{A}--All--potentially--infectious-medical-waste~~
22 ~~shall-be-placed-in-a-container--or--containers--that~~
23 ~~are-(i)-rigid;--(ii)-leak-resistant;--(iii)-impervious~~
24 ~~to--moisture;--(iv)--of--a--strength--sufficient--to~~
25 ~~prevent--tearing-or-bursting-under-normal-conditions~~
26 ~~of-use-and--handling;---and--(v)--sealed--to--prevent~~
27 ~~leakage-during-transport.~~

28 ~~{B}--In---addition---to---the--requirements--of~~
29 ~~subsection--(b){2}{A},--sharps---and---sharps---with~~
30 ~~residual--fluids-shall-be-packaged-in-packaging-that~~
31 ~~is-puncture-resistant.~~

32 ~~{C}--Oversized-potentially--infectious--medical~~
33 ~~waste-need-not-be-placed-in-containers.~~

34 ~~{D}--Any---person---who---stores---potentially~~

1 infectious--medical--waste--prior--to--treatment--or
2 disposal--on-site--or--transport--off-site--must--comply
3 with--all--of--the--following--storage--requirements:

4 (i)--Store---the---potentially--infectious
5 medical--waste--in--a--manner--and--location--that
6 maintains--the--integrity--of--the--packaging--and
7 provides--protection--from--water,--rain,--and--wind.

8 (ii)--Maintain--the--potentially--infectious
9 medical--waste--in--a--nonputrescent--state,--using
10 refrigeration--when--necessary.

11 (iii)--Lock--the--outdoor--storage---areas
12 containing--potentially--infectious--medical--waste
13 to--prevent--unauthorized--access.

14 (iv)--Limit---access--to--on-site--storage
15 areas--to--authorized--employees.

16 (v)--Store--the---potentially---infectious
17 medical---waste---in---a--manner--that--affords
18 protection--from--animals--and--does--not--provide--a
19 breeding--place--or--a--food--source--for--insects--and
20 rodents.

21 (f) Beginning July 1, 1992, conduct any potentially
22 infectious medical waste transportation operation:

23 (1) Without a permit issued by the Agency to
24 transport potentially infectious medical waste. No permit
25 is required under this provision (f)(1) for:

26 (A) a person transporting potentially
27 infectious medical waste generated solely by that
28 person's activities;

29 (B) noncommercial transportation of less than
30 50 pounds of potentially infectious medical waste at
31 any one time; or

32 (C) the U.S. Postal Service.

33 (2) In violation of any condition of any permit
34 issued by the Agency under this Act.

1 (3) In violation of any regulation adopted by the
2 Board.

3 (4) In violation of any order adopted by the Board
4 under this Act.

5 (g) Beginning July 1, 1992, conduct any potentially
6 infectious medical waste treatment, storage, or transfer
7 operation:

8 (1) without a permit issued by the Agency that
9 specifically authorizes the treatment, storage, or transfer
10 of potentially infectious medical waste. No permit is
11 required under this subsection (g) for any:

12 (A) Person conducting a potentially infectious
13 medical waste treatment, storage, or transfer
14 operation for potentially infectious medical waste
15 generated by the person's own activities that are
16 treated, stored, or transferred within the site
17 where the potentially infectious medical waste is
18 generated.

19 (B) Hospital that treats, stores, or transfers
20 only potentially infectious medical waste generated
21 by its own activities or by members of its medical
22 staff.

23 (2) in violation of any condition of any permit
24 issued by the Agency under this Act.

25 (3) in violation of any regulation adopted by the
26 Board.

27 (4) In violation of any order adopted by the Board
28 under this Act.

29 (h) Transport potentially infectious medical waste
30 unless the transporter carries a completed potentially
31 infectious medical waste manifest. No manifest is required
32 for the transportation of:

33 (1) potentially infectious medical waste being
34 transported by generators who generated the waste by

1 their own activities, when the potentially infectious
2 medical waste is transported within or between sites or
3 facilities owned, controlled, or operated by that person;

4 (2) less than 50 pounds of potentially infectious
5 medical waste at any one time for a noncommercial
6 transportation activity; or

7 (3) potentially infectious medical waste by the
8 U.S. Postal Service.

9 (i) Offer for transportation, transport, deliver,
10 receive or accept potentially infectious medical waste for
11 which a manifest is required, unless the manifest indicates
12 that the fee required under Section 56.4 of this Act has
13 been paid.

14 (j) Beginning January 1, 1994, conduct a potentially
15 infectious medical waste treatment operation at an
16 incinerator in existence on the effective date of this Title
17 in violation of emission standards established for these
18 incinerators under Section 129 of the Clean Air Act (42 USC
19 7429), as amended.

20 (B) ~~(k)~~ In making its orders and determinations relative
21 to penalties, if any, to be imposed for violating subdivision
22 (A)(a) of this Section ~~56.1(a) of this Act~~, the Board, in
23 addition to the factors in Sections 33(c) and 42(h) of this
24 Act, or the Court shall take into consideration whether the
25 owner or operator of the landfill reasonably relied on
26 written statements from the person generating or treating the
27 waste that the waste is not potentially infectious medical
28 waste.

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

30 (415 ILCS 5/56.2) (from Ch. 111 1/2, par. 1056.2)
31 Sec. 56.2. Regulations.

32 (a) No later than July 1, 1993, the Board shall adopt
33 regulations in accordance with Title VII of this Act

1 prescribing design and operating standards and criteria for
2 all potentially infectious medical waste treatment, storage,
3 and transfer facilities. At a minimum, these regulations
4 shall require treatment of potentially infectious medical
5 waste at a facility that:

6 (1) eliminates the infectious potential of the
7 waste;

8 (2) prevents compaction and rupture of containers
9 during handling operations;

10 (3) disposes of treatment residuals in accordance
11 with this Act and regulations adopted thereunder;

12 (4) provides for quality assurance programs;

13 (5) provides for periodic testing using biological
14 testing, where appropriate, that demonstrate proper
15 treatment of the waste;

16 (6) provides for assurances that clearly
17 demonstrate that potentially infectious medical waste has
18 been properly treated; and

19 (7) is in compliance with all Federal and State
20 laws and regulations pertaining to environmental
21 protection.

22 (b) ~~Until the effective date of the Board regulations~~
23 ~~adopted under subsection (a), each applicant for a~~
24 ~~potentially infectious medical waste treatment permit shall~~
25 ~~prove that the facility will not cause a violation of the Act~~
26 ~~or of regulations adopted thereunder, and prove that the~~
27 ~~facility meets the requirements set forth in subsections~~
28 ~~(a)(1) through (a)(7).~~ After the effective date of the Board
29 regulations adopted under subsection (a), each applicant for
30 a potentially infectious medical waste treatment permit shall
31 prove that the facility will not cause a violation of the Act
32 or of regulations adopted thereunder.

33 (c) No later than July 1, 1993, the Board shall adopt
34 regulations in accordance with Title VII of this Act

1 prescribing standards and criteria for transporting,
2 packaging, segregating, labeling, and marking potentially
3 infectious medical waste.

4 (d) In accord with Title VII of this Act, no later than
5 January 1, 1992, the Board shall repeal Subpart I of 35 Ill.
6 Adm. Code 809.

7 (e) No later than January 1, 1992, the Board shall adopt
8 rules that are identical in substance to the list of
9 etiologic agents identified as Class 4 agents as set forth in
10 "Classification of Etiological Agents on the Basis of Hazard,
11 1974", published by the Centers for Disease Control. If the
12 Centers for Disease Control amends the listing of etiologic
13 agents identified as Class 4 agents as set forth in
14 "Classification of Etiological Agents on the Basis of Hazard,
15 1974", the Board shall adopt rules that are identical in
16 substance to the amended list within 180 days after the
17 Centers for Disease Control's amendment. The provisions and
18 requirements of Title VII of this Act shall not apply to
19 rules adopted under this subsection (e). Section 5 of the
20 Illinois Administrative Procedure Act relating to the
21 procedures for rulemaking shall not apply to rules adopted
22 under this subsection (e).

23 (f) In accord with Title VII of this Act, the Board may
24 adopt regulations to promote the purposes of this Title. The
25 regulations prescribed in subsection (a), (c), and (e) shall
26 not limit the generality of this authority.

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

28 (415 ILCS 5/57.7)

29 Sec. 57.7. Leaking underground storage tanks; physical
30 soil classification, groundwater investigation, site
31 classification, and corrective action.

32 (a) Physical soil classification and groundwater
33 investigation.

1 (1) Prior to conducting any physical soil
2 classification and groundwater investigation activities
3 required by statute or regulation, the owner or operator
4 shall prepare and submit to the Agency for the Agency's
5 approval or modification:

6 (A) a physical soil classification and
7 groundwater investigation plan designed to
8 determine site classification, in accordance
9 with subsection (b) of this Section, as High
10 Priority, Low Priority, or No Further Action.

11 (B) a request for payment of costs
12 associated with eligible early action costs as
13 provided in Section 57.6(b). However, for
14 purposes of payment for early action costs,
15 fill materials shall not be removed in an
16 amount in excess of 4 feet from the outside
17 dimensions of the tank.

18 (2) If the owner or operator intends to seek
19 payment from the Fund, prior to conducting any physical
20 soil classification and groundwater investigation
21 activities required by statute or regulation, the owner
22 or operator shall submit to the Agency for the Agency's
23 approval or modification a physical soil classification
24 and groundwater investigation budget which includes, but
25 is not limited to, an accounting of all costs associated
26 with the implementation and completion of the physical
27 soil classification and groundwater investigation plan.

28 (3) Within 30 days of completion of the physical
29 soil classification or groundwater investigation report
30 the owner or operator shall submit to the Agency:

31 (A) all physical soil classification and
32 groundwater investigation results; and

33 (B) a certification by a Licensed Professional
34 Engineer of the site's classification as High

1 Priority, Low Priority, or No Further Action in
2 accordance with subsection (b) of this Section as
3 High Priority, Low Priority, or No Further Action.

4 (b) Site Classification.

5 (1) After evaluation of the physical soil
6 classification and groundwater investigation results,
7 when required, and general site information, the site
8 shall be classified as "No Further Action", "Low
9 Priority", or "High Priority" based on the requirements
10 of this Section. Site classification shall be determined
11 by a Licensed Professional Engineer in accordance with
12 the requirements of this Title and the Licensed
13 Professional Engineer shall submit a certification to the
14 Agency of the site classification. The Agency has the
15 authority to audit site classifications and reject or
16 modify any site classification inconsistent with the
17 requirements of this Title.

18 (2) Sites shall be classified as No Further Action
19 if the criteria in subparagraph (A) are satisfied:

20 (A)(i) The site is located in an area
21 designated D, E, F and G on the Illinois Geological
22 Survey Circular (1984) titled "Potential for
23 Contamination of Shallow Aquifers in Illinois," by
24 Berg, Richard C., et al.;

25 (ii) A site evaluation under the direction of
26 a Licensed Professional Engineer verifies the
27 physical soil classification conditions are
28 consistent with those indicated on the Illinois
29 Geological Survey Circular (1984) titled "Potential
30 for Contamination of Shallow Aquifers in Illinois,"
31 by Berg, Richard C., et al.; and

32 (iii) The conditions identified in subsections
33 (b)(3)(B), (C), (D), and (E) do not exist.

34 (B) Groundwater investigation monitoring may

1 be required to confirm that a site meets the
2 criteria of a No Further Action site. The Board
3 shall adopt rules setting forth the criteria under
4 which the Agency may exercise its discretionary
5 authority to require investigations and the minimum
6 field requirements for conducting investigations.

7 (3) Sites shall be classified as High Priority if
8 any of the following are met:

9 (A) The site is located in an area designated
10 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
11 or C5 on the Illinois Geological Survey Circular
12 (1984) titled "Potential for Contamination of
13 Shallow Aquifers in Illinois," by Berg, Richard C.,
14 et al.; a site evaluation under the direction of a
15 Licensed Professional Engineer verifies the physical
16 soil classifications conditions are consistent with
17 those indicated on the Illinois Geological Survey
18 Circular (1984) entitled "Potential for
19 Contamination of Shallow Aquifers in Illinois," by
20 Berg, Richard C., et al.; and the results of the
21 physical soil classification and groundwater
22 investigation indicate that an applicable indicator
23 contaminant groundwater quality standard or
24 groundwater objective has been exceeded at the
25 property boundary line or 200 feet from the
26 excavation, whichever is less as a consequence of
27 the underground storage tank release.

28 (B) The underground storage tank is within the
29 minimum or maximum setback zone of a potable water
30 supply well or regulated recharge area of a potable
31 water supply well.

32 (C) There is evidence that, through natural or
33 manmade pathways, migration of petroleum or vapors
34 threaten human health or human safety or may cause

1 explosions in basements, crawl spaces, utility
2 conduits, storm or sanitary sewers, vaults or other
3 confined spaces.

4 (D) Class III special resource groundwater
5 exists within 200 feet of the excavation.

6 (E) A surface water body is adversely affected
7 by the presence of a visible sheen or free product
8 layer as the result of an underground storage tank
9 release.

10 (4) Sites shall be classified as Low Priority if
11 all of the following are met:

12 (A) The site does not meet any of the criteria
13 for classification as a High Priority Site.

14 (B) (i) The site is located in area designated
15 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
16 C5 on the Illinois Geological Survey Circular (1984)
17 entitled "Potential for Contamination of Shallow
18 Aquifers in Illinois," by Berg, Richard C., et al.;
19 and

20 (ii) a site evaluation under the direction of
21 a Licensed Professional Engineer verifies the
22 physical soil classification conditions are
23 consistent with those indicated on the Illinois
24 Geological Survey Circular (1984) titled "Potential
25 for Contamination of Shallow Aquifers in Illinois,"
26 by Berg, Richard C., et al.; and

27 (iii) the results of the physical soil
28 classification and groundwater investigation do not
29 indicate an applicable indicator contaminant
30 groundwater quality standard or groundwater
31 objective has been exceeded at the property boundary
32 line or 200 feet from the underground storage tank,
33 whichever is less.

34 (5) In the event the results of the physical soil

1 classification and any required groundwater investigation
2 reveal that the actual site geologic characteristics are
3 different than those indicated by the Illinois Geological
4 Survey Circular (1984) titled "Potential for
5 Contamination of Shallow Aquifers in Illinois" by Berg,
6 Richard C., et al., classification of the site shall be
7 determined using the actual site geologic
8 characteristics.

9 (6) For purposes of physical soil classification,
10 the Board is authorized to prescribe by regulation
11 alternatives to use of the Illinois Geological Survey
12 Circular (1984) titled "Potential for Contamination of
13 Shallow Aquifers in Illinois" by Berg, Richard C., et al.

14 (c) Corrective Action.

15 (1) High Priority Site.

16 (A) Prior to performance of any corrective
17 action, beyond that required by Section 57.6 and
18 subsection (a) of Section 57.7 of this Act, the
19 owner or operator shall prepare and submit to the
20 Agency for the Agency's approval or modification a
21 corrective action plan designed to mitigate any
22 threat to human health, human safety or the
23 environment resulting from the underground storage
24 tank release.

25 (B) If the owner or operator intends to seek
26 payment from the Fund, prior to performance of any
27 corrective action beyond that required by Section
28 57.6 and subsection (a) of Section 57.7, the owner
29 or operator shall submit to the Agency for the
30 Agency's approval or modification a corrective
31 action plan budget which includes, but is not
32 limited to, an accounting of all costs associated
33 with the implementation and completion of the
34 corrective action plan.

1 (C) The corrective action plan shall do all of
2 the following:

3 (i) Provide that applicable indicator
4 contaminant groundwater quality standards or
5 groundwater objectives will not be exceeded in
6 groundwater at the property boundary line or
7 200 feet from the excavation, whichever is
8 less, or other level if approved by the Agency,
9 for any contaminant identified in the
10 groundwater investigation after complete
11 performance of the corrective action plan.

12 (ii) Provide that Class III special
13 resource groundwater quality standards for
14 Class III special resource groundwater within
15 200 feet of the excavation will not be exceeded
16 as a result of the underground storage tank
17 release for any indicator contaminant
18 identified in the groundwater investigation
19 after complete performance of the corrective
20 action plan.

21 (iii) Remediate threats due to the
22 presence or migration, through natural or
23 manmade pathways, of petroleum in
24 concentrations sufficient to harm human health
25 or human safety or to cause explosions in
26 basements, crawl spaces, utility conduits,
27 storm or sanitary sewers, vaults or other
28 confined spaces.

29 (iv) Remediate threats to a potable water
30 supply.

31 (v) Remediate threats to a surface water
32 body.

33 (D) Within 30 days of completion of the
34 corrective action, the owner or operator shall

1 submit to the Agency such a completion report that
2 includes a description of the corrective action plan
3 and a description of the corrective action work
4 performed and all analytical or sampling results
5 derived from performance of the corrective action
6 plan.

7 (E) The Agency shall issue to the owner or
8 operator a no further remediation letter in
9 accordance with Section 57.10 if all of the
10 following are met:

11 (i) The corrective action completion
12 report demonstrates that: (a) applicable
13 indicator contaminant groundwater quality
14 standards or groundwater objectives are not
15 exceeded at the property boundary line or 200
16 feet from the excavation, whichever is less, as
17 a result of the underground storage tank
18 release for any indicator contaminant
19 identified in the groundwater investigation;
20 (b) Class III special use resource groundwater
21 quality standards, for Class III special use
22 resource groundwater within 200 feet of the
23 underground storage tank, are not exceeded as a
24 result of the underground storage tank release
25 for any contaminant identified in the
26 groundwater investigation; (c) the underground
27 storage tank release does not threaten human
28 health or human safety due to the presence or
29 migration, through natural or manmade pathways,
30 of petroleum or hazardous substances in
31 concentrations sufficient to harm human health
32 or human safety or to cause explosions in
33 basements, crawl spaces, utility conduits,
34 storm or sanitary sewers, vaults or other

1 confined spaces; (d) the underground storage
2 tank release does not threaten any surface
3 water body; and (e) the underground storage
4 tank release does not threaten any potable
5 water supply.

6 (ii) The owner or operator submits to the
7 Agency a certification from a Licensed
8 Professional Engineer that the work described
9 in the approved corrective action plan has been
10 completed and that the information presented in
11 the corrective action completion report is
12 accurate and complete.

13 (2) Low Priority Site.

14 (A) Corrective action at a low priority site
15 must include groundwater monitoring consistent with
16 part (B) of this paragraph (2).

17 (B) Prior to implementation of groundwater
18 monitoring, the owner or operator shall prepare and
19 submit to the Agency a groundwater monitoring plan
20 and, if the owner or operator intends to seek
21 payment under this Title, an associated budget which
22 includes, at a minimum, all of the following:

23 (i) Placement of groundwater monitoring
24 wells at the property line, or at 200 feet from
25 the excavation which ever is closer, designed
26 to provide the greatest likelihood of detecting
27 migration of groundwater contamination.

28 (ii) Quarterly groundwater sampling for a
29 period of one year, semi-annual sampling for
30 the second year and annual groundwater sampling
31 for one subsequent year for all indicator
32 contaminants identified during the groundwater
33 investigation.

34 (iii) The annual submittal to the Agency

1 of a summary of groundwater sampling results.

2 (C) If at any time groundwater sampling
3 results indicate a confirmed exceedence of
4 applicable indicator contaminant groundwater quality
5 standards or groundwater objectives as a result of
6 the underground storage tank release, the site may
7 be reclassified as a High Priority Site by the
8 Agency at any time before the Agency's final
9 approval of a Low Priority groundwater monitoring
10 completion report. Agency review and approval shall
11 be in accordance with paragraph (4) of subsection
12 (c) of this Section. If the owner or operator elects
13 to appeal an Agency action to disapprove, modify, or
14 reject by operation of law a Low Priority
15 groundwater monitoring completion report, the Agency
16 shall indicate to the Board in conjunction with such
17 appeal whether it intends to reclassify the site as
18 High Priority. If a site is reclassified as a High
19 Priority Site, the owner or operator shall submit a
20 corrective action plan and budget to the Agency
21 within 120 days of the confirmed exceedence and
22 shall initiate compliance with all corrective action
23 requirements for a High Priority Site.

24 (D) If, throughout the implementation of the
25 groundwater monitoring plan, the groundwater
26 sampling results do not confirm an exceedence of
27 applicable indicator contaminant groundwater quality
28 standards or groundwater objectives as a result of
29 the underground storage tank release, the owner or
30 operator shall submit to the Agency a certification
31 of a Licensed Professional Engineer so stating.

32 (E) Unless the Agency takes action under
33 subsection (b)(2)(C) to reclassify a site as high
34 priority, upon receipt of a certification by a

1 Licensed Professional Engineer submitted pursuant to
2 paragraph (2) of subsection (c) of this Section, the
3 Agency shall issue to the owner or operator a no
4 further remediation letter in accordance with
5 Section 57.10.

6 (3) No Further Action Site.

7 (A) No Further Action sites require no
8 remediation beyond that required in Section 57.6 and
9 subsection (a) of this Section if the owner or
10 operator has submitted to the Agency a certification
11 by a Licensed Professional Engineer that the site
12 meets all of the criteria for classification as No
13 Further Action in subsection (b) of this Section.

14 (B) Unless the Agency takes action to reject
15 or modify a site classification under subsection (b)
16 of this Section or the site classification is
17 rejected by operation of law under item (4)(B) of
18 subsection (c) of this Section, upon receipt of a
19 certification by a Licensed Professional Engineer
20 submitted pursuant to part (A) of paragraph (3) of
21 subsection (c) of this Section, the Agency shall
22 issue to the owner or operator a no further
23 remediation letter in accordance with Section 57.10.

24 (4) Agency review and approval.

25 (A) Agency approval of any plan and associated
26 budget, as described in this item (4), shall be
27 considered final approval for purposes of seeking
28 and obtaining payment from the Underground Storage
29 Tank Fund if the costs associated with the
30 completion of any such plan are less than or equal
31 to the amounts approved in such budget.

32 (B) In the event the Agency fails to approve,
33 disapprove, or modify any plan or report submitted
34 pursuant to this Title in writing within 120 days of

1 the receipt by the Agency, the plan or report shall
2 be considered to be rejected by operation of law for
3 purposes of this Title and rejected for purposes of
4 payment from the Leaking Underground Storage Tank
5 Fund.

6 (i) For purposes of those plans as
7 identified in subparagraph (E) of this
8 subsection (c)(4), the Agency's review may be
9 an audit procedure. Such review or audit shall
10 be consistent with the procedure for such
11 review or audit as promulgated by the Board
12 under item (7) of subsection (b) of Section
13 57.14. The Agency has the authority to
14 establish an auditing program to verify
15 compliance of such plans with the provisions of
16 this Title.

17 (ii) For purposes of those plans
18 submitted pursuant to Part (E) (iii) of this
19 paragraph (4) for which payment from the Fund
20 is not being sought, the Agency need not take
21 action on such plan until 120 days after it
22 receives the corrective action completion
23 report required under Section 57(c)(1)(D). In
24 the event the Agency approved the plan, it
25 shall proceed under the provisions of Section
26 57(c)(4).

27 (C) In approving any plan submitted pursuant
28 to Part (E) of this paragraph (4), the Agency shall
29 determine, by a procedure promulgated by the Board
30 under item (7) of subsection (b) of Section 57.14,
31 that the costs associated with the plan are
32 reasonable, will be incurred in the performance of
33 corrective action, and will not be used for
34 corrective action activities in excess of those

1 required to meet the minimum requirements of this
2 title.

3 (D) For any plan or report received after
4 ~~September 13, the effective date of this amendatory~~
5 ~~Act of 1993,~~ any action by the Agency to disapprove
6 or modify a plan submitted pursuant to this Title
7 shall be provided to the owner or operator in
8 writing within 120 days of the receipt by the Agency
9 or, in the case of a corrective action plan for
10 which payment is not being sought, within 120 days
11 of receipt of the corrective action completion
12 report, and shall be accompanied by:

13 (i) an explanation of the Sections of
14 this Act which may be violated if the plans
15 were approved;

16 (ii) an explanation of the provisions of
17 the regulations, promulgated under this Act,
18 which may be violated if the plan were
19 approved;

20 (iii) an explanation of the specific type
21 of information, if any, which the Agency deems
22 the applicant did not provide the Agency; and

23 (iv) a statement of specific reasons why
24 the Act and the regulations might not be met if
25 the plan were approved.

26 Any action by the Agency to disapprove or
27 modify a plan or report or the rejection of any plan
28 or report by operation of law shall be subject to
29 appeal to the Board in accordance with the
30 procedures of Section 40. If the owner or operator
31 elects to incorporate modifications required by the
32 Agency rather than appeal, an amended plan shall be
33 submitted to the Agency within 35 days of receipt of
34 the Agency's written notification.

1 (E) For purposes of this Title, the term
2 "plan" shall include:

3 (i) Any physical soil classification and
4 groundwater investigation plan submitted
5 pursuant to item (1)(A) of subsection (a) of
6 this Section, or budget under item (2) of
7 subsection (a) of this Section;

8 (ii) Any groundwater monitoring plan or
9 budget submitted pursuant to subsection
10 (c)(2)(B) of this Section;

11 (iii) Any corrective action plan
12 submitted pursuant to subsection (c)(1)(A) of
13 this Section; or

14 (iv) Any corrective action plan budget
15 submitted pursuant to subsection (c)(1)(B) of
16 this Section.

17 (d) For purposes of this Title, the term "indicator
18 contaminant" shall mean, unless and until the Board
19 promulgates regulations to the contrary, the following: (i)
20 if an underground storage tank contains gasoline, the
21 indicator parameter shall be BTEX and Benzene; (ii) if the
22 tank contained petroleum products consisting of middle
23 distillate or heavy ends, then the indicator parameter shall
24 be determined by a scan of PNA's taken from the location
25 where contamination is most likely to be present; and (iii)
26 if the tank contained used oil, then the indicator
27 contaminant shall be those chemical constituents which
28 indicate the type of petroleum stored in an underground
29 storage tank. All references in this Title to groundwater
30 objectives shall mean Class I groundwater standards or
31 objectives as applicable.

32 (e) (1) Notwithstanding the provisions of this Section,
33 an owner or operator may proceed to conduct physical soil
34 classification, groundwater investigation, site

1 classification or other corrective action prior to the
2 submittal or approval of an otherwise required plan. If
3 the owner or operator elects to so proceed, an applicable
4 plan shall be filed with the Agency at any time. Such
5 plan shall detail the steps taken to determine the type
6 of corrective action which was necessary at the site
7 along with the corrective action taken or to be taken, in
8 addition to costs associated with activities to date and
9 anticipated costs.

10 (2) Upon receipt of a plan submitted after
11 activities have commenced at a site, the Agency shall
12 proceed to review in the same manner as required under
13 this Title. In the event the Agency disapproves all or
14 part of the costs, the owner or operator may appeal such
15 decision to the Board. The owner or operator shall not
16 be eligible to be reimbursed for such disapproved costs
17 unless and until the Board determines that such costs
18 were eligible for payment.

19 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
20 1-1-96; 89-457, eff. 5-22-96.)

21 (415 ILCS 5/57.8)

22 Sec. 57.8. Underground Storage Tank Fund; payment;
23 options for State payment; deferred correction election to
24 commence corrective action upon availability of funds. If an
25 owner or operator is eligible to access the Underground
26 Storage Tank Fund pursuant to an Office of State Fire Marshal
27 eligibility/deductible final determination letter issued in
28 accordance with Section 57.9, the owner or operator may
29 submit a complete application for final or partial payment to
30 the Agency for activities taken in response to a confirmed
31 release. An owner or operator may submit a request for
32 partial or final payment regarding a site no more frequently
33 than once every 90 days.

1 (a) Payment after completion of corrective action
2 measures. The owner or operator may submit an application for
3 payment for activities performed at a site after completion
4 of the requirements of Sections 57.6 and 57.7, or after
5 completion of any other required activities at the
6 underground storage tank site.

7 (1) In the case of any approved plan and budget for
8 which payment is being sought, the Agency shall make a
9 payment determination within 120 days of receipt of the
10 application. Such determination shall be considered a
11 final decision. The Agency's review shall be limited to
12 generally accepted auditing and accounting practices. In
13 no case shall the Agency conduct additional review of any
14 plan which was completed within the budget, beyond
15 auditing for adherence to the corrective action measures
16 in the proposal. If the Agency fails to approve the
17 payment application within 120 days, such application
18 shall be deemed approved by operation of law and the
19 Agency shall proceed to reimburse the owner or operator
20 the amount requested in the payment application.
21 However, in no event shall the Agency reimburse the owner
22 or operator an amount greater than the amount approved in
23 the plan.

24 (2) If sufficient funds are available in the
25 Underground Storage Tank Fund, the Agency shall, within
26 60 days, forward to the Office of the State Comptroller a
27 voucher in the amount approved under the payment
28 application.

29 (3) In the case of insufficient funds, the Agency
30 shall form a priority list for payment and shall notify
31 persons in such priority list monthly of the availability
32 of funds and when payment shall be made. Payment shall
33 be made to the owner or operator at such time as
34 sufficient funds become available for the costs

1 associated with corrective action and costs expended for
2 activities performed where no proposal is required, if
3 applicable. Such priority list shall be available to any
4 owner or operator upon request. Priority for payment
5 shall be determined by the date the Agency receives a
6 complete request for partial or final payment. Upon
7 receipt of notification from the Agency that the
8 requirements of this Title have been met, the Comptroller
9 shall make payment to the owner or operator of the amount
10 approved by the Agency, if sufficient money exists in the
11 Fund. If there is insufficient money in the Fund, then
12 payment shall not be made. If the owner or operator
13 appeals a final Agency payment determination and it is
14 determined that the owner or operator is eligible for
15 payment or additional payment, the priority date for the
16 payment or additional payment shall be the same as the
17 priority date assigned to the original request for
18 partial or final payment.

19 (4) Any deductible, as determined pursuant to the
20 Office of the State Fire Marshal's eligibility and
21 deductibility final determination in accordance with
22 Section 57.9, shall be subtracted from any payment
23 invoice paid to an eligible owner or operator. Only one
24 deductible shall apply per underground storage tank site.

25 (5) In the event that costs are or will be incurred
26 in addition to those approved by the Agency, or after
27 payment, the owner or operator may submit successive
28 plans containing amended budgets. The requirements of
29 Section 57.7 shall apply to any amended plans.

30 (6) For purposes of this Section, a complete
31 application shall consist of:

32 (A) A certification from a Licensed
33 Professional Engineer as required under this Title
34 and acknowledged by the owner or operator.

1 (B) A statement of the amount approved in the
2 plan and the amount actually sought for payment
3 along with a certified statement that the amount so
4 sought shall be expended in conformance with the
5 approved budget.

6 (C) A copy of the Office of the State Fire
7 Marshal's eligibility and deductibility
8 determination.

9 (D) Proof that approval of the payment
10 requested will not result in the limitations set
11 forth in subsection (g) of this Section being
12 exceeded.

13 (E) A federal taxpayer identification number
14 and legal status disclosure certification on a form
15 prescribed and provided by the Agency.

16 (b) Commencement of corrective action upon availability
17 of funds. The Board shall adopt regulations setting forth
18 procedures based on risk to human health or the environment
19 under which the owner or operator who has received approval
20 for any budget plan submitted pursuant to Section 57.7, and
21 who is eligible for payment from the Underground Storage Tank
22 Fund pursuant to an Office of the State Fire Marshal
23 eligibility and deductibility determination, may elect to
24 defer site classification, low priority groundwater
25 monitoring, or remediation activities until funds are
26 available in an amount equal to the amount approved in the
27 budget plan. The regulations shall establish criteria based
28 on risk to human health or the environment to be used for
29 determining on a site-by-site basis whether deferral is
30 appropriate. The regulations also shall establish the
31 minimum investigatory requirements for determining whether
32 the risk based criteria are present at a site considering
33 deferral and procedures for the notification of owners or
34 operators of insufficient funds, Agency review of request for

1 deferral, notification of Agency final decisions, returning
2 deferred sites to active status, and earmarking of funds for
3 payment.

4 (c) When the owner or operator requests indemnification
5 for payment of costs incurred as a result of a release of
6 petroleum from an underground storage tank, if the owner or
7 operator has satisfied the requirements of subsection (a) of
8 this Section, the Agency shall forward a copy of the request
9 to the Attorney General. The Attorney General shall review
10 and approve the request for indemnification if:

11 (1) there is a legally enforceable judgment entered
12 against the owner or operator and such judgment was
13 entered due to harm caused by a release of petroleum from
14 an underground storage tank and such judgment was not
15 entered as a result of fraud; or

16 (2) a settlement with a third party due to a
17 release of petroleum from an underground storage tank is
18 reasonable.

19 (d) Notwithstanding any other provision of this Title,
20 the Agency shall not approve payment to an owner or operator
21 from the Fund for costs of corrective action or
22 indemnification incurred during a calendar year in excess of
23 the following aggregate amounts based on the number of
24 petroleum underground storage tanks owned or operated by such
25 owner or operator in Illinois.

Amount	Number of Tanks
\$1,000,000.....	fewer than 101
\$2,000,000.....	101 or more

29 (1) Costs incurred in excess of the aggregate
30 amounts set forth in paragraph (1) of this subsection
31 shall not be eligible for payment in subsequent years.

32 (2) For purposes of this subsection, requests
33 submitted by any of the agencies, departments, boards,
34 committees or commissions of the State of Illinois shall

1 be acted upon as claims from a single owner or operator.

2 (3) For purposes of this subsection, owner or
3 operator includes (i) any subsidiary, parent, or joint
4 stock company of the owner or operator and (ii) any
5 company owned by any parent, subsidiary, or joint stock
6 company of the owner or operator.

7 (e) Costs of corrective action or indemnification
8 incurred by an owner or operator which have been paid to an
9 owner or operator under a policy of insurance, another
10 written agreement, or a court order are not eligible for
11 payment under this Section. An owner or operator who
12 receives payment under a policy of insurance, another written
13 agreement, or a court order shall reimburse the State to the
14 extent such payment covers costs for which payment was
15 received from the Fund. Any monies received by the State
16 under this subsection (e) shall be deposited into the Fund.

17 (f) (Blank.) ~~Until the Board adopts regulations pursuant~~
18 ~~to Section 57.14, handling charges are eligible for payment~~
19 ~~only if they are equal to or less than the amount determined~~
20 ~~by the following table:~~

Subcontract or field-----Eligible Handling Charges
Purchase Cost-----as a Percentage of Cost
\$0---\$5,000.....12%
\$5,001---\$15,000.....\$600+10% of amt. over \$5,000
\$15,001---\$50,000.....\$1600+8% of amt. over \$15,000
\$50,001---\$100,000.....\$4400+5% of amt. over \$50,000
\$100,001---\$1,000,000.....\$6900+2% of amt. over \$100,000

28 (g) The Agency shall not approve any payment from the
29 Fund to pay an owner or operator:

30 (1) for costs of corrective action incurred by such
31 owner or operator in an amount in excess of \$1,000,000
32 per occurrence; and

33 (2) for costs of indemnification of such owner or
34 operator in an amount in excess of \$1,000,000 per

1 occurrence.

2 (h) Payment of any amount from the Fund for corrective
3 action or indemnification shall be subject to the State
4 acquiring by subrogation the rights of any owner, operator,
5 or other person to recover the costs of corrective action or
6 indemnification for which the Fund has compensated such
7 owner, operator, or person from the person responsible or
8 liable for the release.

9 (i) If the Agency refuses to pay or authorizes only a
10 partial payment, the affected owner or operator may petition
11 the Board for a hearing in the manner provided for the review
12 of permit decisions in Section 40 of this Act.

13 (j) Costs of corrective action or indemnification
14 incurred by an owner or operator prior to July 28, 1989,
15 shall not be eligible for payment or reimbursement under this
16 Section.

17 (k) The Agency shall not pay costs of corrective action
18 or indemnification incurred before providing notification of
19 the release of petroleum in accordance with the provisions of
20 this Title.

21 (l) Corrective action does not include legal defense
22 costs. Legal defense costs include legal costs for seeking
23 payment under this Title unless the owner or operator
24 prevails before the Board in which case the Board may
25 authorize payment of legal fees.

26 (m) The Agency may apportion payment of costs for plans
27 submitted under Section 57.7(c)(4)(E)(iii) if:

28 (1) the owner or operator was deemed eligible to
29 access the Fund for payment of corrective action costs
30 for some, but not all, of the underground storage tanks
31 at the site; and

32 (2) the owner or operator failed to justify all
33 costs attributable to each underground storage tank at
34 the site.

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

2 (415 ILCS 5/57.13)

3 Sec. 57.13. Underground Storage Tank Program; transition.

4 (a) If a release is reported to the proper State
5 authority on or after September 13, ~~the effective date of~~
6 ~~this amendatory Act of~~ 1993, the owner or operator shall
7 comply with the requirements of this Title.

8 (b) If a release is reported to the proper State
9 authority prior to September 13, ~~the effective date of this~~
10 ~~amendatory Act of~~ 1993, the owner or operator of an
11 underground storage tank may elect to proceed in accordance
12 with the requirements of this Title by submitting a written
13 statement to the Agency of such election. If the owner or
14 operator elects to proceed under the requirements of this
15 Title all costs incurred in connection with the incident
16 prior to notification shall be reimbursable in the same
17 manner as was allowable under the then existing law.
18 Completion of corrective action shall then follow the
19 provisions of this Title.

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

21 (415 ILCS 5/58.7)

22 Sec. 58.7. Review and approvals.

23 (a) Requirements. All plans and reports that are
24 submitted pursuant to this Title shall be submitted for
25 review or approval in accordance with this Section.

26 (b) Review and evaluation by the Agency.

27 (1) Except for sites excluded under subdivision
28 (a)(2) of Section 58.1, the Agency shall, subject to
29 available resources, agree to provide review and
30 evaluation services for activities carried out pursuant
31 to this Title for which the RA requested the services in
32 writing. As a condition for providing such services, the

1 Agency may require that the RA for a site:

2 (A) Conform with the procedures of this Title;

3 (B) Allow for or otherwise arrange site visits
4 or other site evaluation by the Agency when so
5 requested;

6 (C) Agree to perform the Remedial Action Plan
7 ~~work-plan~~ as approved under this Title;

8 (D) Agree to pay any reasonable costs incurred
9 and documented by the Agency in providing such
10 services;

11 (E) Make an advance partial payment to the
12 Agency for such anticipated services in an amount,
13 acceptable to the Agency, but not to exceed \$5,000
14 or one-half of the total anticipated costs of the
15 Agency, whichever sum is less; and

16 (F) Demonstrate, if necessary, authority to
17 act on behalf of or in lieu of the owner or
18 operator.

19 (2) Any moneys received by the State for costs
20 incurred by the Agency in performing review or evaluation
21 services for actions conducted pursuant to this Title
22 shall be deposited in the Hazardous Waste Fund.

23 (3) An RA requesting services under subdivision
24 (b)(1) of this Section may, at any time, notify the
25 Agency, in writing, that Agency services previously
26 requested are no longer wanted. Within 180 days after
27 receipt of the notice, the Agency shall provide the RA
28 with a final invoice for services provided until the date
29 of such notifications.

30 (4) The Agency may invoice or otherwise request or
31 demand payment from a RA for costs incurred by the Agency
32 in performing review or evaluation services for actions
33 by the RA at sites only if:

34 (A) The Agency has incurred costs in

1 performing response actions, other than review or
2 evaluation services, due to the failure of the RA to
3 take response action in accordance with a notice
4 issued pursuant to this Act;

5 (B) The RA has agreed in writing to the
6 payment of such costs;

7 (C) The RA has been ordered to pay such costs
8 by the Board or a court of competent jurisdiction
9 pursuant to this Act; or

10 (D) The RA has requested or has consented to
11 Agency review or evaluation services under
12 subdivision (b)(1) of this Section.

13 (5) The Agency may, subject to available resources,
14 agree to provide review and evaluation services for
15 response actions if there is a written agreement among
16 parties to a legal action or if a notice to perform a
17 response action has been issued by the Agency.

18 (c) Review and evaluation by a Licensed Professional
19 Engineer. A RA may elect to contract with a Licensed
20 Professional Engineer who will perform review and evaluation
21 services on behalf of and under the direction of the Agency
22 relative to the site activities.

23 (1) Prior to entering into the contract with the
24 Review and Evaluation Licensed Professional Engineer
25 (RELPE), the RA shall notify the Agency of the RELPE to
26 be selected. The Agency and the RA shall discuss the
27 potential terms of the contract.

28 (2) At a minimum, the contract with the RELPE
29 shall provide that the RELPE will submit any reports
30 directly to the Agency, will take his or her directions
31 for work assignments from the Agency, and will perform
32 the assigned work on behalf of the Agency.

33 (3) Reasonable costs incurred by the Agency shall
34 be paid by the RA directly to the Agency in accordance

1 with the terms of the review and evaluation services
2 agreement entered into under subdivision (b)(1) of
3 Section 58.7.

4 (4) In no event shall the RELPE acting on behalf of
5 the Agency be an employee of the RA or the owner or
6 operator of the site or be an employee of any other
7 person the RA has contracted to provide services relative
8 to the site.

9 (d) Review and approval. All reviews required under
10 this Title shall be carried out by the Agency or a RELPE,
11 both under the direction of a Licensed Professional Engineer.

12 (1) All review activities conducted by the Agency
13 or a RELPE shall be carried out in conformance with this
14 Title and rules promulgated under Section 58.11.

15 (2) Specific plans, reports, and activities which
16 the Agency or a RELPE may review include:

17 (A) Site Investigation Reports and related
18 activities;

19 (B) Remediation Objectives Reports;

20 (C) Remedial Action Plans and related
21 activities; and

22 (D) Remedial Action Completion Reports and
23 related activities.

24 (3) Only the Agency shall have the authority to
25 approve, disapprove, or approve with conditions a plan
26 or report as a result of the review process including
27 those plans and reports reviewed by a RELPE. If the
28 Agency disapproves a plan or report or approves a plan or
29 report with conditions, the written notification required
30 by subdivision (d)(4) of this Section shall contain the
31 following information, as applicable:

32 (A) An explanation of the Sections of this
33 Title that may be violated if the plan or report was
34 approved;

1 (B) An explanation of the provisions of the
2 rules promulgated under this Title that may be
3 violated if the plan or report was approved;

4 (C) An explanation of the specific type of
5 information, if any, that the Agency deems the
6 applicant did not provide the Agency;

7 (D) A statement of specific reasons why the
8 Title and regulations might not be met if the plan
9 or report were approved; and

10 (E) An explanation of the reasons for
11 conditions if conditions are required.

12 (4) Upon approving, disapproving, or approving with
13 conditions a plan or report, the Agency shall notify the
14 RA in writing of its decision. In the case of approval
15 or approval with conditions of a Remedial Action
16 Completion Report, the Agency shall prepare a No Further
17 Remediation Letter that meets the requirements of Section
18 58.10 and send a copy of the letter to the RA.

19 (5) All reviews undertaken by the Agency or a RELPE
20 shall be completed and the decisions communicated to the
21 RA within 60 days of the request for review or approval.
22 The RA may waive the deadline upon a request from the
23 Agency. If the Agency disapproves or approves with
24 conditions a plan or report or fails to issue a final
25 decision within the 60 day period and the RA has not
26 agreed to a waiver of the deadline, the RA may, within 35
27 days, file an appeal to the Board. Appeals to the Board
28 shall be in the manner provided for the review of permit
29 decisions in Section 40 of this Act.

30 (e) Standard of review. In making determinations, the
31 following factors, and additional factors as may be adopted
32 by the Board in accordance with Section 58.11, shall be
33 considered by the Agency when reviewing or approving plans,
34 reports, and related activities, or the RELPE, when reviewing

1 plans, reports, and related activities:

2 (1) Site Investigation Reports and related
3 activities: Whether investigations have been conducted
4 and the results compiled in accordance with the
5 appropriate procedures and whether the interpretations
6 and conclusions reached are supported by the information
7 gathered. In making the determination, the following
8 factors shall be considered:

9 (A) The adequacy of the description of the
10 site and site characteristics that were used to
11 evaluate the site;

12 (B) The adequacy of the investigation of
13 potential pathways and risks to receptors identified
14 at the site; and

15 (C) The appropriateness of the sampling and
16 analysis used.

17 (2) Remediation Objectives Reports: Whether the
18 remediation objectives are consistent with the
19 requirements of the applicable method for selecting or
20 determining remediation objectives under Section 58.5.
21 In making the determination, the following factors shall
22 be considered:

23 (A) If the objectives were based on the
24 determination of area background levels under
25 subsection (b) of Section 58.5, whether the review
26 of current and historic conditions at or in the
27 immediate vicinity of the site has been thorough and
28 whether the site sampling and analysis has been
29 performed in a manner resulting in accurate
30 determinations;

31 (B) If the objectives were calculated on the
32 basis of predetermined equations using site specific
33 data, whether the calculations were accurately
34 performed and whether the site specific data reflect

1 actual site conditions; and

2 (C) If the objectives were determined using a
3 site specific risk assessment procedure, whether the
4 procedure used is nationally recognized and
5 accepted, whether the calculations were accurately
6 performed, and whether the site specific data
7 reflect actual site conditions.

8 (3) Remedial Action Plans and related activities:
9 Whether the plan will result in compliance with this
10 Title, and rules adopted under it and attainment of the
11 applicable remediation objectives. In making the
12 determination, the following factors shall be considered:

13 (A) The likelihood that the plan will result
14 in the attainment of the applicable remediation
15 objectives;

16 (B) Whether the activities proposed are
17 consistent with generally accepted engineering
18 practices; and

19 (C) The management of risk relative to any
20 remaining contamination, including but not limited
21 to, provisions for the long-term enforcement,
22 operation, and maintenance of institutional and
23 engineering controls, if relied on.

24 (4) Remedial Action Completion Reports and related
25 activities: Whether the remedial activities have been
26 completed in accordance with the approved Remedial Action
27 Plan and whether the applicable remediation objectives
28 have been attained.

29 (f) All plans and reports submitted for review shall
30 include a Licensed Professional Engineer's certification that
31 all investigations and remedial activities were carried out
32 under his or her direction and, to the best of his or her
33 knowledge and belief, the work described in the plan or
34 report has been completed in accordance with generally

1 accepted engineering practices, and the information presented
2 is accurate and complete.

3 (g) In accordance with Section 58.11, the Agency shall
4 propose and the Board shall adopt rules to carry out the
5 purposes of this Section. At a minimum, the rules shall
6 detail the types of services the Agency may provide in
7 response to requests under subdivision (b)(1) of this Section
8 and the recordkeeping it will utilize in documenting to the
9 RA the costs incurred by the Agency in providing such
10 services. ~~Until the Board adopts the rules, the Agency may~~
11 ~~continue to offer services of the type offered under~~
12 ~~subsections (m) and (n) of Section 22.2 of this Act prior to~~
13 ~~their repeal.~~

14 (h) Public participation.

15 (1) The Agency shall develop guidance to assist
16 RA's in the implementation of a community relations plan
17 to address activity at sites undergoing remedial action
18 pursuant to this Title.

19 (2) The RA may elect to enter into a services
20 agreement with the Agency for Agency assistance in
21 community outreach efforts.

22 (3) The Agency shall maintain a registry listing
23 those sites undergoing remedial action pursuant to this
24 Title.

25 (4) Notwithstanding any provisions of this Section,
26 the RA of a site undergoing remedial activity pursuant to
27 this Title may elect to initiate a community outreach
28 effort for the site.

29 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
30 89-626, eff. 8-9-96.)

31 (415 ILCS 5/58.8)
32 Sec. 58.8. Duty to record.

33 (a) The RA receiving a No Further Remediation Letter

1 from the Agency pursuant to Section 58.10, shall submit the
2 letter to the Office of the Recorder or the Registrar of
3 Titles of the county in which the site is located within 45
4 days of receipt of the letter. The Office of the Recorder or
5 the Registrar of Titles shall accept and record that letter
6 in accordance with Illinois law so that it forms a permanent
7 part of the chain of title for the site.

8 (b) A No Further Remediation Letter shall not become
9 effective until officially recorded in accordance with
10 subsection (a) of this Section. The RA shall obtain and
11 submit to the Agency a certified copy of the No Further
12 Remediation Letter as recorded.

13 (c) At no time shall any site for which a land use
14 limitation has been imposed as a result of remediation
15 activities under this Title be used in a manner inconsistent
16 with the land use limitation unless further investigation or
17 remedial action has been conducted that documents the
18 attainment of objectives appropriate for the new land use and
19 a new No Further Remediation Letter obtained and recorded in
20 accordance with this Title.

21 (d) In the event that a No Further Remediation Letter
22 issues by operation of law pursuant to Section 58.10, the RA
23 may, for purposes of this Section, file an affidavit stating
24 that the letter issued by operation of law. Upon receipt of
25 the No Further Remediation Letter from the Agency, the RA
26 shall comply with the requirements of subsections (a) and (b)
27 of this Section.

28 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96.)

29 (415 ILCS 5/58.14)

30 Sec. 58.14. Environmental Remediation Tax Credit review.

31 (a) Prior to applying for the Environmental Remediation
32 Tax Credit under Section 201 of the Illinois Income Tax Act,
33 Remediation Applicants shall first submit to the Agency an

1 application for review of remediation costs. The application
2 and review process shall be conducted in accordance with the
3 requirements of this Section and the rules adopted under
4 subsection (g). A preliminary review of the estimated
5 remediation costs for development and implementation of the
6 Remedial Action Plan may be obtained in accordance with
7 subsection (d).

8 (b) No application for review shall be submitted until a
9 No Further Remediation Letter has been issued by the Agency
10 and recorded in the chain of title for the site in accordance
11 with Section 58.10. The Agency shall review the application
12 to determine whether the costs submitted are remediation
13 costs, and whether the costs incurred are reasonable. The
14 application shall be on forms prescribed and provided by the
15 Agency. At a minimum, the application shall include the
16 following:

17 (1) information identifying the Remediation
18 Applicant and the site for which the tax credit is being
19 sought and the date of acceptance of the site into the
20 Site Remediation Program;

21 (2) a copy of the No Further Remediation Letter
22 with official verification that the letter has been
23 recorded in the chain of title for the site and a
24 demonstration that the site for which the application is
25 submitted is the same site as the one for which the No
26 Further Remediation Letter is issued;

27 (3) a demonstration that the release of the
28 regulated substances of concern for which the No Further
29 Remediation Letter was issued were not caused or
30 contributed to in any material respect by the Remediation
31 Applicant. After the Pollution Control Board rules are
32 adopted pursuant to the Illinois Administrative Procedure
33 Act for the administration and enforcement of Section
34 58.9 of the Environmental Protection Act, determinations

1 as to credit availability shall be made consistent with
2 those rules;

3 (4) an itemization and documentation, including
4 receipts, of the remediation costs incurred;

5 (5) a demonstration that the costs incurred are
6 remediation costs as defined in this Act and its rules;

7 (6) a demonstration that the costs submitted for
8 review were incurred by the Remediation Applicant who
9 received the No Further Remediation Letter;

10 (7) an application fee in the amount set forth in
11 subsection (e) for each site for which review of
12 remediation costs is requested and, if applicable,
13 certification from the Department of Commerce and
14 Community Affairs that the site is located in an
15 enterprise zone;

16 (8) any other information deemed appropriate by the
17 Agency.

18 (c) Within 60 days after receipt by the Agency of an
19 application meeting the requirements of subsection (b), the
20 Agency shall issue a letter to the applicant approving,
21 disapproving, or modifying the remediation costs submitted in
22 the application. If the remediation costs are approved as
23 submitted, the Agency's letter shall state the amount of the
24 remediation costs to be applied toward the Environmental
25 Remediation Tax Credit. If an application is disapproved or
26 approved with modification of remediation costs, the Agency's
27 letter shall set forth the reasons for the disapproval or
28 modification and state the amount of the remediation costs,
29 if any, to be applied toward the Environmental Remediation
30 Tax Credit.

31 If a preliminary review of a budget plan has been
32 obtained under subsection (d), the Remediation Applicant may
33 submit, with the application and supporting documentation
34 under subsection (b), a copy of the Agency's final

1 determination accompanied by a certification that the actual
2 remediation costs incurred for the development and
3 implementation of the Remedial Action Plan are equal to or
4 less than the costs approved in the Agency's final
5 determination on the budget plan. The certification shall be
6 signed by the Remediation Applicant and notarized. Based on
7 that submission, the Agency shall not be required to conduct
8 further review of the costs incurred for development and
9 implementation of the Remedial Action Plan and may approve
10 costs as submitted.

11 Within 35 days after receipt of an Agency letter
12 disapproving or modifying an application for approval of
13 remediation costs, the Remediation Applicant may appeal the
14 Agency's decision to the Board in the manner provided for the
15 review of permits in Section 40 of this Act.

16 (d) (1) A Remediation Applicant may obtain a preliminary
17 review of estimated remediation costs for the development
18 and implementation of the Remedial Action Plan by
19 submitting a budget plan along with the Remedial Action
20 Plan. The budget plan shall be set forth on forms
21 prescribed and provided by the Agency and shall include
22 but shall not be limited to line item estimates of the
23 costs associated with each line item (such as personnel,
24 equipment, and materials) that the Remediation Applicant
25 anticipates will be incurred for the development and
26 implementation of the Remedial Action Plan. The Agency
27 shall review the budget plan along with the Remedial
28 Action Plan to determine whether the estimated costs
29 submitted are remediation costs and whether the costs
30 estimated for the activities are reasonable.

31 (2) If the Remedial Action Plan is amended by the
32 Remediation Applicant or as a result of Agency action,
33 the corresponding budget plan shall be revised
34 accordingly and resubmitted for Agency review.

1 (3) The budget plan shall be accompanied by the
2 applicable fee as set forth in subsection (e).

3 (4) Submittal of a budget plan shall be deemed an
4 automatic 60-day waiver of the Remedial Action Plan
5 review deadlines set forth in this Section and its rules.

6 (5) Within the applicable period of review, the
7 Agency shall issue a letter to the Remediation Applicant
8 approving, disapproving, or modifying the estimated
9 remediation costs submitted in the budget plan. If a
10 budget plan is disapproved or approved with modification
11 of estimated remediation costs, the Agency's letter shall
12 set forth the reasons for the disapproval or
13 modification.

14 (6) Within 35 days after receipt of an Agency
15 letter disapproving or modifying a budget plan, the
16 Remediation Applicant may appeal the Agency's decision to
17 the Board in the manner provided for the review of
18 permits in Section 40 of this Act.

19 (e) The fees for reviews conducted under this Section
20 are in addition to any other fees or payments for Agency
21 services rendered pursuant to the Site Remediation Program
22 and shall be as follows:

23 (1) The fee for an application for review of
24 remediation costs shall be \$1,000 for each site reviewed.

25 (2) The fee for the review of the budget plan
26 submitted under subsection (d) shall be \$500 for each
27 site reviewed.

28 (3) In the case of a Remediation Applicant
29 submitting for review total remediation costs of \$100,000
30 or less for a site located within an enterprise zone (as
31 set forth in paragraph (i) of subsection (1) of Section
32 201 of the Illinois Income Tax Act), the fee for an
33 application for review of remediation costs shall be \$250
34 for each site reviewed. For those sites, there shall be

1 no fee for review of a budget plan under subsection (d).

2 The application fee shall be made payable to the State of
3 Illinois, for deposit into the Hazardous Waste Fund.

4 Pursuant to appropriation, the Agency shall use the fees
5 collected under this subsection for development and
6 administration of the review program.

7 (f) The Agency shall have the authority to enter into
8 any contracts or agreements that may be necessary to carry
9 out its duties and responsibilities under this Section.

10 (g) Within 6 months after July 21, ~~the effective date of~~
11 ~~this amendatory Act of~~ 1997, the Agency shall propose rules
12 prescribing procedures and standards for its administration
13 of this Section. Within 6 months after receipt of the
14 Agency's proposed rules, the Board shall adopt on second
15 notice, pursuant to Sections 27 and 28 of this Act and the
16 Illinois Administrative Procedure Act, rules that are
17 consistent with this Section. Prior to the effective date of
18 rules adopted under this Section, the Agency may conduct
19 reviews of applications under this Section and the Agency is
20 further authorized to distribute guidance documents on costs
21 that are eligible or ineligible as remediation costs.

22 (Source: P.A. 90-123, eff. 7-21-97; 90-792, eff. 1-1-99.)

23 (415 ILCS 5/58.17)

24 Sec. 58.17. Environmental Land Use Control. No later
25 than 2 months after July 7, 2000 ~~the effective date of this~~
26 ~~amendatory Act of the 91st General Assembly~~, the Agency,
27 after consideration of the recommendations of the Regulations
28 and Site Remediation Advisory Committee, shall propose rules
29 creating an instrument to be known as the Environmental Land
30 Use Control (ELUC). Within 6 months after receipt of the
31 Agency's proposed rules, the Board shall adopt, pursuant to
32 Sections 27 and 28 of this Act, rules creating the ELUC that
33 establish land use limitations or obligations on the use of

1 real property when necessary to manage risk to human health
 2 or the environment arising from contamination left in place
 3 pursuant to the procedures set forth in Section 58.5 of this
 4 Act or 35 Ill. Adm. Code 742. The rules shall include
 5 provisions addressing establishment, content, recording,
 6 duration, and enforcement of ELUCs.

7 (Source: P.A. 91-909, eff. 7-7-00.)

8 (415 ILCS 5/4.1 rep.)

9 (415 ILCS 5/5.1 rep.)

10 (415 ILCS 5/12.1 rep.)

11 (415 ILCS 5/22.20 rep.)

12 (415 ILCS 5/22.41 rep.)

13 (415 ILCS 5/22.42 rep.)

14 (415 ILCS 5/50 rep.)

15 Section 10. The Environmental Protection Act is amended
 16 by repealing Sections 4.1, 5.1, 12.1, 22.20, 22.41, 22.42,
 17 and 50.

18 Section 15. The Employment of Illinois Workers on Public
 19 Works Act is amended by changing Section 1 as follows:

20 (30 ILCS 570/1) (from Ch. 48, par. 2201)

21 Sec. 1. For the purposes of Article 2 of this Act, the
 22 following words have the meanings ascribed to them in this
 23 Section.

24 (1) "Illinois laborer" refers to any person who has
 25 resided in Illinois for at least 30 days and intends to
 26 become or remain an Illinois resident.

27 (2) "A period of excessive unemployment" means any month
 28 immediately following 2 consecutive calendar months during
 29 which the level of unemployment in the State of Illinois has
 30 exceeded 5% as measured by the United States Bureau of Labor
 31 Statistics in its monthly publication of employment and

1 unemployment figures.

2 (3) "Hazardous waste" has the definition ascribed to it
3 in Section 3.220 3-15 of the Illinois Environmental
4 Protection Act, approved June 29, 1970, as amended.

5 (Source: P.A. 86-1015.)

6 Section 20. The Counties Code is amended by changing
7 Section 5-15002 as follows:

8 (55 ILCS 5/5-15002) (from Ch. 34, par. 5-15002)

9 Sec. 5-15002. Definitions. When used in this Division
10 the term "waterworks system" means and includes a waterworks
11 system in its entirety, or any integral part thereof,
12 including mains, hydrants, meters, valves, standpipes,
13 storage tanks, pumps, tanks, intakes, wells, impounding
14 reservoirs, machinery, purification plants, softening
15 apparatus, and all other elements useful in connection with a
16 water supply or water distribution system.

17 The term "sewerage system" means and includes any or all
18 of the following: Sewerage treatment plant or plants,
19 collecting, intercepting, and outlet sewers, lateral sewers
20 and drains, including combined storm water and sanitary
21 drains, force mains, conduits, pumping stations, ejector
22 stations, and all other appurtenances, extensions and
23 improvements necessary, useful or convenient for the
24 collection, treatment and disposal in a sanitary manner of
25 storm water, sanitary sewage and industrial wastes.

26 The term "combined waterworks and sewerage system" means
27 and includes a waterworks and sewerage system, as hereinabove
28 defined, which any county shall determine to operate in
29 combination.

30 The term "waste management" means the process of storage,
31 treatment or disposal, but not the hauling or transport, of
32 "waste" as defined in Section 3.535 3-53 of the Environmental

1 Protection Act, but excluding "hazardous waste" as defined in
2 that Act.

3 (Source: P.A. 86-962; 87-650.)

4 Section 25. The Illinois Municipal Code is amended by
5 changing Section 11-31-1 as follows:

6 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

7 Sec. 11-31-1. Demolition, repair, enclosure, or
8 remediation.

9 (a) The corporate authorities of each municipality may
10 demolish, repair, or enclose or cause the demolition, repair,
11 or enclosure of dangerous and unsafe buildings or uncompleted
12 and abandoned buildings within the territory of the
13 municipality and may remove or cause the removal of garbage,
14 debris, and other hazardous, noxious, or unhealthy substances
15 or materials from those buildings. In any county having
16 adopted by referendum or otherwise a county health department
17 as provided by Division 5-25 of the Counties Code or its
18 predecessor, the county board of that county may exercise
19 those powers with regard to dangerous and unsafe buildings or
20 uncompleted and abandoned buildings within the territory of
21 any city, village, or incorporated town having less than
22 50,000 population.

23 The corporate authorities shall apply to the circuit
24 court of the county in which the building is located (i) for
25 an order authorizing action to be taken with respect to a
26 building if the owner or owners of the building, including
27 the lien holders of record, after at least 15 days' written
28 notice by mail so to do, have failed to put the building in a
29 safe condition or to demolish it or (ii) for an order
30 requiring the owner or owners of record to demolish, repair,
31 or enclose the building or to remove garbage, debris, and
32 other hazardous, noxious, or unhealthy substances or

1 materials from the building. It is not a defense to the
2 cause of action that the building is boarded up or otherwise
3 enclosed, although the court may order the defendant to have
4 the building boarded up or otherwise enclosed. Where, upon
5 diligent search, the identity or whereabouts of the owner or
6 owners of the building, including the lien holders of record,
7 is not ascertainable, notice mailed to the person or persons
8 in whose name the real estate was last assessed is sufficient
9 notice under this Section.

10 The hearing upon the application to the circuit court
11 shall be expedited by the court and shall be given precedence
12 over all other suits. Any person entitled to bring an action
13 under subsection (b) shall have the right to intervene in an
14 action brought under this Section.

15 The cost of the demolition, repair, enclosure, or removal
16 incurred by the municipality, by an intervenor, or by a lien
17 holder of record, including court costs, attorney's fees, and
18 other costs related to the enforcement of this Section, is
19 recoverable from the owner or owners of the real estate or
20 the previous owner or both if the property was transferred
21 during the 15 day notice period and is a lien on the real
22 estate; the lien is superior to all prior existing liens and
23 encumbrances, except taxes, if, within 180 days after the
24 repair, demolition, enclosure, or removal, the municipality,
25 the lien holder of record, or the intervenor who incurred the
26 cost and expense shall file a notice of lien for the cost and
27 expense incurred in the office of the recorder in the county
28 in which the real estate is located or in the office of the
29 registrar of titles of the county if the real estate affected
30 is registered under the Registered Titles (Torrens) Act.

31 The notice must consist of a sworn statement setting out
32 (1) a description of the real estate sufficient for its
33 identification, (2) the amount of money representing the cost
34 and expense incurred, and (3) the date or dates when the cost

1 and expense was incurred by the municipality, the lien holder
2 of record, or the intervenor. Upon payment of the cost and
3 expense by the owner of or persons interested in the property
4 after the notice of lien has been filed, the lien shall be
5 released by the municipality, the person in whose name the
6 lien has been filed, or the assignee of the lien, and the
7 release may be filed of record as in the case of filing
8 notice of lien. Unless the lien is enforced under subsection
9 (c), the lien may be enforced by foreclosure proceedings as
10 in the case of mortgage foreclosures under Article XV of the
11 Code of Civil Procedure or mechanics' lien foreclosures. An
12 action to foreclose this lien may be commenced at any time
13 after the date of filing of the notice of lien. The costs of
14 foreclosure incurred by the municipality, including court
15 costs, reasonable attorney's fees, advances to preserve the
16 property, and other costs related to the enforcement of this
17 subsection, plus statutory interest, are a lien on the real
18 estate and are recoverable by the municipality from the owner
19 or owners of the real estate.

20 All liens arising under this subsection (a) shall be
21 assignable. The assignee of the lien shall have the same
22 power to enforce the lien as the assigning party, except that
23 the lien may not be enforced under subsection (c).

24 If the appropriate official of any municipality
25 determines that any dangerous and unsafe building or
26 uncompleted and abandoned building within its territory
27 fulfills the requirements for an action by the municipality
28 under the Abandoned Housing Rehabilitation Act, the
29 municipality may petition under that Act in a proceeding
30 brought under this subsection.

31 (b) Any owner or tenant of real property within 1200
32 feet in any direction of any dangerous or unsafe building
33 located within the territory of a municipality with a
34 population of 500,000 or more may file with the appropriate

1 municipal authority a request that the municipality apply to
2 the circuit court of the county in which the building is
3 located for an order permitting the demolition, removal of
4 garbage, debris, and other noxious or unhealthy substances
5 and materials from, or repair or enclosure of the building in
6 the manner prescribed in subsection (a) of this Section. If
7 the municipality fails to institute an action in circuit
8 court within 90 days after the filing of the request, the
9 owner or tenant of real property within 1200 feet in any
10 direction of the building may institute an action in circuit
11 court seeking an order compelling the owner or owners of
12 record to demolish, remove garbage, debris, and other noxious
13 or unhealthy substances and materials from, repair or enclose
14 or to cause to be demolished, have garbage, debris, and other
15 noxious or unhealthy substances and materials removed from,
16 repaired, or enclosed the building in question. A private
17 owner or tenant who institutes an action under the preceding
18 sentence shall not be required to pay any fee to the clerk of
19 the circuit court. The cost of repair, removal, demolition,
20 or enclosure shall be borne by the owner or owners of record
21 of the building. In the event the owner or owners of record
22 fail to demolish, remove garbage, debris, and other noxious
23 or unhealthy substances and materials from, repair, or
24 enclose the building within 90 days of the date the court
25 entered its order, the owner or tenant who instituted the
26 action may request that the court join the municipality as a
27 party to the action. The court may order the municipality to
28 demolish, remove materials from, repair, or enclose the
29 building, or cause that action to be taken upon the request
30 of any owner or tenant who instituted the action or upon the
31 municipality's request. The municipality may file, and the
32 court may approve, a plan for rehabilitating the building in
33 question. A court order authorizing the municipality to
34 demolish, remove materials from, repair, or enclose a

1 building, or cause that action to be taken, shall not
2 preclude the court from adjudging the owner or owners of
3 record of the building in contempt of court due to the
4 failure to comply with the order to demolish, remove garbage,
5 debris, and other noxious or unhealthy substances and
6 materials from, repair, or enclose the building.

7 If a municipality or a person or persons other than the
8 owner or owners of record pay the cost of demolition, removal
9 of garbage, debris, and other noxious or unhealthy substances
10 and materials, repair, or enclosure pursuant to a court
11 order, the cost, including court costs, attorney's fees, and
12 other costs related to the enforcement of this subsection, is
13 recoverable from the owner or owners of the real estate and
14 is a lien on the real estate; the lien is superior to all
15 prior existing liens and encumbrances, except taxes, if,
16 within 180 days after the repair, removal, demolition, or
17 enclosure, the municipality or the person or persons who paid
18 the costs of demolition, removal, repair, or enclosure shall
19 file a notice of lien of the cost and expense incurred in the
20 office of the recorder in the county in which the real estate
21 is located or in the office of the registrar of the county if
22 the real estate affected is registered under the Registered
23 Titles (Torrens) Act. The notice shall be in a form as is
24 provided in subsection (a). An owner or tenant who
25 institutes an action in circuit court seeking an order to
26 compel the owner or owners of record to demolish, remove
27 materials from, repair, or enclose any dangerous or unsafe
28 building, or to cause that action to be taken under this
29 subsection may recover court costs and reasonable attorney's
30 fees for instituting the action from the owner or owners of
31 record of the building. Upon payment of the costs and
32 expenses by the owner or a person interested in the
33 property after the notice of lien has been filed, the lien
34 shall be released by the municipality or the person in whose

1 name the lien has been filed or his or her assignee, and the
2 release may be filed of record as in the case of filing a
3 notice of lien. Unless the lien is enforced under subsection
4 (c), the lien may be enforced by foreclosure proceedings as
5 in the case of mortgage foreclosures under Article XV of the
6 Code of Civil Procedure or mechanics' lien foreclosures. An
7 action to foreclose this lien may be commenced at any time
8 after the date of filing of the notice of lien. The costs of
9 foreclosure incurred by the municipality, including court
10 costs, reasonable attorneys' fees, advances to preserve the
11 property, and other costs related to the enforcement of this
12 subsection, plus statutory interest, are a lien on the real
13 estate and are recoverable by the municipality from the owner
14 or owners of the real estate.

15 All liens arising under the terms of this subsection (b)
16 shall be assignable. The assignee of the lien shall have the
17 same power to enforce the lien as the assigning party, except
18 that the lien may not be enforced under subsection (c).

19 (c) In any case where a municipality has obtained a lien
20 under subsection (a), (b), or (f), the municipality may
21 enforce the lien under this subsection (c) in the same
22 proceeding in which the lien is authorized.

23 A municipality desiring to enforce a lien under this
24 subsection (c) shall petition the court to retain
25 jurisdiction for foreclosure proceedings under this
26 subsection. Notice of the petition shall be served, by
27 certified or registered mail, on all persons who were served
28 notice under subsection (a), (b), or (f). The court shall
29 conduct a hearing on the petition not less than 15 days after
30 the notice is served. If the court determines that the
31 requirements of this subsection (c) have been satisfied, it
32 shall grant the petition and retain jurisdiction over the
33 matter until the foreclosure proceeding is completed. The
34 costs of foreclosure incurred by the municipality, including

1 court costs, reasonable attorneys' fees, advances to preserve
2 the property, and other costs related to the enforcement of
3 this subsection, plus statutory interest, are a lien on the
4 real estate and are recoverable by the municipality from the
5 owner or owners of the real estate. If the court denies the
6 petition, the municipality may enforce the lien in a separate
7 action as provided in subsection (a), (b), or (f).

8 All persons designated in Section 15-1501 of the Code of
9 Civil Procedure as necessary parties in a mortgage
10 foreclosure action shall be joined as parties before issuance
11 of an order of foreclosure. Persons designated in Section
12 15-1501 of the Code of Civil Procedure as permissible parties
13 may also be joined as parties in the action.

14 The provisions of Article XV of the Code of Civil
15 Procedure applicable to mortgage foreclosures shall apply to
16 the foreclosure of a lien under this subsection (c), except
17 to the extent that those provisions are inconsistent with
18 this subsection. For purposes of foreclosures of liens
19 under this subsection, however, the redemption period
20 described in subsection (b) of Section 15-1603 of the Code of
21 Civil Procedure shall end 60 days after the date of entry of
22 the order of foreclosure.

23 (d) In addition to any other remedy provided by law, the
24 corporate authorities of any municipality may petition the
25 circuit court to have property declared abandoned under this
26 subsection (d) if:

27 (1) the property has been tax delinquent for 2 or
28 more years or bills for water service for the property
29 have been outstanding for 2 or more years;

30 (2) the property is unoccupied by persons legally
31 in possession; and

32 (3) the property contains a dangerous or unsafe
33 building.

34 All persons having an interest of record in the property,

1 including tax purchasers and beneficial owners of any
2 Illinois land trust having title to the property, shall be
3 named as defendants in the petition and shall be served with
4 process. In addition, service shall be had under Section
5 2-206 of the Code of Civil Procedure as in other cases
6 affecting property.

7 The municipality, however, may proceed under this
8 subsection in a proceeding brought under subsection (a) or
9 (b). Notice of the petition shall be served by certified or
10 registered mail on all persons who were served notice under
11 subsection (a) or (b).

12 If the municipality proves that the conditions described
13 in this subsection exist and the owner of record of the
14 property does not enter an appearance in the action, or, if
15 title to the property is held by an Illinois land trust, if
16 neither the owner of record nor the owner of the beneficial
17 interest of the trust enters an appearance, the court shall
18 declare the property abandoned.

19 If that determination is made, notice shall be sent by
20 certified or registered mail to all persons having an
21 interest of record in the property, including tax purchasers
22 and beneficial owners of any Illinois land trust having title
23 to the property, stating that title to the property will be
24 transferred to the municipality unless, within 30 days of the
25 notice, the owner of record enters an appearance in the
26 action, or unless any other person having an interest in the
27 property files with the court a request to demolish the
28 dangerous or unsafe building or to put the building in safe
29 condition.

30 If the owner of record enters an appearance in the action
31 within the 30 day period, the court shall vacate its order
32 declaring the property abandoned. In that case, the
33 municipality may amend its complaint in order to initiate
34 proceedings under subsection (a).

1 If a request to demolish or repair the building is filed
2 within the 30 day period, the court shall grant permission to
3 the requesting party to demolish the building within 30 days
4 or to restore the building to safe condition within 60 days
5 after the request is granted. An extension of that period
6 for up to 60 additional days may be given for good cause. If
7 more than one person with an interest in the property files a
8 timely request, preference shall be given to the person with
9 the lien or other interest of the highest priority.

10 If the requesting party proves to the court that the
11 building has been demolished or put in a safe condition
12 within the period of time granted by the court, the court
13 shall issue a quitclaim judicial deed for the property to the
14 requesting party, conveying only the interest of the owner of
15 record, upon proof of payment to the municipality of all
16 costs incurred by the municipality in connection with the
17 action, including but not limited to court costs, attorney's
18 fees, administrative costs, the costs, if any, associated
19 with building enclosure or removal, and receiver's
20 certificates. The interest in the property so conveyed shall
21 be subject to all liens and encumbrances on the property. In
22 addition, if the interest is conveyed to a person holding a
23 certificate of purchase for the property under the Property
24 Tax Code, the conveyance shall be subject to the rights of
25 redemption of all persons entitled to redeem under that Act,
26 including the original owner of record.

27 If no person with an interest in the property files a
28 timely request or if the requesting party fails to demolish
29 the building or put the building in safe condition within the
30 time specified by the court, the municipality may petition
31 the court to issue a judicial deed for the property to the
32 municipality. A conveyance by judicial deed shall operate to
33 extinguish all existing ownership interests in, liens on, and
34 other interest in the property, including tax liens, and

1 shall extinguish the rights and interests of any and all
2 holders of a bona fide certificate of purchase of the
3 property for delinquent taxes. Any such bona fide
4 certificate of purchase holder shall be entitled to a sale in
5 error as prescribed under Section 21-310 of the Property Tax
6 Code.

7 (e) Each municipality may use the provisions of this
8 subsection to expedite the removal of certain buildings that
9 are a continuing hazard to the community in which they are
10 located.

11 If a residential or commercial building is 3 stories or
12 less in height as defined by the municipality's building
13 code, and the corporate official designated to be in charge
14 of enforcing the municipality's building code determines that
15 the building is open and vacant and an immediate and
16 continuing hazard to the community in which the building is
17 located, then the official shall be authorized to post a
18 notice not less than 2 feet by 2 feet in size on the front of
19 the building. The notice shall be dated as of the date of
20 the posting and shall state that unless the building is
21 demolished, repaired, or enclosed, and unless any garbage,
22 debris, and other hazardous, noxious, or unhealthy substances
23 or materials are removed so that an immediate and continuing
24 hazard to the community no longer exists, then the building
25 may be demolished, repaired, or enclosed, or any garbage,
26 debris, and other hazardous, noxious, or unhealthy substances
27 or materials may be removed, by the municipality.

28 Not later than 30 days following the posting of the
29 notice, the municipality shall do all of the following:

30 (1) Cause to be sent, by certified mail, return
31 receipt requested, a Notice to Remediate to all owners
32 of record of the property, the beneficial owners of any
33 Illinois land trust having title to the property, and all
34 lienholders of record in the property, stating the intent

1 of the municipality to demolish, repair, or enclose the
2 building or remove any garbage, debris, or other
3 hazardous, noxious, or unhealthy substances or materials
4 if that action is not taken by the owner or owners.

5 (2) Cause to be published, in a newspaper published
6 or circulated in the municipality where the building is
7 located, a notice setting forth (i) the permanent tax
8 index number and the address of the building, (ii) a
9 statement that the property is open and vacant and
10 constitutes an immediate and continuing hazard to the
11 community, and (iii) a statement that the municipality
12 intends to demolish, repair, or enclose the building or
13 remove any garbage, debris, or other hazardous, noxious,
14 or unhealthy substances or materials if the owner or
15 owners or lienholders of record fail to do so. This
16 notice shall be published for 3 consecutive days.

17 (3) Cause to be recorded the Notice to Remediate
18 mailed under paragraph (1) in the office of the recorder
19 in the county in which the real estate is located or in
20 the office of the registrar of titles of the county if
21 the real estate is registered under the Registered Title
22 (Torrens) Act.

23 Any person or persons with a current legal or equitable
24 interest in the property objecting to the proposed actions of
25 the corporate authorities may file his or her objection in an
26 appropriate form in a court of competent jurisdiction.

27 If the building is not demolished, repaired, or enclosed,
28 or the garbage, debris, or other hazardous, noxious, or
29 unhealthy substances or materials are not removed, within 30
30 days of mailing the notice to the owners of record, the
31 beneficial owners of any Illinois land trust having title to
32 the property, and all lienholders of record in the property,
33 or within 30 days of the last day of publication of the
34 notice, whichever is later, the corporate authorities shall

1 have the power to demolish, repair, or enclose the building
2 or to remove any garbage, debris, or other hazardous,
3 noxious, or unhealthy substances or materials.

4 The municipality may proceed to demolish, repair, or
5 enclose a building or remove any garbage, debris, or other
6 hazardous, noxious, or unhealthy substances or materials
7 under this subsection within a 120-day period following the
8 date of the mailing of the notice if the appropriate official
9 determines that the demolition, repair, enclosure, or removal
10 of any garbage, debris, or other hazardous, noxious, or
11 unhealthy substances or materials is necessary to remedy the
12 immediate and continuing hazard. If, however, before the
13 municipality proceeds with any of the actions authorized by
14 this subsection, any person with a legal or equitable
15 interest in the property has sought a hearing under this
16 subsection before a court and has served a copy of the
17 complaint on the chief executive officer of the municipality,
18 then the municipality shall not proceed with the demolition,
19 repair, enclosure, or removal of garbage, debris, or other
20 substances until the court determines that that action is
21 necessary to remedy the hazard and issues an order
22 authorizing the municipality to do so.

23 Following the demolition, repair, or enclosure of a
24 building, or the removal of garbage, debris, or other
25 hazardous, noxious, or unhealthy substances or materials
26 under this subsection, the municipality may file a notice of
27 lien against the real estate for the cost of the demolition,
28 repair, enclosure, or removal within 180 days after the
29 repair, demolition, enclosure, or removal occurred, for the
30 cost and expense incurred, in the office of the recorder in
31 the county in which the real estate is located or in the
32 office of the registrar of titles of the county if the real
33 estate affected is registered under the Registered Titles
34 (Torrens) Act; this lien has priority over the interests of

1 those parties named in the Notice to Remediate mailed under
2 paragraph (1), but not over the interests of third party
3 purchasers or encumbrancers for value who obtained their
4 interests in the property before obtaining actual or
5 constructive notice of the lien. The notice of lien shall
6 consist of a sworn statement setting forth (i) a description
7 of the real estate, such as the address or other description
8 of the property, sufficient for its identification; (ii) the
9 expenses incurred by the municipality in undertaking the
10 remedial actions authorized under this subsection; (iii) the
11 date or dates the expenses were incurred by the municipality;
12 (iv) a statement by the corporate official responsible for
13 enforcing the building code that the building was open and
14 vacant and constituted an immediate and continuing hazard to
15 the community; (v) a statement by the corporate official that
16 the required sign was posted on the building, that notice was
17 sent by certified mail to the owners of record, and that
18 notice was published in accordance with this subsection; and
19 (vi) a statement as to when and where the notice was
20 published. The lien authorized by this subsection may
21 thereafter be released or enforced by the municipality as
22 provided in subsection (a).

23 (f) The corporate authorities of each municipality may
24 remove or cause the removal of, or otherwise environmentally
25 remediate hazardous substances and petroleum products on, in,
26 or under any abandoned and unsafe property within the
27 territory of a municipality. In addition, where preliminary
28 evidence indicates the presence or likely presence of a
29 hazardous substance or a petroleum product or a release or a
30 substantial threat of a release of a hazardous substance or a
31 petroleum product on, in, or under the property, the
32 corporate authorities of the municipality may inspect the
33 property and test for the presence or release of hazardous
34 substances and petroleum products. In any county having

1 adopted by referendum or otherwise a county health department
2 as provided by Division 5-25 of the Counties Code or its
3 predecessor, the county board of that county may exercise the
4 above-described powers with regard to property within the
5 territory of any city, village, or incorporated town having
6 less than 50,000 population.

7 For purposes of this subsection (f):

8 (1) "property" or "real estate" means all real
9 property, whether or not improved by a structure;

10 (2) "abandoned" means;

11 (A) the property has been tax delinquent for 2
12 or more years;

13 (B) the property is unoccupied by persons
14 legally in possession; and

15 (3) "unsafe" means property that presents an actual
16 or imminent threat to public health and safety caused by
17 the release of hazardous substances; and

18 (4) "hazardous substances" means the same as in
19 Section 3.215 3-14 of the Environmental Protection Act.

20 The corporate authorities shall apply to the circuit
21 court of the county in which the property is located (i) for
22 an order allowing the municipality to enter the property and
23 inspect and test substances on, in, or under the property; or
24 (ii) for an order authorizing the corporate authorities to
25 take action with respect to remediation of the property if
26 conditions on the property, based on the inspection and
27 testing authorized in paragraph (i), indicate the presence of
28 hazardous substances or petroleum products. Remediation
29 shall be deemed complete for purposes of paragraph (ii) above
30 when the property satisfies Tier I, II, or III remediation
31 objectives for the property's most recent usage, as
32 established by the Environmental Protection Act, and the
33 rules and regulations promulgated thereunder. Where, upon
34 diligent search, the identity or whereabouts of the owner or

1 owners of the property, including the lien holders of record,
2 is not ascertainable, notice mailed to the person or persons
3 in whose name the real estate was last assessed is sufficient
4 notice under this Section.

5 The court shall grant an order authorizing testing under
6 paragraph (i) above upon a showing of preliminary evidence
7 indicating the presence or likely presence of a hazardous
8 substance or a petroleum product or a release of or a
9 substantial threat of a release of a hazardous substance or a
10 petroleum product on, in, or under abandoned property. The
11 preliminary evidence may include, but is not limited to,
12 evidence of prior use, visual site inspection, or records of
13 prior environmental investigations. The testing authorized
14 by paragraph (i) above shall include any type of
15 investigation which is necessary for an environmental
16 professional to determine the environmental condition of the
17 property, including but not limited to performance of soil
18 borings and groundwater monitoring. The court shall grant a
19 remediation order under paragraph (ii) above where testing of
20 the property indicates that it fails to meet the applicable
21 remediation objectives. The hearing upon the application to
22 the circuit court shall be expedited by the court and shall
23 be given precedence over all other suits.

24 The cost of the inspection, testing, or remediation
25 incurred by the municipality or by a lien holder of record,
26 including court costs, attorney's fees, and other costs
27 related to the enforcement of this Section, is a lien on the
28 real estate; except that in any instances where a
29 municipality incurs costs of inspection and testing but finds
30 no hazardous substances or petroleum products on the property
31 that present an actual or imminent threat to public health
32 and safety, such costs are not recoverable from the owners
33 nor are such costs a lien on the real estate. The lien is
34 superior to all prior existing liens and encumbrances, except

1 taxes and any lien obtained under subsection (a) or (e), if,
2 within 180 days after the completion of the inspection,
3 testing, or remediation, the municipality or the lien holder
4 of record who incurred the cost and expense shall file a
5 notice of lien for the cost and expense incurred in the
6 office of the recorder in the county in which the real estate
7 is located or in the office of the registrar of titles of the
8 county if the real estate affected is registered under the
9 Registered Titles (Torrens) Act.

10 The notice must consist of a sworn statement setting out
11 (i) a description of the real estate sufficient for its
12 identification, (ii) the amount of money representing the
13 cost and expense incurred, and (iii) the date or dates when
14 the cost and expense was incurred by the municipality or the
15 lien holder of record. Upon payment of the lien amount by
16 the owner of or persons interested in the property after the
17 notice of lien has been filed, a release of lien shall be
18 issued by the municipality, the person in whose name the lien
19 has been filed, or the assignee of the lien, and the release
20 may be filed of record as in the case of filing notice of
21 lien.

22 The lien may be enforced under subsection (c) or by
23 foreclosure proceedings as in the case of mortgage
24 foreclosures under Article XV of the Code of Civil Procedure
25 or mechanics' lien foreclosures; provided that where the lien
26 is enforced by foreclosure under subsection (c) or under
27 either statute, the municipality may not proceed against the
28 other assets of the owner or owners of the real estate for
29 any costs that otherwise would be recoverable under this
30 Section but that remain unsatisfied after foreclosure except
31 where such additional recovery is authorized by separate
32 environmental laws. An action to foreclose this lien may be
33 commenced at any time after the date of filing of the notice
34 of lien. The costs of foreclosure incurred by the

1 municipality, including court costs, reasonable attorney's
2 fees, advances to preserve the property, and other costs
3 related to the enforcement of this subsection, plus statutory
4 interest, are a lien on the real estate.

5 All liens arising under this subsection (f) shall be
6 assignable. The assignee of the lien shall have the same
7 power to enforce the lien as the assigning party, except that
8 the lien may not be enforced under subsection (c).

9 (g) In any case where a municipality has obtained a lien
10 under subsection (a), the municipality may also bring an
11 action for a money judgment against the owner or owners of
12 the real estate in the amount of the lien in the same manner
13 as provided for bringing causes of action in Article II of
14 the Code of Civil Procedure and, upon obtaining a judgment,
15 file a judgment lien against all of the real estate of the
16 owner or owners and enforce that lien as provided for in
17 Article XII of the Code of Civil Procedure.

18 (Source: P.A. 91-162, eff. 7-16-99; 91-177, eff. 1-1-00;
19 91-357, eff. 7-29-99; 91-542, eff. 1-1-00; 91-561, eff.
20 1-1-00; 92-16, eff. 6-28-01.)

21 Section 30. The Conservation District Act is amended by
22 changing Section 19 as follows:

23 (70 ILCS 410/19) (from Ch. 96 1/2, par. 7129)

24 Sec. 19. Landfills.

25 (a) No land that is owned or acquired by a conservation
26 district may be used for the development or operation of any
27 new pollution control facility, as those terms are defined in
28 Section 3.330 3-32 of the Environmental Protection Act.

29 (b) A conservation district may not transfer any land or
30 interest in land owned or acquired by the district to any
31 other entity which the district has reason to know intends to
32 construct, expand or operate thereon any sanitary landfill or

1 regulated waste treatment, disposal or storage facility or
2 develop or operate thereon any new pollution control
3 facility, as that term is defined in Section 3.330 3-32 of
4 the Environmental Protection Act.

5 A conservation district that wishes to transfer any land
6 or interest in land owned or acquired by the district to any
7 other entity must impose, as a condition of the transfer, a
8 covenant prohibiting the development thereon or operation of
9 any new pollution control facility, as that term is defined
10 in Section 3.330 3-32 of the Environmental Protection Act.

11 (Source: P.A. 87-554; 88-681, eff. 12-22-94.)

12 Section 35. The Downstate Forest Preserve District Act
13 is amended by changing Section 18.6c as follows:

14 (70 ILCS 805/18.6c) (from Ch. 96 1/2, par. 6340c)

15 Sec. 18.6c. Landfills.

16 (a) No land that is owned or acquired by a forest
17 preserve district may be used for the development or
18 operation of any new pollution control facility, as that term
19 is defined in Section 3.330 3-32 of the Environmental
20 Protection Act.

21 (b) A forest preserve district may not transfer any land
22 or interest in land owned or acquired by the district to any
23 other entity which the district has reason to know intends to
24 construct, expand or operate thereon any sanitary landfill or
25 regulated waste treatment, disposal or storage facility or
26 develop or operate thereon any new pollution control
27 facility, as that term is defined in Section 3.330 3-32 of
28 the Environmental Protection Act.

29 A forest preserve district that wishes to transfer any
30 land or interest in land owned or acquired by the district to
31 any other entity must impose, as a condition of the transfer,
32 a covenant prohibiting the development thereon or operation

1 of any new pollution control facility, as that term is
2 defined in Section 3.330 3-32 of the Environmental Protection
3 Act.

4 (Source: P.A. 87-554; 88-681, eff. 12-22-94.)

5 Section 40. The Public Utilities Act is amended by
6 changing Section 8-403.1 as follows:

7 (220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 8-403.1)

8 Sec. 8-403.1. Electricity purchased from qualified solid
9 waste energy facility; tax credit; distributions for economic
10 development.

11 (a) It is hereby declared to be the policy of this State
12 to encourage the development of alternate energy production
13 facilities in order to conserve our energy resources and to
14 provide for their most efficient use.

15 (b) For the purpose of this Section and Section 9-215.1,
16 "qualified solid waste energy facility" means a facility
17 determined by the Illinois Commerce Commission to qualify as
18 such under the Local Solid Waste Disposal Act, to use methane
19 gas generated from landfills as its primary fuel, and to
20 possess characteristics that would enable it to qualify as a
21 cogeneration or small power production facility under federal
22 law.

23 (c) In furtherance of the policy declared in this
24 Section, the Illinois Commerce Commission shall require
25 electric utilities to enter into long-term contracts to
26 purchase electricity from qualified solid waste energy
27 facilities located in the electric utility's service area,
28 for a period beginning on the date that the facility begins
29 generating electricity and having a duration of not less than
30 10 years in the case of facilities fueled by
31 landfill-generated methane, or 20 years in the case of
32 facilities fueled by methane generated from a landfill owned

1 by a forest preserve district. The purchase rate contained
2 in such contracts shall be equal to the average amount per
3 kilowatt-hour paid from time to time by the unit or units of
4 local government in which the electricity generating
5 facilities are located, excluding amounts paid for street
6 lighting and pumping service.

7 (d) Whenever a public utility is required to purchase
8 electricity pursuant to subsection (c) above, it shall be
9 entitled to credits in respect of its obligations to remit to
10 the State taxes it has collected under the Electricity Excise
11 Tax Law equal to the amounts, if any, by which payments for
12 such electricity exceed (i) the then current rate at which
13 the utility must purchase the output of qualified facilities
14 pursuant to the federal Public Utility Regulatory Policies
15 Act of 1978, less (ii) any costs, expenses, losses, damages
16 or other amounts incurred by the utility, or for which it
17 becomes liable, arising out of its failure to obtain such
18 electricity from such other sources. The amount of any such
19 credit shall, in the first instance, be determined by the
20 utility, which shall make a monthly report of such credits to
21 the Illinois Commerce Commission and, on its monthly tax
22 return, to the Illinois Department of Revenue. Under no
23 circumstances shall a utility be required to purchase
24 electricity from a qualified solid waste energy facility at
25 the rate prescribed in subsection (c) of this Section if such
26 purchase would result in estimated tax credits that exceed,
27 on a monthly basis, the utility's estimated obligation to
28 remit to the State taxes it has collected under the
29 Electricity Excise Tax Law. The owner or operator shall
30 negotiate facility operating conditions with the purchasing
31 utility in accordance with that utility's posted standard
32 terms and conditions for small power producers. If the
33 Department of Revenue disputes the amount of any such credit,
34 such dispute shall be decided by the Illinois Commerce

1 Commission. Whenever a qualified solid waste energy facility
2 has paid or otherwise satisfied in full the capital costs or
3 indebtedness incurred in developing and implementing the
4 qualified facility, the qualified facility shall reimburse
5 the Public Utility Fund and the General Revenue Fund in the
6 State treasury for the actual reduction in payments to those
7 Funds caused by this subsection (d) in a manner to be
8 determined by the Illinois Commerce Commission and based on
9 the manner in which revenues for those Funds were reduced.

10 (e) The Illinois Commerce Commission shall not require
11 an electric utility to purchase electricity from any
12 qualified solid waste energy facility which is owned or
13 operated by an entity that is primarily engaged in the
14 business of producing or selling electricity, gas, or useful
15 thermal energy from a source other than one or more qualified
16 solid waste energy facilities.

17 (f) This Section does not require an electric utility to
18 construct additional facilities unless those facilities are
19 paid for by the owner or operator of the affected qualified
20 solid waste energy facility.

21 (g) The Illinois Commerce Commission shall require that:
22 (1) electric utilities use the electricity purchased from a
23 qualified solid waste energy facility to displace electricity
24 generated from nuclear power or coal mined and purchased
25 outside the boundaries of the State of Illinois before
26 displacing electricity generated from coal mined and
27 purchased within the State of Illinois, to the extent
28 possible, and (2) electric utilities report annually to the
29 Commission on the extent of such displacements.

30 (h) Nothing in this Section is intended to cause an
31 electric utility that is required to purchase power hereunder
32 to incur any economic loss as a result of its purchase. All
33 amounts paid for power which a utility is required to
34 purchase pursuant to subparagraph (c) shall be deemed to be

1 costs prudently incurred for purposes of computing charges
2 under rates authorized by Section 9-220 of this Act. Tax
3 credits provided for herein shall be reflected in charges
4 made pursuant to rates so authorized to the extent such
5 credits are based upon a cost which is also reflected in such
6 charges.

7 (i) Beginning in February 1999 and through January 2009,
8 each qualified solid waste energy facility that sells
9 electricity to an electric utility at the purchase rate
10 described in subsection (c) shall file with the Department of
11 Revenue on or before the 15th of each month a form,
12 prescribed by the Department of Revenue, that states the
13 number of kilowatt hours of electricity for which payment was
14 received at that purchase rate from electric utilities in
15 Illinois during the immediately preceding month. This form
16 shall be accompanied by a payment from the qualified solid
17 waste energy facility in an amount equal to six-tenths of a
18 mill (\$0.0006) per kilowatt hour of electricity stated on the
19 form. Beginning on the effective date of this amendatory Act
20 of the 92nd General Assembly, a qualified solid waste energy
21 facility must file the form required under this subsection
22 (i) before the 15th of each month regardless of whether the
23 facility received any payment in the previous month.
24 Payments received by the Department of Revenue shall be
25 deposited into the Municipal Economic Development Fund, a
26 trust fund created outside the State treasury. The State
27 Treasurer may invest the moneys in the Fund in any investment
28 authorized by the Public Funds Investment Act, and investment
29 income shall be deposited into and become part of the Fund.
30 Moneys in the Fund shall be used by the State Treasurer as
31 provided in subsection (j). The obligation of a qualified
32 solid waste energy facility to make payments into the
33 Municipal Economic Development Fund shall terminate upon
34 either: (1) expiration or termination of a facility's

1 contract to sell electricity to an electric utility at the
2 purchase rate described in subsection (c); or (2) entry of an
3 enforceable, final, and non-appealable order by a court of
4 competent jurisdiction that Public Act 89-448 is invalid.
5 Payments by a qualified solid waste energy facility into the
6 Municipal Economic Development Fund do not relieve the
7 qualified solid waste energy facility of its obligation to
8 reimburse the Public Utility Fund and the General Revenue
9 Fund for the actual reduction in payments to those Funds as a
10 result of credits received by electric utilities under
11 subsection (d).

12 A qualified solid waste energy facility that fails to
13 timely file the requisite form and payment as required by
14 this subsection (i) shall be subject to penalties and
15 interest in conformance with the provisions of the Illinois
16 Uniform Penalty and Interest Act.

17 Every qualified solid waste energy facility subject to
18 the provisions of this subsection (i) shall keep and maintain
19 records and books of its sales pursuant to subsection (c),
20 including payments received from those sales and the
21 corresponding tax payments made in accordance with this
22 subsection (i), and for purposes of enforcement of this
23 subsection (i) all such books and records shall be subject to
24 inspection by the Department of Revenue or its duly
25 authorized agents or employees.

26 When a qualified solid waste energy facility fails to
27 file the form or make the payment required under this
28 subsection (i), the Department of Revenue, to the extent that
29 it is practical, may enforce the payment obligation in a
30 manner consistent with Section 5 of the Retailers' Occupation
31 Tax Act, and if necessary may impose and enforce a tax lien
32 in a manner consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f,
33 5g, and 5i of the Retailers' Occupation Tax Act. No tax lien
34 may be imposed or enforced, however, unless a qualified solid

1 waste energy facility fails to make the payment required
2 under this subsection (i). Only to the extent necessary and
3 for the purpose of enforcing this subsection (i), the
4 Department of Revenue may secure necessary information from a
5 qualified solid waste energy facility in a manner consistent
6 with Section 10 of the Retailers' Occupation Tax Act.

7 All information received by the Department of Revenue in
8 its administration and enforcement of this subsection (i)
9 shall be confidential in a manner consistent with Section 11
10 of the Retailers' Occupation Tax Act. The Department of
11 Revenue may adopt rules to implement the provisions of this
12 subsection (i).

13 For purposes of implementing the maximum aggregate
14 distribution provisions in subsections (j) and (k), when a
15 qualified solid waste energy facility makes a late payment to
16 the Department of Revenue for deposit into the Municipal
17 Economic Development Fund, that payment and deposit shall be
18 attributed to the month and corresponding quarter in which
19 the payment should have been made, and the Treasurer shall
20 make retroactive distributions or refunds, as the case may
21 be, whenever such late payments so require.

22 (j) The State Treasurer, without appropriation, must
23 make distributions immediately after January 15, April 15,
24 July 15, and October 15 of each year, up to maximum aggregate
25 distributions of \$500,000 for the distributions made in the 4
26 quarters beginning with the April distribution and ending
27 with the January distribution, from the Municipal Economic
28 Development Fund to each city, village, or incorporated town
29 that has within its boundaries an incinerator that: (1) uses
30 or, on the effective date of Public Act 90-813, used
31 municipal waste as its primary fuel to generate electricity;
32 (2) was determined by the Illinois Commerce Commission to
33 qualify as a qualified solid waste energy facility prior to
34 the effective date of Public Act 89-448; and (3) commenced

1 operation prior to January 1, 1998. Total distributions in
2 the aggregate to all qualified cities, villages, and
3 incorporated towns in the 4 quarters beginning with the April
4 distribution and ending with the January distribution shall
5 not exceed \$500,000. The amount of each distribution shall
6 be determined pro rata based on the population of the city,
7 village, or incorporated town compared to the total
8 population of all cities, villages, and incorporated towns
9 eligible to receive a distribution. Distributions received by
10 a city, village, or incorporated town must be held in a
11 separate account and may be used only to promote and enhance
12 industrial, commercial, residential, service, transportation,
13 and recreational activities and facilities within its
14 boundaries, thereby enhancing the employment opportunities,
15 public health and general welfare, and economic development
16 within the community, including administrative expenditures
17 exclusively to further these activities. These funds,
18 however, shall not be used by the city, village, or
19 incorporated town, directly or indirectly, to purchase,
20 lease, operate, or in any way subsidize the operation of any
21 incinerator, and these funds shall not be paid, directly or
22 indirectly, by the city, village, or incorporated town to the
23 owner, operator, lessee, shareholder, or bondholder of any
24 incinerator. Moreover, these funds shall not be used to pay
25 attorneys fees in any litigation relating to the validity of
26 Public Act 89-448. Nothing in this Section prevents a city,
27 village, or incorporated town from using other corporate
28 funds for any legitimate purpose. For purposes of this
29 subsection, the term "municipal waste" has the meaning
30 ascribed to it in Section 3.290 ~~3-21~~ of the Environmental
31 Protection Act.

32 (k) If maximum aggregate distributions of \$500,000 under
33 subsection (j) have been made after the January distribution
34 from the Municipal Economic Development Fund, then the

1 balance in the Fund shall be refunded to the qualified solid
2 waste energy facilities that made payments that were
3 deposited into the Fund during the previous 12-month period.
4 The refunds shall be prorated based upon the facility's
5 payments in relation to total payments for that 12-month
6 period.

7 (1) Beginning January 1, 2000, and each January 1
8 thereafter, each city, village, or incorporated town that
9 received distributions from the Municipal Economic
10 Development Fund, continued to hold any of those
11 distributions, or made expenditures from those distributions
12 during the immediately preceding year shall submit to a
13 financial and compliance and program audit of those
14 distributions performed by the Auditor General at no cost to
15 the city, village, or incorporated town that received the
16 distributions. The audit should be completed by June 30 or
17 as soon thereafter as possible. The audit shall be submitted
18 to the State Treasurer and those officers enumerated in
19 Section 3-14 of the Illinois State Auditing Act. If the
20 Auditor General finds that distributions have been expended
21 in violation of this Section, the Auditor General shall refer
22 the matter to the Attorney General. The Attorney General may
23 recover, in a civil action, 3 times the amount of any
24 distributions illegally expended. For purposes of this
25 subsection, the terms "financial audit," "compliance audit",
26 and "program audit" have the meanings ascribed to them in
27 Sections 1-13 and 1-15 of the Illinois State Auditing Act.
28 (Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01.)

29 Section 45. The Hazardous Waste Crane and Hoisting
30 Equipment Operators Licensing Act is amended by changing
31 Section 3 as follows:

32 (225 ILCS 220/3) (from Ch. 111, par. 7703)

1 Sec. 3. For the purposes of this Act, unless the context
2 otherwise requires:

3 (a) "Agency" means the Environmental Protection Agency.

4 (b) "Crane" means any hoisting equipment that lifts and
5 rotates or moves a load horizontally or vertically,
6 including: hydraulic back hoes, hydraulic cranes, friction
7 cranes, derricks, jib hoists, gantry, bridge cranes, floating
8 cranes of any type and air-borne hoisting equipment.

9 (c) "Hoist" includes, but is not limited to, a material
10 hoist (construction elevator), air tugger (one drum),
11 multi-drum hoist, overhead hoist, sideboom, A-Frame boom
12 truck or behind the cab truck mounted boom.

13 (d) "Director" means the Director of the Environmental
14 Protection Agency.

15 (e) "Hazardous waste" means a hazardous waste as defined
16 in Section 3.220 3-15 of the Environmental Protection Act,
17 except asbestos.

18 (f) "Facility" means a pollution control facility as
19 defined in Section 3.330 3-32 of the Environmental Protection
20 Act, or a site undergoing cleanup pursuant to either the
21 federal Comprehensive Environmental Response, Compensation
22 and Liability Act of 1980, as amended, or Section 22.2 of the
23 Illinois Environmental Protection Act.

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

25 Section 50. The Hazardous Waste Laborers Licensing Act
26 is amended by changing Section 3 as follows:

27 (225 ILCS 221/3) (from Ch. 111, par. 7803)

28 Sec. 3. For the purposes of this Act, unless the context
29 otherwise requires:

30 (a) "Agency" means the Environmental Protection Agency.

31 (b) "Director" means the Director of the Environmental
32 Protection Agency.

1 (c) "Laborer" means a person who (1) erects, moves,
2 services and dismantles scaffolds and barricades at a
3 facility; (2) constructs, erects, removes and dismantles
4 enclosures, chambers or decontamination units required for
5 the removal or containment of hazardous waste at a facility;
6 (3) labels, bags, cartons or otherwise packages hazardous
7 waste for disposal; and (4) cleans up the work site and
8 performs other work incidental to the removal, abatement or
9 encapsulation of hazardous waste.

10 (d) "Hazardous waste" means a hazardous waste as defined
11 in Section 3.220 3-15 of the Environmental Protection Act,
12 except asbestos.

13 (e) "Facility" means a pollution control facility as
14 defined in Section 3.330 3-32 of the Environmental Protection
15 Act, or a site undergoing cleanup pursuant to either the
16 federal Comprehensive Environmental Response, Compensation
17 and Liability Act of 1980, as amended, or Section 22.2 of the
18 Illinois Environmental Protection Act.

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

20 Section 55. The Environmental Toxicology Act is amended
21 by changing Section 3 as follows:

22 (415 ILCS 75/3) (from Ch. 111 1/2, par. 983)

23 Sec. 3. Definitions. As used in this Act, unless the
24 context otherwise requires;

25 (a) "Department" means the Illinois Department of Public
26 Health;

27 (b) "Director" means the Director of the Illinois
28 Department of Public Health;

29 (c) "Program" means the Environmental Toxicology program
30 as established by this Act;

31 (d) "Exposure" means contact with a hazardous substance;

32 (e) "Hazardous Substance" means chemical compounds,

1 elements, or combinations of chemicals which, because of
2 quantity concentration, physical characteristics or
3 toxicological characteristics may pose a substantial present
4 or potential hazard to human health and includes, but is not
5 limited to, any substance defined as a hazardous substance in
6 Section 3.215 of 3--of the "Environmental Protection Act",
7 approved June 29, 1970, as amended;

8 (f) "Initial Assessment" means a review and evaluation
9 of site history and hazardous substances involved, potential
10 for population exposure, the nature of any health related
11 complaints and any known patterns in disease occurrence;

12 (g) "Comprehensive Health Study" means a detailed
13 analysis which may include: a review of available
14 environmental, morbidity and mortality data; environmental
15 and biological sampling; detailed review of scientific
16 literature; exposure analysis; population surveys; or any
17 other scientific or epidemiologic methods deemed necessary to
18 adequately evaluate the health status of the population at
19 risk and any potential relationship to environmental factors;

20 (h) "Superfund Site" means any hazardous waste site
21 designated for cleanup on the National Priorities List as
22 mandated by the Comprehensive Environmental Response,
23 Compensation, and Liability Act of 1980 (P.L. 96-510), as
24 amended;

25 (i) "State Remedial Action Priority List" means a list
26 compiled by the Illinois Environmental Protection Agency
27 which identifies sites that appear to present significant
28 risk to the public health, welfare or environment.

29 (Source: P.A. 84-987.)

30 Section 60. The Toxic Pollution Prevention Act is
31 amended by changing Section 3 as follows:

32 (415 ILCS 85/3) (from Ch. 111 1/2, par. 7953)

1 Sec. 3. Definitions. As used in this Act:

2 "Agency" means the Illinois Environmental Protection
3 Agency.

4 "Center" means the Waste Management and Research Center.

5 "Person" means any individual, partnership,
6 co-partnership, firm, company, corporation, association,
7 joint stock company, trust, political subdivision, State
8 agency, or any other legal entity, or its legal
9 representative, agent or assigns.

10 "Release" means emission to the air, discharge to surface
11 waters or off-site wastewater treatment facilities, or
12 on-site release to the land, including but not limited to
13 landfills, surface impoundments and injection wells.

14 "Toxic substance" means any substance listed by the
15 Agency pursuant to Section 4 of this Act.

16 "Toxic pollution prevention" means in-plant practices
17 that reduce, avoid or eliminate: (i) the use of toxic
18 substances, (ii) the generation of toxic constituents in
19 wastes, (iii) the disposal or release of toxic substances
20 into the environment, or (iv) the development or manufacture
21 of products with toxic constituents, through the application
22 of any of the following techniques:

23 (1) input substitution, which refers to replacing a
24 toxic substance or raw material used in a production
25 process with a nontoxic or less toxic substance;

26 (2) product reformulation, which refers to
27 substituting for an existing end product an end product
28 which is nontoxic or less toxic upon use, release or
29 disposal;

30 (3) production process redesign or modification,
31 which refers to developing and using production processes
32 of a different design than those currently used;

33 (4) production process modernization, which refers
34 to upgrading or replacing existing production process

1 equipment or methods with other equipment or methods
2 based on the same production process;

3 (5) improved operation and maintenance of existing
4 production process equipment and methods, which refers to
5 modifying or adding to existing equipment or methods,
6 including but not limited to such techniques as improved
7 housekeeping practices, system adjustments, product and
8 process inspections, and production process control
9 equipment or methods;

10 (6) recycling, reuse or extended use of toxic
11 substances by using equipment or methods which become an
12 integral part of the production process, including but
13 not limited to filtration and other closed loop methods.

14 However, "toxic pollution prevention" shall not include
15 or in any way be inferred to promote or require incineration,
16 transfer from one medium of release to another, off-site or
17 out of process waste recycling, or end of pipe treatment of
18 toxic substances.

19 "Trade secret" means any information concerning
20 production processes employed or substances manufactured,
21 processed or otherwise used within a facility which the
22 Agency determines to satisfy the criteria established under
23 Section 3.490 3-48 of the Environmental Protection Act, and
24 to which specific trade secret status has been granted by the
25 Agency.

26 (Source: P.A. 90-490, eff. 8-17-97.)

27 Section 65. The Litter Control Act is amended by
28 changing Sections 3 and 4 as follows

29 (415 ILCS 105/3) (from Ch. 38, par. 86-3)

30 Sec. 3. As used in this Act, unless the context
31 otherwise requires:

32 (a) "Litter" means any discarded, used or unconsumed

1 substance or waste. "Litter" may include, but is not limited
2 to, any garbage, trash, refuse, debris, rubbish, grass
3 clippings or other lawn or garden waste, newspaper,
4 magazines, glass, metal, plastic or paper containers or other
5 packaging construction material, abandoned vehicle (as
6 defined in the Illinois Vehicle Code), motor vehicle parts,
7 furniture, oil, carcass of a dead animal, any nauseous or
8 offensive matter of any kind, any object likely to injure any
9 person or create a traffic hazard, potentially infectious
10 medical waste as defined in Section 3.360 3-84 of the
11 Environmental Protection Act, or anything else of an
12 unsightly or unsanitary nature, which has been discarded,
13 abandoned or otherwise disposed of improperly.

14 (b) "Motor vehicle" has the meaning ascribed to that
15 term in Section 1-146 of the Illinois Vehicle Code.

16 (c) "Person" means any individual, partnership,
17 copartnership, firm, company, corporation, association, joint
18 stock company, trust, estate, or any other legal entity, or
19 their legal representative, agent or assigns.

20 (Source: P.A. 90-89, eff. 1-1-98.)

21 (415 ILCS 105/4) (from Ch. 38, par. 86-4)

22 Sec. 4. No person shall dump, deposit, drop, throw,
23 discard, leave, cause or permit the dumping, depositing,
24 dropping, throwing, discarding or leaving of litter upon any
25 public or private property in this State, or upon or into any
26 river, lake, pond, or other stream or body of water in this
27 State, unless:

28 (a) the property has been designated by the State or any
29 of its agencies, political subdivisions, units of local
30 government or school districts for the disposal of litter,
31 and the litter is disposed of on that property in accordance
32 with the applicable rules and regulations of the Pollution
33 Control Board;

1 (b) the litter is placed into a receptacle or other
2 container intended by the owner or tenant in lawful
3 possession of that property for the deposit of litter;

4 (c) the person is the owner or tenant in lawful
5 possession of the property or has first obtained the consent
6 of the owner or tenant in lawful possession, or unless the
7 act is done under the personal direction of the owner or
8 tenant and does not create a public health or safety hazard,
9 a public nuisance, or a fire hazard;

10 (d) the person is acting under the direction of proper
11 public officials during special cleanup days; or

12 (e) the person is lawfully acting in or reacting to an
13 emergency situation where health and safety is threatened,
14 and removes and properly disposes of such litter, including,
15 but not limited to, potentially infectious medical waste as
16 defined in Section 3.360 3-84 of the Environmental Protection
17 Act, when the emergency situation no longer exists.

18 (Source: P.A. 88-415; 88-670, eff. 12-2-94.)

19 Section 70. The Illinois Vehicle Code is amended by
20 changing Sections 11-1413 and 12-606 as follows:

21 (625 ILCS 5/11-1413) (from Ch. 95 1/2, par. 11-1413)

22 Sec. 11-1413. Depositing material on highway prohibited.

23 (a) No person shall throw, spill or deposit upon any
24 highway any bottle, glass, nails, tacks, wire, cans, or any
25 litter (as defined in Section 3 of the Litter Control Act).

26 (b) Any person who violates subsection (a) upon any
27 highway shall immediately remove such material or cause it to
28 be removed.

29 (c) Any person removing a wrecked or damaged vehicle
30 from a highway shall remove any glass or other debris, except
31 any hazardous substance as defined in Section 3.215 3-14 of
32 the Environmental Protection Act, hazardous waste as defined

1 in Section 3.220 3-15 of the Environmental Protection Act,
2 and potentially infectious medical waste as defined in
3 Section 3.360 3-84 of the Environmental Protection Act,
4 dropped upon the highway from such vehicle.

5 (Source: P.A. 87-190; 88-415; 88-670, eff. 12-2-94.)

6 (625 ILCS 5/12-606) (from Ch. 95 1/2, par. 12-606)

7 Sec. 12-606. Tow-trucks; identification; equipment;
8 insurance.

9 (a) Every tow-truck, except those owned by governmental
10 agencies, shall have displayed on each side thereof, a sign
11 with letters not less than 2 inches in height, contrasting in
12 color to that of the background, stating the full legal name,
13 complete address (including street address and city), and
14 telephone number of the owner or operator thereof. This
15 information shall be permanently affixed to the sides of the
16 tow truck.

17 (b) Every tow-truck shall be equipped with:

18 (1) One or more brooms and shovels;

19 (2) One or more trash cans of at least 5 gallon
20 capacity; and

21 (3) One fire extinguisher. This extinguisher shall
22 be either:

23 (i) of the dry chemical or carbon dioxide type
24 with an aggregate rating of at least 4-B, C units,
25 and bearing the approval of a laboratory qualified
26 by the Division of Fire Prevention for this purpose;
27 or

28 (ii) One that meets the requirements of the
29 Federal Motor Carrier Safety Regulations of the
30 United States Department of Transportation for fire
31 extinguishers on commercial motor vehicles.

32 (c) Every owner or operator and driver of a tow-truck
33 shall comply with Section 11-1413 of this Act and shall

1 remove or cause to be removed all glass and debris, except
2 any (i) hazardous substance as defined in Section 3.215 3-14
3 of the Environmental Protection Act, (ii) hazardous waste as
4 defined in Section 3.220 3-15 of the Environmental Protection
5 Act, and (iii) medical samples or waste, including but not
6 limited to any blood samples, used syringes, other used
7 medical supplies, or any other potentially infectious medical
8 waste as defined in Section 3.360 3-84 of the Environmental
9 Protection Act, deposited upon any street or highway by the
10 disabled vehicle being serviced, and shall in addition,
11 spread dirt or sand or oil absorbent upon that portion of any
12 street or highway where oil or grease has been deposited by
13 the disabled vehicle being serviced.

14 (d) Every tow-truck operator shall in addition file an
15 indemnity bond, insurance policy, or other proof of insurance
16 in a form to be prescribed by the Secretary for:
17 garagekeepers liability insurance, in an amount no less than
18 a combined single limit of \$500,000, and truck (auto)
19 liability insurance in an amount no less than a combined
20 single limit of \$500,000, on hook coverage or garagekeepers
21 coverage in an amount of no less than \$25,000 which shall
22 indemnify or insure the tow-truck operator for the following:

23 (1) Bodily injury or damage to the property of
24 others.

25 (2) Damage to any vehicle towed by the tower.

26 (3) In case of theft, loss of, or damage to any
27 vehicle stored, garagekeepers legal liability coverage in
28 an amount of no less than \$25,000.

29 (4) In case of injury to or occupational illness of
30 the tow truck driver or helper, workers compensation
31 insurance meeting the minimum requirements of the
32 Workers' Compensation Act.

33 Any such bond or policy shall be issued only by a bonding
34 or insuring firm authorized to do business as such in the

1 State of Illinois, and a certificate of such bond or policy
2 shall be carried in the cab of each tow-truck.

3 (e) The bond or policy required in subsection (d) shall
4 provide that the insurance carrier may cancel it by serving
5 previous notice, as required by Sections 143.14 and 143.16 of
6 the Illinois Insurance Code, in writing, either personally or
7 by registered mail, upon the owner or operator of the motor
8 vehicle and upon the Secretary of State. Whenever any such
9 bond or policy shall be so cancelled, the Secretary of State
10 shall mark the policy "Cancelled" and shall require such
11 owner or operator either to furnish a new bond or policy, in
12 accordance with this Act.

13 (Source: P.A. 88-415; 88-670, eff. 12-2-94; 89-433, eff.
14 12-15-95.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."