



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by James H. Meyer

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4

from Ch. 111 1/2, par. 1004

Amends the Environmental Protection Act. Requires the Environmental Protection Agency to notify units of local government of any health threat posed by pressure-treated wood used in playground equipment and requires the Agency to recommend procedures to those units of local government for notifying the public about the health threat.

LRB093 17853 BDD 43535 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning environmental protection.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 4 as follows:

6 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

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

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

29 (b) The Agency shall have the duty to collect and
30 disseminate such information, acquire such technical data, and
31 conduct such experiments as may be required to carry out the
32 purposes of this Act, including ascertainment of the quantity

1 and nature of discharges from any contaminant source and data
2 on those sources, and to operate and arrange for the operation
3 of devices for the monitoring of environmental quality.

4 (c) The Agency shall have authority to conduct a program of
5 continuing surveillance and of regular or periodic inspection
6 of actual or potential contaminant or noise sources, of public
7 water supplies, and of refuse disposal sites.

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

11 (1) Inspecting and investigating to ascertain possible
12 violations of this Act, any rule or regulation adopted
13 under this Act, any permit or term or condition of a
14 permit, or any Board order; or

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

22 (e) The Agency shall have the duty to investigate
23 violations of this Act, any rule or regulation adopted under
24 this Act, any permit or term or condition of a permit, or any
25 Board order; to issue administrative citations as provided in
26 Section 31.1 of this Act; and to take such summary enforcement
27 action as is provided for by Section 34 of this Act.

28 (f) The Agency shall appear before the Board in any hearing
29 upon a petition for variance, the denial of a permit, or the
30 validity or effect of a rule or regulation of the Board, and
31 shall have the authority to appear before the Board in any
32 hearing under the Act.

33 (g) The Agency shall have the duty to administer, in accord
34 with Title X of this Act, such permit and certification systems
35 as may be established by this Act or by regulations adopted
36 thereunder. The Agency may enter into written delegation

1 agreements with any department, agency, or unit of State or
2 local government under which all or portions of this duty may
3 be delegated for public water supply storage and transport
4 systems, sewage collection and transport systems, air
5 pollution control sources with uncontrolled emissions of 100
6 tons per year or less and application of algicides to waters of
7 the State. Such delegation agreements will require that the
8 work to be performed thereunder will be in accordance with
9 Agency criteria, subject to Agency review, and shall include
10 such financial and program auditing by the Agency as may be
11 required.

12 (h) The Agency shall have authority to require the
13 submission of complete plans and specifications from any
14 applicant for a permit required by this Act or by regulations
15 thereunder, and to require the submission of such reports
16 regarding actual or potential violations of this Act, any rule
17 or regulation adopted under this Act, any permit or term or
18 condition of a permit, or any Board order, as may be necessary
19 for the purposes of this Act.

20 (i) The Agency shall have authority to make recommendations
21 to the Board for the adoption of regulations under Title VII of
22 the Act.

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

28 (k) The Agency shall have the authority to accept, receive,
29 and administer on behalf of the State any grants, gifts, loans,
30 indirect cost reimbursements, or other funds made available to
31 the State from any source for purposes of this Act or for air
32 or water pollution control, public water supply, solid waste
33 disposal, noise abatement, or other environmental protection
34 activities, surveys, or programs. Any federal funds received by
35 the Agency pursuant to this subsection shall be deposited in a
36 trust fund with the State Treasurer and held and disbursed by

1 him in accordance with Treasurer as Custodian of Funds Act,
2 provided that such monies shall be used only for the purposes
3 for which they are contributed and any balance remaining shall
4 be returned to the contributor.

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

8 (1) The Agency is hereby designated as water pollution
9 agency for the state for all purposes of the Federal Water
10 Pollution Control Act, as amended; as implementing agency for
11 the State for all purposes of the Safe Drinking Water Act,
12 Public Law 93-523, as now or hereafter amended, except Section
13 1425 of that Act; as air pollution agency for the state for all
14 purposes of the Clean Air Act of 1970, Public Law 91-604,
15 approved December 31, 1970, as amended; and as solid waste
16 agency for the state for all purposes of the Solid Waste
17 Disposal Act, Public Law 89-272, approved October 20, 1965, and
18 amended by the Resource Recovery Act of 1970, Public Law
19 91-512, approved October 26, 1970, as amended, and amended by
20 the Resource Conservation and Recovery Act of 1976, (P.L.
21 94-580) approved October 21, 1976, as amended; as noise control
22 agency for the state for all purposes of the Noise Control Act
23 of 1972, Public Law 92-574, approved October 27, 1972, as
24 amended; and as implementing agency for the State for all
25 purposes of the Comprehensive Environmental Response,
26 Compensation, and Liability Act of 1980 (P.L. 96-510), as
27 amended; and otherwise as pollution control agency for the
28 State pursuant to federal laws integrated with the foregoing
29 laws, for financing purposes or otherwise. The Agency is hereby
30 authorized to take all action necessary or appropriate to
31 secure to the State the benefits of such federal Acts, provided
32 that the Agency shall transmit to the United States without
33 change any standards adopted by the Pollution Control Board
34 pursuant to Section 5(c) of this Act. This subsection (1) of
35 Section 4 shall not be construed to bar or prohibit the
36 Environmental Protection Trust Fund Commission from accepting,

1 receiving, and administering on behalf of the State any grants,
2 gifts, loans or other funds for which the Commission is
3 eligible pursuant to the Environmental Protection Trust Fund
4 Act. The Agency is hereby designated as the State agency for
5 all purposes of administering the requirements of Section 313
6 of the federal Emergency Planning and Community Right-to-Know
7 Act of 1986.

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

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

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

35 (o) The Agency shall have the authority to issue
36 certificates of competency to persons and laboratories meeting

1 the minimum standards established by the Agency in accordance
2 with Section 4(n) of this Act and to promulgate and enforce
3 regulations relevant to the issuance and use of such
4 certificates. The Agency may enter into formal working
5 agreements with other departments or agencies of state
6 government under which all or portions of this authority may be
7 delegated to the cooperating department or agency.

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

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

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

1 willful and wanton negligence of an agent or employee of the
2 unit of local government, and any policy of insurance coverage
3 issued to a unit of local government may provide for the denial
4 of liability and the nonpayment of claims based upon injuries
5 for which the unit of local government is not liable pursuant
6 to this subsection (r).

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

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

28 (u) Pursuant to the Illinois Administrative Procedure Act,
29 the Agency shall have the authority to adopt such rules as are
30 necessary or appropriate for the Agency to implement Section
31 31.1 of this Act.

32 (v) (Blank.)

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

1 (x) (1) The Agency shall have authority to distribute
2 grants, subject to appropriation by the General Assembly,
3 to units of local government for financing and construction
4 of public water supply facilities. With respect to all
5 monies appropriated from the Build Illinois Bond Fund or
6 the Build Illinois Purposes Fund for public water supply
7 grants, such grants shall be made in accordance with rules
8 promulgated by the Agency. Such rules shall include a
9 requirement for a local match of 30% of the total project
10 cost for projects 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
13 public water supply facilities unless and until the Agency
14 adopts rules that set forth precise and complete standards,
15 pursuant to Section 5-20 of the Illinois Administrative
16 Procedure Act, for the termination of such grants. The
17 Agency shall not make determinations on whether specific
18 grant conditions are necessary to ensure the integrity of a
19 project or on whether subagreements shall be awarded, with
20 respect to grants for the financing and construction of
21 public water supply facilities, unless and until the Agency
22 adopts rules that set forth precise and complete standards,
23 pursuant to Section 5-20 of the Illinois Administrative
24 Procedure Act, for making such determinations. The Agency
25 shall not issue a stop-work order in relation to such
26 grants unless and until the Agency adopts precise and
27 complete standards, pursuant to Section 5-20 of the
28 Illinois Administrative Procedure Act, for determining
29 whether to issue a stop-work order.

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

35 (z) The Agency must notify units of local government of any
36 health threat posed by pressure-treated wood used in playground

1 equipment and must recommend procedures to those units of local
2 government for notifying the public concerning the health
3 threat.

4 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)