

1 AN ACT concerning safety.

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

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 1-5 as follows:

6 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

7 Sec. 1-5. Applicability.

8 (a) This Act applies to every agency as defined in this
9 Act. Beginning January 1, 1978, in case of conflict between the
10 provisions of this Act and the Act creating or conferring power
11 on an agency, this Act shall control. If, however, an agency
12 (or its predecessor in the case of an agency that has been
13 consolidated or reorganized) has existing procedures on July 1,
14 1977, specifically for contested cases or licensing, those
15 existing provisions control, except that this exception
16 respecting contested cases and licensing does not apply if the
17 Act creating or conferring power on the agency adopts by
18 express reference the provisions of this Act. Where the Act
19 creating or conferring power on an agency establishes
20 administrative procedures not covered by this Act, those
21 procedures shall remain in effect.

22 (b) The provisions of this Act do not apply to (i)
23 preliminary hearings, investigations, or practices where no

1 final determinations affecting State funding are made by the
2 State Board of Education, (ii) legal opinions issued under
3 Section 2-3.7 of the School Code, (iii) as to State colleges
4 and universities, their disciplinary and grievance
5 proceedings, academic irregularity and capricious grading
6 proceedings, and admission standards and procedures, and (iv)
7 the class specifications for positions and individual position
8 descriptions prepared and maintained under the Personnel Code.
9 Those class specifications shall, however, be made reasonably
10 available to the public for inspection and copying. The
11 provisions of this Act do not apply to hearings under Section
12 20 of the Uniform Disposition of Unclaimed Property Act.

13 (c) Section 5-35 of this Act relating to procedures for
14 rulemaking does not apply to the following:

15 (1) Rules adopted by the Pollution Control Board that,
16 in accordance with Section 7.2 of the Environmental
17 Protection Act, are identical in substance to federal
18 regulations or amendments to those regulations
19 implementing the following: Sections 3001, 3002, 3003,
20 3004, 3005, and 9003 of the Solid Waste Disposal Act;
21 Section 105 of the Comprehensive Environmental Response,
22 Compensation, and Liability Act of 1980; Sections 307(b),
23 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal
24 Water Pollution Control Act; ~~and~~ Sections 1412(b),
25 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking
26 Water Act; and Section 109 of the Clean Air Act.

1 (2) Rules adopted by the Pollution Control Board that
2 establish or amend standards for the emission of
3 hydrocarbons and carbon monoxide from gasoline powered
4 motor vehicles subject to inspection under the Vehicle
5 Emissions Inspection Law of 2005 or its predecessor laws.

6 (3) Procedural rules adopted by the Pollution Control
7 Board governing requests for exceptions under Section 14.2
8 of the Environmental Protection Act.

9 (4) The Pollution Control Board's grant, pursuant to an
10 adjudicatory determination, of an adjusted standard for
11 persons who can justify an adjustment consistent with
12 subsection (a) of Section 27 of the Environmental
13 Protection Act.

14 (5) Rules adopted by the Pollution Control Board that
15 are identical in substance to the regulations adopted by
16 the Office of the State Fire Marshal under clause (ii) of
17 paragraph (b) of subsection (3) of Section 2 of the
18 Gasoline Storage Act.

19 (6) Rules adopted by the Illinois Pollution Control
20 Board under Section 9.14 of the Environmental Protection
21 Act.

22 (d) Pay rates established under Section 8a of the Personnel
23 Code shall be amended or repealed pursuant to the process set
24 forth in Section 5-50 within 30 days after it becomes necessary
25 to do so due to a conflict between the rates and the terms of a
26 collective bargaining agreement covering the compensation of

1 an employee subject to that Code.

2 (e) Section 10-45 of this Act shall not apply to any
3 hearing, proceeding, or investigation conducted under Section
4 13-515 of the Public Utilities Act.

5 (f) Article 10 of this Act does not apply to any hearing,
6 proceeding, or investigation conducted by the State Council for
7 the State of Illinois created under Section 3-3-11.05 of the
8 Unified Code of Corrections or by the Interstate Commission for
9 Adult Offender Supervision created under the Interstate
10 Compact for Adult Offender Supervision or by the Interstate
11 Commission for Juveniles created under the Interstate Compact
12 for Juveniles.

13 (g) This Act is subject to the provisions of Article XXI of
14 the Public Utilities Act. To the extent that any provision of
15 this Act conflicts with the provisions of that Article XXI, the
16 provisions of that Article XXI control.

17 (Source: P.A. 97-95, eff. 7-12-11.)

18 Section 10. The Environmental Protection Act is amended by
19 changing Sections 7.2 and 10 as follows:

20 (415 ILCS 5/7.2) (from Ch. 111 1/2, par. 1007.2)

21 Sec. 7.2. Identical in substance rulemakings.

22 (a) In the context of a mandate that the Board adopt
23 regulations to secure federal authorization for a program,
24 regulations that are "identical in substance" means State

1 regulations which require the same actions with respect to
2 protection of the environment, by the same group of affected
3 persons, as would federal regulations if USEPA administered the
4 subject program in Illinois. After consideration of comments
5 from the USEPA, the Agency, the Attorney General and the
6 public, the Board shall adopt the verbatim text of such USEPA
7 regulations as are necessary and appropriate for authorization
8 of the program. In adopting "identical in substance"
9 regulations, the only changes that may be made by the Board to
10 the federal regulations are those changes that are necessary
11 for compliance with the Illinois Administrative Code, and
12 technical changes that in no way change the scope or meaning of
13 any portion of the regulations, except as follows:

14 (1) The Board shall not adopt the equivalent of USEPA
15 rules that are not applicable to persons or facilities in
16 Illinois, that govern the program authorization process,
17 that are appropriate only in USEPA-administered programs,
18 or that govern actions to be taken by USEPA, other federal
19 agencies or other states.

20 (2) The Board shall not adopt rules prescribing things
21 which are outside the Board's normal functions, such as
22 rules specifying staffing or funding requirements for
23 programs.

24 (3) If a USEPA rule prescribes the contents of a State
25 regulation without setting forth the regulation itself,
26 which would be an integral part of any regulation required

1 to be adopted as an "identical in substance" regulation as
2 defined in this Section, the Board shall adopt a regulation
3 as prescribed, to the extent possible consistent with other
4 relevant USEPA regulations and existing State law. The
5 Board may not use this subsection to adopt any regulation
6 which is a required rule as that term is defined by Section
7 28.2 of this Act. To the extent practicable, the Board in
8 its proposed and adopted opinion shall include its
9 rationale for adopting such regulation.

10 (4) Pursuant to subsection (a) of Section 5-75 of the
11 Illinois Administrative Procedure Act, the Board may
12 incorporate USEPA rules by reference where it is possible
13 to do so without causing confusion to the affected public.

14 (5) If USEPA intends to retain decision-making
15 authority for a portion of the program, the Board
16 regulation shall so specify. In addition, the Board
17 regulation shall specify whether a decision is to be made
18 by the Board, the Agency or some other State agency, based
19 upon the general division of functions within this Act and
20 other Illinois statutes.

21 (6) Wherever appropriate, the Board regulations shall
22 reflect any consistent, more stringent regulations adopted
23 pursuant to the rulemaking requirements of Title VII of
24 this Act and Section 5-35 of the Illinois Administrative
25 Procedure Act.

26 (7) The Board may correct apparent typographical and

1 grammatical errors in USEPA rules.

2 (b) In adopting regulations that are "identical in
3 substance" with specified federal regulations under subsection
4 (c) of Section 13, Section 13.3, Section 17.5, subsection (a)
5 or (d) of Section 22.4, subsection (a) of Section 22.7, or
6 subsection (a) of Section 22.40, subsection (H) of Section 10,
7 or specified federal determinations under subsection (e) of
8 Section 9.1, the Board shall complete its rulemaking
9 proceedings within one year after the adoption of the
10 corresponding federal rule. If the Board consolidates multiple
11 federal rulemakings into a single Board rulemaking, the
12 one-year period shall be calculated from the adoption date of
13 the federal rule first adopted among those consolidated. After
14 adopting an "identical in substance" rule, if the Board
15 determines that an amendment is needed to that rule, the Board
16 shall initiate a rulemaking proceeding to propose such
17 amendment. The amendment shall be adopted within one year of
18 the initiation of the Board's determination.

19 Additionally, if the Board, after adopting an "identical in
20 substance" rule, determines that a technical correction to that
21 rule is needed, the Board may initiate an application for
22 certification of correction under Section 5-85 of the Illinois
23 Administrative Procedure Act.

24 The one-year period may be extended by the Board for an
25 additional period of time if necessary to complete the
26 rulemaking proceeding. In order to extend the one-year period,

1 the Board must make a finding, based upon the record in the
2 rulemaking proceeding, that the one-year period is
3 insufficient for completion of the rulemaking, and such finding
4 shall specifically state the reasons for the extension. Except
5 as otherwise provided above, the Board must make the finding
6 that an extension of time is necessary prior to the expiration
7 of the initial one-year period, and must also publish a notice
8 of extension in the Illinois Register as expeditiously as
9 practicable following its decision, stating the specific
10 reasons for the Board's decision to extend. The notice of
11 extension need not appear in the Illinois Register prior to the
12 expiration of the initial one year period and shall specify a
13 date certain by which the Board anticipates completion of the
14 rulemaking, except that if a date certain cannot be specified
15 because of a need to delay adoption pending occurrence of an
16 event beyond the Board's control, the notice shall specify the
17 event, explain its circumstances, and contain an estimate of
18 the amount of time needed to complete the rulemaking after the
19 occurrence of the specified event.

20 (Source: P.A. 87-830; 88-45; 88-496.)

21 (415 ILCS 5/10) (from Ch. 111 1/2, par. 1010)

22 Sec. 10. Regulations.

23 (A) The Board, pursuant to procedures prescribed in Title
24 VII of this Act, may adopt regulations to promote the purposes
25 of this Title. Without limiting the generality of this

1 authority, such regulations may among other things prescribe:

2 (a) (Blank); ~~Ambient air quality standards specifying~~
3 ~~the maximum permissible short term and long term~~
4 ~~concentrations of various contaminants in the atmosphere;~~

5 (b) Emission standards specifying the maximum amounts
6 or concentrations of various contaminants that may be
7 discharged into the atmosphere;

8 (c) Standards for the issuance of permits for
9 construction, installation, or operation of any equipment,
10 facility, vehicle, vessel, or aircraft capable of causing
11 or contributing to air pollution or designed to prevent air
12 pollution;

13 (d) Standards and conditions regarding the sale,
14 offer, or use of any fuel, vehicle, or other article
15 determined by the Board to constitute an air-pollution
16 hazard;

17 (e) Alert and abatement standards relative to
18 air-pollution episodes or emergencies constituting an
19 acute danger to health or to the environment;

20 (f) Requirements and procedures for the inspection of
21 any equipment, facility, vehicle, vessel, or aircraft that
22 may cause or contribute to air pollution;

23 (g) Requirements and standards for equipment and
24 procedures for monitoring contaminant discharges at their
25 sources, the collection of samples and the collection,
26 reporting and retention of data resulting from such

1 monitoring.

2 (B) The Board may adopt regulations and emission standards
3 that are applicable or that may become applicable to stationary
4 emission sources located in all areas of the State in
5 accordance with any of the following:

6 (1) that are required by federal law;

7 (2) that are otherwise part of the State's attainment
8 plan and are necessary to attain the national ambient air
9 quality standards; or

10 (3) that are necessary to comply with the requirements
11 of the federal Clean Air Act.

12 (C) The Board may not adopt any regulation banning the
13 burning of landscape waste throughout the State generally. The
14 Board may, by regulation, restrict or prohibit the burning of
15 landscape waste within any geographical area of the State if it
16 determines based on medical and biological evidence generally
17 accepted by the scientific community that such burning will
18 produce in the atmosphere of that geographical area
19 contaminants in sufficient quantities and of such
20 characteristics and duration as to be injurious to humans,
21 plant, or animal life, or health.

22 (D) The Board shall adopt regulations requiring the owner
23 or operator of a gasoline dispensing system that dispenses more
24 than 10,000 gallons of gasoline per month to install and
25 operate a system for the recovery of gasoline vapor emissions
26 arising from the fueling of motor vehicles that meets the

1 requirements of Section 182 of the federal Clean Air Act (42
2 USC 7511a). These regulations shall apply only in areas of the
3 State that are classified as moderate, serious, severe or
4 extreme nonattainment areas for ozone pursuant to Section 181
5 of the federal Clean Air Act (42 USC 7511), but shall not apply
6 in such areas classified as moderate nonattainment areas for
7 ozone if the Administrator of the U.S. Environmental Protection
8 Agency promulgates standards for vehicle-based (onboard)
9 systems for the control of vehicle refueling emissions pursuant
10 to Section 202(a)(6) of the federal Clean Air Act (42 USC
11 7521(a)(6)) by November 15, 1992.

12 (E) The Board shall not adopt or enforce any regulation
13 requiring the use of a tarpaulin or other covering on a truck,
14 trailer, or other vehicle that is stricter than the
15 requirements of Section 15-109.1 of the Illinois Vehicle Code.
16 To the extent that it is in conflict with this subsection, the
17 Board's rule codified as 35 Ill. Admin. Code, Section 212.315
18 is hereby superseded.

19 (F) Any person who prior to June 8, 1988, has filed a
20 timely Notice of Intent to Petition for an Adjusted RACT
21 Emissions Limitation and who subsequently timely files a
22 completed petition for an adjusted RACT emissions limitation
23 pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be
24 subject to the procedures contained in Subpart I but shall be
25 excluded by operation of law from 35 Ill. Adm. Code, Part 215,
26 Subparts PP, QQ and RR, including the applicable definitions in

1 35 Ill. Adm. Code, Part 211. Such persons shall instead be
2 subject to a separate regulation which the Board is hereby
3 authorized to adopt pursuant to the adjusted RACT emissions
4 limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I.
5 In its final action on the petition, the Board shall create a
6 separate rule which establishes Reasonably Available Control
7 Technology (RACT) for such person. The purpose of this
8 procedure is to create separate and independent regulations for
9 purposes of SIP submittal, review, and approval by USEPA.

10 (G) Subpart FF of Subtitle B, Title 35 Ill. Adm. Code,
11 Sections 218.720 through 218.730 and Sections 219.720 through
12 219.730, are hereby repealed by operation of law and are
13 rendered null and void and of no force and effect.

14 (H) In accordance with subsection (b) of Section 7.2, the
15 Board shall adopt ambient air quality standards specifying the
16 maximum permissible short-term and long-term concentrations of
17 various contaminants in the atmosphere; those standards shall
18 be identical in substance to the national ambient air quality
19 standards promulgated by the Administrator of the United States
20 Environmental Protection Agency in accordance with Section 109
21 of the Clean Air Act. The Board may consolidate into a single
22 rulemaking under this subsection all such federal regulations
23 adopted within a period of time not to exceed 6 months. The
24 provisions and requirements of Title VII of this Act and
25 Section 5-35 of the Illinois Administrative Procedure Act,
26 relating to procedures for rulemaking, shall not apply to

1 identical in substance regulations adopted pursuant to this
2 subsection. However, the Board shall provide for notice and
3 public comment before adopted rules are filed with the
4 Secretary of State. Nothing in this subsection shall be
5 construed to limit the right of any person to submit a proposal
6 to the Board, or the authority of the Board to adopt, air
7 quality standards more stringent than the standards
8 promulgated by the Administrator, pursuant to the rulemaking
9 requirements of Title VII of this Act and Section 5-35 of the
10 Illinois Administrative Procedure Act.

11 (Source: P.A. 95-460, eff. 8-27-07.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.