



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5936

by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Asbestos Occupations Licensure Act. Provides that persons licensed to perform asbestos abatement-related activities under the Asbestos Abatement Act or the Commercial and Public Building Asbestos Abatement Act shall be licensed by the Department of Public Health. Repeals Sections of the Asbestos Abatement Act and the Commercial and Public Building Asbestos Abatement Act recodified in the Asbestos Occupations Licensure Act. Amends additional Sections of the Environmental Protection Act. Provides that after the effective date of this Act, rulemaking for the Asbestos Abatement Act or the Commercial and Public Building Asbestos Abatement Act shall be done by the Pollution Control Board. Makes corresponding changes to other Acts. Effective July 1, 2014.

LRB098 19008 MGM 54158 b

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 1. Short title. This Act may be cited as the  
5 Asbestos Occupations Licensure Act.

6 Section 5. Scope and application. This Act applies to the  
7 training and licensing of persons and firms (1) to perform  
8 asbestos inspection, (2) to perform abatement work, and (3) to  
9 serve as asbestos abatement contractors, response action  
10 contractors, and asbestos workers under both the Asbestos  
11 Abatement Act and the Commercial and Public Building Asbestos  
12 Abatement Act.

13 Section 10. Definitions. As used in this Act:

14 "Asbestos" means the asbestiform varieties of chrysotile,  
15 amosite, crocidolite, tremolite, anthrophyllite, and  
16 actinolite.

17 "Asbestos abatement contractor" means any entity that  
18 engages in the removal, enclosure, or encapsulation of asbestos  
19 containing materials for any school.

20 "Asbestos inspector" means an individual licensed by the  
21 Department to perform inspections for the presence of asbestos  
22 containing materials.

1 "Asbestos materials" means materials formed by mixing  
2 asbestos fibers with other products, including but not limited  
3 to rock wool, plaster, cellulose, clay, vermiculite, perlite  
4 and a variety of adhesives, and which contain more than 1%  
5 asbestos by weight. Some of these materials may be sprayed on  
6 surfaces or applied to surfaces in the form of plaster or a  
7 textured paint.

8 "Asbestos professional" means an individual who is  
9 licensed by the Department to perform the duties of an  
10 inspector, management planner, project designer, project  
11 supervisor, project manager, or air sampling professional, as  
12 applicable, except project supervisors under the direct employ  
13 of a licensed asbestos abatement contractor.

14 "Asbestos supervisor" means an asbestos abatement  
15 contractor, foreman, or person designated as the asbestos  
16 abatement contractor's representative who is responsible for  
17 the onsite supervision of the removal, encapsulation, or  
18 enclosure of friable or nonfriable asbestos-containing  
19 materials in a commercial or public building.

20 "Asbestos worker" means an individual who cleans, removes,  
21 encapsulates, encloses, hauls or disposes of friable asbestos  
22 material as defined in this Act.

23 "Board" means the Illinois Pollution Control Board.

24 "Department" means the Department of Public Health.

25 "Director" means the Director of Public Health.

26 "Encapsulation" means the treatment of asbestos containing

1 building materials (ACBM), as defined by Section 15 of the  
2 Commercial and Public Building Asbestos Abatement Act, with a  
3 material that surrounds or embeds asbestos fibers in an  
4 adhesive matrix to prevent the release of fibers, as the  
5 encapsulant creates a membrane over the surfaces (bridging  
6 encapsulant) or penetrates the material and binds its  
7 components together (penetrating encapsulant).

8 "Enclosure" means the construction of airtight walls and  
9 ceilings between the asbestos material and the facility  
10 environment, or around surfaces coated with asbestos  
11 materials, or any other appropriate scientific procedure as  
12 determined by the Department which prevents the release of  
13 asbestos materials.

14 "Friable", when referring to material in a school building,  
15 means that the material, when dry, may be crumbled, pulverized,  
16 or reduced to powder by hand pressure, and includes previously  
17 nonfriable material after such previously nonfriable material  
18 becomes damaged to the extent that, when dry, it may be  
19 crumbled, pulverized, or reduced to powder by hand pressure.

20 "Friable material containment" means the encapsulation or  
21 enclosure of any friable asbestos material in a facility.

22 "Management planner" means an individual licensed by the  
23 Department to prepare management plans.

24 "Nonfriable" means material in a school building which,  
25 when dry, may not be crumbled, pulverized, or reduced to powder  
26 by hand pressure.

1 "Project designer" means an individual licensed by the  
2 Department to design response actions.

3 "Response action" means a method, including removal,  
4 encapsulation, enclosure, repair, operations and maintenance,  
5 that protects human health and the environment from friable  
6 ACM.

7 "Response action contractor" means any entity that engages  
8 in response action services for any school.

9 Section 15. Powers and duties of the Department.

10 (a) The Department is empowered to promulgate any rules  
11 necessary to ensure proper implementation and administration  
12 of this Act.

13 (b) Rules promulgated by the Department shall include rules  
14 providing for the training and licensing of persons and firms  
15 to perform asbestos inspection and air sampling; to perform  
16 abatement work; and to serve as asbestos abatement contractors,  
17 management, planners, project designers, project supervisors,  
18 project managers and asbestos workers for public and private  
19 secondary and elementary schools.

20 (c) In carrying out its responsibilities under this Act,  
21 the Department shall:

22 (1) publish a list of persons and firms licensed  
23 pursuant to this Act, except that the Department is not  
24 required to publish a list of licensed asbestos workers;  
25 and

1           (2) adopt rules for the collection of fees for training  
2           course approval; and for licensing of inspectors,  
3           management planners, project designers, contractors,  
4           supervisors, air sampling professionals, project managers  
5           and workers.

6           Section 20. Rulemaking. The provisions of the Illinois  
7           Administrative Procedure Act are hereby expressly adopted and  
8           shall apply to all administrative rules and procedures of the  
9           Department of Public Health under this Act, except that in case  
10          of conflict between the Illinois Administrative Procedure Act  
11          and this Act the provisions of this Act shall control, and  
12          except that Section 5-35 of the Illinois Administrative  
13          Procedure Act relating to procedures for rulemaking does not  
14          apply to the adoption of any rule required by federal law in  
15          connection with which the Department is precluded by law from  
16          exercising any discretion.

17          Before initiating any rulemaking under this Section, the  
18          Department shall consult with the Asbestos Advisory Council as  
19          set forth in subsection (h) of Section 59 of the Environmental  
20          Protection Act.

21          Section 25. Administrative review. All final  
22          administrative decisions of the Department hereunder shall be  
23          subject to judicial review pursuant to the Administrative  
24          Review Law and the rules adopted pursuant thereto. The term

1 "administrative decision" is defined as in Section 3-101 of the  
2 Code of Civil Procedure.

3 Section 30. Hearings. The Director, after notice and  
4 opportunity for hearing to the contractor, applicant, or  
5 license holder, may deny, suspend, or revoke a license or  
6 expunge such person from the State list in any case in which he  
7 or she finds that there has been a substantial failure to  
8 comply with the provisions of this Act or the standards and  
9 rules established by virtue thereof.

10 Such notice shall be provided by certified mail or by  
11 personal service setting forth the particular reasons for the  
12 proposed action and fixing a date, not less than 15 days from  
13 the date of such mailing or service, at which time the  
14 applicant, contractor, or license holder shall be given an  
15 opportunity to request a hearing.

16 The hearing shall be conducted by the Director or by an  
17 individual designated in writing by the Director as Hearing  
18 Officer to conduct the hearing. On the basis of any such  
19 hearing, or upon default of the applicant, contractor, or  
20 license holder, the Director shall make a determination  
21 specifying his or her findings and conclusions. A copy of such  
22 determination shall be sent by certified mail or served  
23 personally upon the applicant, contractor, or license holder.

24 The procedure governing hearings authorized by this  
25 Section shall be in accordance with rules promulgated by the

1 Department. A full and complete record shall be kept of all  
2 proceedings, including the notice of hearing, complaint, and  
3 all other documents in the nature of pleadings, written motions  
4 filed in the proceedings, and the report and orders of the  
5 Director and Hearing Officer. All testimony shall be reported  
6 but need not be transcribed unless the decision is sought to be  
7 reviewed pursuant to the Administrative Review Law. A copy or  
8 copies of the transcript may be obtained by any interested  
9 party on payment of the cost of preparing such copy or copies.  
10 The Director or Hearing Officer shall, upon his or her own  
11 motion, or on the written request of any party to the  
12 proceeding, issue subpoenas requiring the attendance and the  
13 giving of testimony by witnesses, and subpoenas duces tecum  
14 requiring the production of books, papers, records, or  
15 memoranda. All subpoenas and subpoenas duces tecum issued under  
16 the terms of this Act may be served by any person of legal age.  
17 The fees of witnesses for attendance and travel shall be the  
18 same as the fees of witnesses before the circuit court of this  
19 State, such fees to be paid when the witness is excused from  
20 further attendance. When the witness is subpoenaed at the  
21 instance of the Director or Hearing Officer, such fees shall be  
22 paid in the same manner as other expenses of the Department,  
23 and when the witness is subpoenaed at the instance of any other  
24 party to any such proceeding the Department may require that  
25 the cost of service of the subpoena or subpoena duces tecum and  
26 the fee of the witness be borne by the party at whose instance



1 the witness is summoned. In such case, the Department in its  
2 discretion may require a deposit to cover the cost of such  
3 service and witness fees. A subpoena or subpoena duces tecum so  
4 issued as above stated shall be served in the same manner as a  
5 subpoena issued by a circuit court.

6 Any circuit court of this State, upon the application of  
7 the Director, or upon the application of any other party to the  
8 proceeding, may, in its discretion, compel the attendance of  
9 witnesses, the production of books, papers, records, or  
10 memoranda and the giving of testimony before the Director or  
11 Hearing Officer conducting an investigation or holding a  
12 hearing authorized by this Act, by an attachment for contempt  
13 or otherwise, in the same manner as production of evidence may  
14 be compelled before the court.

15 The Director or Hearing Officer, or any party in an  
16 investigation or hearing before the Department, may cause the  
17 depositions of witnesses within the State to be taken in the  
18 manner prescribed by law for like depositions in civil actions  
19 in courts of this State, and to that end compel the attendance  
20 of witnesses and the production of books, papers, records, or  
21 memoranda.

22 Section 35. Consistency with federal law. Rules issued  
23 pursuant to this Act, including those governing the preparation  
24 of a list of contractors and the removal of contractors  
25 therefrom as provided for in Section 40, shall not be

1 inconsistent with rules and regulations promulgated by the  
2 United States Environmental Protection Agency pursuant to the  
3 Toxic Substances Control Act, the Clean Air Act, or other  
4 applicable federal statutes.

5 Section 40. Asbestos abatement contractors; response  
6 action contractors. The Department shall prepare a list in  
7 cooperation with appropriate State and federal agencies on an  
8 annual basis of asbestos abatement contractors and response  
9 action contractors familiar with and capable of complying with  
10 all applicable federal and State standards for asbestos  
11 containment and removal. Additional asbestos abatement  
12 contractors or response action contractors wishing to be placed  
13 on this list shall notify the Department. The Department shall  
14 evaluate this request based on the training and experience of  
15 such a potential asbestos abatement contractor or response  
16 action contractor and render a decision. If the Department  
17 denies the request, such contractor may appeal such a decision  
18 pursuant to the Administrative Review Law. Such list shall be  
19 made available to all school districts and, upon request, to  
20 other interested parties. In contracting for response action  
21 services, schools shall select an asbestos abatement  
22 contractor or response action contractor from the Department's  
23 list.

24 Section 45. Licensing.

1 (a) No air sampling professional, asbestos abatement  
2 contractor, asbestos consultant, asbestos inspector, asbestos  
3 professional, asbestos supervisor, asbestos worker, management  
4 planner, project designer, project manager, project  
5 supervisor, or response action contractor may be employed as a  
6 response action contractor unless that individual or entity is  
7 licensed by the Department. Those individuals and entities  
8 wishing to be licensed shall make application on forms  
9 prescribed and furnished by the Department. A license shall  
10 expire annually according to a schedule determined by the  
11 Department. Applications for renewal of licenses shall be filed  
12 with the Department at least 30 days before the expiration  
13 date. When a licensure examination is required, the application  
14 for licensure shall be submitted to the Department at least 30  
15 days prior to the date of the scheduled examination. The  
16 Department shall evaluate each application based on its minimum  
17 standards for licensure, promulgated as rules, and render a  
18 decision. Such standards may include a requirement for the  
19 successful completion of a course of training approved by the  
20 Department. If the Department denies the application, the  
21 applicant may appeal such decision pursuant to the  
22 Administrative Review Law.

23 However, the licensing requirements of this Section for  
24 asbestos consultants do not apply to: (1) an employee of a  
25 local education agency who is that local education agency's  
26 designated person; or (2) an employee of a State agency while

1 he or she is engaged in his or her professional duties for that  
2 State agency.

3 (b) All licenses issued under the Asbestos Abatement Act or  
4 the Commercial and Public Building Asbestos Abatement Act, and  
5 in effect on the effective date of this Act, shall remain in  
6 effect for the remainder of the period for which they were  
7 originally issued, as if they had been issued under this Act.

8 Section 50. Certified industrial hygienists. For purposes  
9 of this Act and the rules promulgated thereunder, the  
10 Department shall use the list of certified industrial  
11 hygienists as prepared by the American Board of Industrial  
12 Hygiene.

13 Section 55. Contractor's certificates of financial  
14 responsibility. Each asbestos abatement contractor wishing to  
15 be placed on the Department's approved list of contractors  
16 shall submit to the Department a certificate documenting that  
17 the contractor carries liability insurance, self insurance,  
18 group insurance, group self insurance, a letter of credit, or  
19 bond in an amount of at least:

20 (1) \$500,000 for work performed pursuant to the  
21 Asbestos Abatement Act and the rules promulgated  
22 thereunder.

23 (2) \$1,000,000 for work performed pursuant to this  
24 Commercial and Public Building Asbestos Abatement Act and

1 the rules promulgated thereunder.

2 No contractor may be placed on the approved list in the absence  
3 of such a certificate. All contractors presently on the  
4 approved list shall submit said certificate within 90 days of  
5 the effective date of this Act, or the Department shall remove  
6 their names from the approved list.

7 Each contractor shall maintain on file with the Department  
8 a current certificate of financial responsibility throughout  
9 the entire length of time the contractor's name appears on the  
10 Department's list of approved contractors. A contractor shall  
11 notify the Department of any change in the status of a  
12 certificate which has been filed including expiration,  
13 renewal, or alteration of the terms of the certificate.

14 Section 60. Civil penalties. The Department is empowered to  
15 assess civil penalties for violations of this Act and the rules  
16 promulgated under this Act pursuant to rules for such penalties  
17 established by the Department.

18 Section 65. Asbestos Occupations Licensure Fund. All fees  
19 and penalties collected by the Department pursuant to this Act,  
20 and all interest attributable to those amounts, shall be  
21 deposited into the Asbestos Occupations Licensure Fund, which  
22 is hereby created as a special fund in the State Treasury.  
23 Subject to appropriation, all moneys deposited in the Asbestos  
24 Occupations Licensure Fund under this Act shall be available to

1 the Department for its administration of this Act. The Asbestos  
2 Occupations Licensure Fund is not subject to sweeps,  
3 administrative charges or chargebacks, or any other fiscal or  
4 budgetary maneuver that would in any way transfer any moneys  
5 from the Asbestos Occupations Licensure Fund to any other Fund  
6 of the State or in the State treasury.

7 Section 70. The State Finance Act is amended by adding  
8 Section 5.855 as follows:

9 (30 ILCS 105/5.855 new)

10 Sec. 5.855. The Asbestos Occupations Licensure Fund.

11 Section 75. The Asbestos Abatement Act is amended by  
12 changing Sections 3, 4, 6, 6a, 6b, 7, 9, 9a, 9b, 11, 12a, 12b,  
13 12c, 13, 14, and 16 as follows:

14 (105 ILCS 105/3) (from Ch. 122, par. 1403)

15 Sec. 3. Definitions. As used in this Act:

16 (a) "Asbestos" means the asbestiform varieties of  
17 chrysotile, amosite, crocidolite, tremolite, anthrophyllite,  
18 and actinolite.

19 (b) "Asbestos materials" means materials formed by mixing  
20 asbestos fibers with other products, including but not limited  
21 to rock wool, plaster, cellulose, clay, vermiculite, perlite  
22 and a variety of adhesives, and which contain more than 1%

1 asbestos by weight. Some of these materials may be sprayed on  
2 surfaces or applied to surfaces in the form of plaster or a  
3 textured paint.

4 (c) "School" means any school district or public, private  
5 or nonpublic day or residential educational institution that  
6 provides elementary or secondary education for grade 12 or  
7 under.

8 (d) "Local educational agency" means:

9 (1) Any local education agency as defined in Section  
10 198 of the Elementary and Secondary Education Act of 1965  
11 (20 U.S.C. 3381).

12 (2) The owner of any nonpublic, nonprofit elementary or  
13 secondary school building.

14 (3) The governing authority of any school operated  
15 under the defense dependents' education system provided  
16 for under the Defense Department's Education Act of 1978  
17 (20 U.S.C. 921, et seq.).

18 (e) "Response action" means a method, including removal,  
19 encapsulation, enclosure, repair, operations and maintenance,  
20 that protects human health and the environment from friable  
21 ACBM.

22 (f) "Asbestos containing building materials" or ACBM means  
23 surfacing asbestos containing material or ACM, thermal system  
24 insulation ACM or miscellaneous ACM that is found in or on  
25 interior structural members or other parts of a school  
26 building.

1 (g) "Friable" when referring to material in a school  
2 building means that the material, when dry, may be crumbled,  
3 pulverized, or reduced to powder by hand pressure, and includes  
4 previously nonfriable materials after such previously  
5 nonfriable material becomes damaged to the extent that, when  
6 dry, it may be crumbled, pulverized, or reduced to powder by  
7 hand pressure.

8 (h) "Asbestos Abatement Contractor" means any entity that  
9 engages in the removal, enclosure, or encapsulation of asbestos  
10 containing materials for any school.

11 (i) "Response action contractor" means any entity that  
12 engages in response action services for any school.

13 (j) "Friable material containment" means the encapsulation  
14 or enclosure of any friable asbestos material in a facility.

15 (k) "Enclosure" means the construction of airtight walls  
16 and ceilings between the asbestos material and the educational  
17 facility environment, or around surfaces coated with asbestos  
18 materials, or any other appropriate scientific procedure as  
19 determined by the Agency ~~Department~~ which prevents the release  
20 of asbestos materials.

21 (l) "Encapsulation" means the treatment of ACBM with a  
22 material that surrounds or embeds asbestos fibers in an  
23 adhesive matrix to prevent the release of fibers, as the  
24 encapsulant creates a membrane over the surfaces (bridging  
25 encapsulant or penetrates the material and binds its components  
26 together (penetrating encapsulant)).



1 (m) "Department" means the Department of Public Health.

2 (n) "Director" means the Director of the Illinois  
3 Environmental Protection Agency ~~Public Health~~.

4 (o) "School personnel" means any employee of a school.

5 (p) "Student" means any student enrolled in a school.

6 (q) "School Building" means:

7 (1) Any structure suitable for use as a classroom,  
8 including a school facility such as a laboratory, library,  
9 school eating facility, or facility used for the  
10 preparation of food.

11 (2) Any gymnasium or other facility which is specially  
12 designed for athletic or recreational activities for an  
13 academic course in physical education.

14 (3) Any other facility used for the instruction or  
15 housing of students or for the administration of  
16 educational or research programs.

17 (4) Any maintenance, storage, or utility facility,  
18 including any hallway essential to the operation of any  
19 facility described in this definition of "school building"  
20 under items (1), (2), or (3).

21 (5) Any portico or covered exterior hallway or walkway.

22 (6) Any exterior portion of a mechanical system used to  
23 condition interior space.

24 (r) "Asbestos worker" means an individual who cleans,  
25 removes, encapsulates, encloses, hauls or disposes of friable  
26 asbestos material in schools as defined in this Act.

1 (s) "Nonfriable" means material in a school building which,  
2 when dry, may not be crumbled, pulverized, or reduced to powder  
3 by hand pressure.

4 (t) "Management plan" means a plan developed for a local  
5 educational agency for the management of asbestos in its school  
6 buildings pursuant to the federal Asbestos Hazard Emergency  
7 Response Act of 1986 and the regulations promulgated  
8 thereunder.

9 (u) "Management planner" means an individual licensed by  
10 the Department to prepare management plans.

11 (v) "Project designer" means an individual licensed by the  
12 Department to design response actions for school buildings.

13 (w) "Asbestos inspector" means an individual licensed by  
14 the Department to perform inspections of schools for the  
15 presence of asbestos containing materials.

16 (x) "Agency" means the Illinois Environmental Protection  
17 Agency.

18 (y) "Board" means the Illinois Pollution Control Board.

19 (Source: P.A. 86-416; 86-1475.)

20 (105 ILCS 105/4) (from Ch. 122, par. 1404)

21 Sec. 4. Response action. Schools shall undertake and  
22 complete such response action as may be required by the federal  
23 Asbestos Hazard Emergency Response Act of 1986, the regulations  
24 promulgated thereunder, and the rules promulgated by the Board  
25 ~~Department~~ pursuant to the Asbestos Abatement Act. Response

1 actions shall be undertaken and completed within the timeframe  
2 required by the federal Asbestos Hazard Emergency Response Act  
3 of 1986 and the regulations promulgated thereunder.

4 (Source: P.A. 86-416.)

5 (105 ILCS 105/6) (from Ch. 122, par. 1406)

6 Sec. 6. Powers and duties of the Agency ~~Department~~.

7 (a) In accordance with Title VII of the Environmental  
8 Protection Act, and after consultation with the Asbestos  
9 Advisory Committee as set forth in subsection (h) of Section 59  
10 of the Environmental Protection Act, the Agency may propose,  
11 and the Board may adopt, ~~The Department is empowered to~~  
12 ~~promulgate~~ any rules necessary to ensure proper implementation  
13 and administration of this Act and of the federal Asbestos  
14 Hazard Emergency Response Act of 1986, and the regulations  
15 promulgated thereunder.

16 (b) Rules adopted under subsection (a) ~~promulgated by the~~  
17 ~~Department~~ shall include, but need not be limited to:

18 (1) all rules necessary to achieve compliance with the  
19 federal Asbestos Hazard Emergency Response Act of 1986 and  
20 the regulations promulgated thereunder;

21 (2) rules relating to the correct and safe performance  
22 of asbestos inspection, air sampling, asbestos abatement  
23 work, and other related tasks by persons licensed to do so  
24 under the Asbestos Occupations Licensure Act; and ~~rules~~  
25 ~~providing for the training and licensing of persons and~~

1 ~~firms to perform asbestos inspection and air sampling; to~~  
2 ~~perform abatement work; and to serve as asbestos abatement~~  
3 ~~contractors, management, planners, project designers,~~  
4 ~~project supervisors, project managers and asbestos workers~~  
5 ~~for public and private secondary and elementary schools;~~  
6 ~~and any necessary rules relating to the correct and safe~~  
7 ~~performance of those tasks; and~~

8 (3) rules for the development and submission of  
9 asbestos management plans by local educational agencies,  
10 and for review and approval of such plans by the Agency  
11 Department.

12 (c) The rules proposed by the Agency and adopted by the  
13 Board shall require each local educational agency to maintain  
14 records of asbestos-related activities, which shall be made  
15 available to the Agency upon request. In carrying out its  
16 responsibilities under this Act, the Department shall:

17 ~~(1) publish a list of persons and firms licensed~~  
18 ~~pursuant to this Act, except that the Department shall not~~  
19 ~~be required to publish a list of licensed asbestos workers;~~

20 ~~(2) require each local educational agency to maintain~~  
21 ~~records of asbestos related activities, which shall be~~  
22 ~~made available to the Department upon request; and~~

23 ~~(3) adopt rules for the collection of fees for training~~  
24 ~~course approval; and for licensing of inspectors,~~  
25 ~~management planners, project designers, contractors,~~  
26 ~~supervisors, air sampling professionals, project managers~~

1 ~~and workers.~~

2 (Source: P.A. 96-537, eff. 8-14-09; 96-1000, eff. 7-2-10.)

3 (105 ILCS 105/6a) (from Ch. 122, par. 1406a)

4 Sec. 6a. All rulemaking under this Act shall be conducted  
5 in accordance with Title VII of the Environmental Protection  
6 Act. ~~The provisions of the Illinois Administrative Procedure~~  
7 ~~Act are hereby expressly adopted and shall apply to all~~  
8 ~~administrative rules and procedures of the Department of Public~~  
9 ~~Health under this Act, except that in case of conflict between~~  
10 ~~the Illinois Administrative Procedure Act and this Act the~~  
11 ~~provisions of this Act shall control, and except that Section~~  
12 ~~5-35 of the Illinois Administrative Procedure Act relating to~~  
13 ~~procedures for rule making does not apply to the adoption of~~  
14 ~~any rule required by federal law in connection with which the~~  
15 ~~Department is precluded by law from exercising any discretion.~~

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

17 (105 ILCS 105/6b) (from Ch. 122, par. 1406b)

18 Sec. 6b. All final administrative decisions of the Board  
19 ~~Department~~ hereunder shall be subject to judicial review  
20 pursuant to the provisions of Title XI of the Environmental  
21 Protection Act ~~the "Administrative Review Law", as amended, and~~  
22 ~~the rules adopted pursuant thereto. The term "Administrative~~  
23 ~~Decision" is defined as in Section 3-101 of the Code of Civil~~  
24 ~~Procedure.~~

1 (Source: P.A. 84-951.)

2 (105 ILCS 105/7) (from Ch. 122, par. 1407)

3 Sec. 7. Consistency with federal law. Rules and regulations  
4 issued pursuant to this Act, ~~including those governing the~~  
5 ~~preparation of a list of contractors and the removal of~~  
6 ~~contractors therefrom as provided for in Section 10,~~ shall not  
7 be inconsistent with rules and regulations promulgated by the  
8 United States Environmental Protection Agency pursuant to the  
9 Toxic Substances Control Act, the Clean Air Act or other  
10 applicable federal statutes.

11 (Source: P.A. 84-951.)

12 (105 ILCS 105/9) (from Ch. 122, par. 1409)

13 Sec. 9. State Funding. Funding sources for State funding  
14 with respect to costs of corrective action shall include  
15 appropriations from the General Revenue Fund, proceeds from  
16 litigation against manufacturers, distributors and contractors  
17 of asbestos products, funds provided under the provisions of  
18 the federal Asbestos School Hazard Abatement Act of 1984, or  
19 any combination thereof. The Agency ~~Department~~ shall request  
20 appropriations from any of these funds based on its review of  
21 school funding needs and include such in its annual budget  
22 request.

23 (Source: P.A. 84-951.)

1 (105 ILCS 105/9a) (from Ch. 122, par. 1409a)

2 Sec. 9a. Reimbursement for corrective action. The Agency  
3 ~~Department~~ shall, from funds appropriated for this purpose,  
4 reimburse schools which have undertaken corrective action.  
5 Such schools, upon completion of an inspection by the Agency  
6 ~~Department~~, shall be eligible for reimbursement only for those  
7 projects found to have been conducted in accordance with the  
8 provisions of this Act and the rules promulgated thereunder.  
9 Schools shall apply for such reimbursement to the Agency  
10 ~~Department~~ on forms designed and provided by the Agency  
11 ~~Department~~.

12 The amount of reimbursement for which a public school  
13 district is eligible shall be calculated by the Agency  
14 ~~Department~~ based upon a Grant Index developed by the State  
15 Board of Education. This Grant Index shall be based upon the  
16 equalized assessed valuation of the school district and other  
17 measures of relative wealth to determine the percentage of the  
18 total cost of corrective action for which reimbursement shall  
19 be authorized. The Grant Index for any school district is equal  
20 to one minus the ratio of the district's equalized assessed  
21 valuation per pupil in weighted daily average attendance to the  
22 equalized assessed valuation per pupil in weighted average  
23 daily attendance of the district located at the ninetieth  
24 percentile for all districts of the same type. The Grant Index  
25 for any school district shall be not less than .50 and no  
26 greater than 1.00. The product of the district's Grant Index

1 and the project cost, as determined by the Agency ~~Department~~  
2 for approved corrective action, equals the total amount that  
3 shall be reimbursed to the school according to the provisions  
4 of this Section. All non-public schools shall be eligible for  
5 reimbursement in an amount equal to 50% of the cost of  
6 corrective action.

7 Out of funds appropriated for such purpose, 20% of the  
8 amount of reimbursement to which any school is determined  
9 entitled shall be paid in each of 5 successive fiscal years.  
10 The Agency ~~Department~~ shall request an annual appropriation in  
11 an amount sufficient to cover all expected reimbursements to be  
12 paid out in that fiscal year.

13 For purposes of reimbursement under this Section,  
14 corrective action means removal, encapsulation or enclosure.  
15 Schools reimbursed pursuant to this Section for corrective  
16 action shall not be eligible for grants under Section 9b with  
17 respect to the corrective action for which they are so  
18 reimbursed.

19 (Source: P.A. 84-1245.)

20 (105 ILCS 105/9b) (from Ch. 122, par. 1409b)

21 Sec. 9b. Grants for asbestos abatement work undertaken on  
22 or after January 1, 1986. Schools which undertake corrective  
23 action on or after January 1, 1986 shall be eligible for grants  
24 for asbestos abatement activities conducted in accordance with  
25 this Act and the rules promulgated thereunder. Funds shall be



1 provided only to those schools which have been inspected  
2 pursuant to this Act. Schools which desire abatement grants  
3 shall apply to the Agency ~~Department~~ for such grants on forms  
4 designed and provided by the Agency ~~Department~~. The Agency  
5 ~~Department~~ shall evaluate applications to establish priorities  
6 for funding recognizing the degree of health hazard present and  
7 shall categorize school needs using a numerical ranking.

8 In conjunction with the State Board of Education, the  
9 Agency ~~Department~~ shall calculate the amount of grant for which  
10 a public school district is eligible, based upon a Grant Index  
11 developed by the State Board of Education. The Grant Index  
12 shall be based upon the equalized assessed valuation of the  
13 school district and other measures of relative wealth to  
14 determine the percentage of the total cost of corrective action  
15 for which grants shall be authorized. The Grant Index for any  
16 school district is equal to one minus the ratio of the  
17 district's equalized assessed valuation per pupil in weighted  
18 daily average attendance to the equalized assessed valuation  
19 per pupil in weighted average daily attendance of the district  
20 located at the ninetieth percentile for all districts of the  
21 same type. The Grant Index for any school district shall be not  
22 less than .50 and no greater than 1.00. The product of the  
23 district's Grant Index and the project cost, as determined by  
24 the Agency ~~Department~~ for approved corrective action, equals  
25 the amount that shall be expended on behalf of the school. All  
26 non-public schools shall be eligible for grants in an amount

1 equal to 50% of the cost of corrective action.

2 In conjunction with the Capital Development Board, the  
3 Agency ~~Department~~ shall issue grants to schools for corrective  
4 action. The Capital Development Board shall, in conjunction  
5 with the schools, contract with a contractor whose name appears  
6 on the Department's list of approved contractors for the  
7 corrective action determined necessary according to provisions  
8 of this Act and the rules promulgated thereunder. All such  
9 contractors shall be prequalified as may be required by The  
10 Illinois Purchasing Act. All contracts entered into by the  
11 schools and the Capital Development Board shall include a  
12 provision that all work to be conducted under that contract  
13 shall be undertaken in accordance with this Act and the rules  
14 promulgated thereunder. The Capital Development Board shall  
15 exercise general supervision over corrective action financed  
16 pursuant to the provisions of this Act and the rules  
17 promulgated thereunder in schools. The Capital Development  
18 Board shall request an annual appropriation in an amount  
19 sufficient to cover all expected grants to be awarded in that  
20 year. For purposes of reimbursement under this Section,  
21 corrective action means removal, encapsulation or enclosure.

22 A school district may levy a tax in accordance with Section  
23 17-2.11 of "The School Code" in order to provide local funding  
24 for corrective action ordered under this Act. A school may use  
25 federal loans or grants to finance the cost of corrective  
26 action, but no State funding shall be used to repay any federal

1 loan received by a school for asbestos abatement projects.

2 (Source: P.A. 84-1096.)

3 (105 ILCS 105/11) (from Ch. 122, par. 1411)

4 Sec. 11. Recordkeeping. Each school district shall:

5 (a) Keep a record of each asbestos abatement project that  
6 is performed in schools; and

7 (b) Make that record available to the Agency ~~Department~~ at  
8 any reasonable time.

9 (Source: P.A. 83-1325.)

10 (105 ILCS 105/12a) (from Ch. 122, par. 1412a)

11 Sec. 12a. Emergency stop work orders. Whenever the Agency  
12 ~~Department~~ finds that an emergency exists which requires  
13 immediate action to protect the public health, it may, without  
14 notice or hearing, issue an order reciting the existence of  
15 such an emergency and then require that such action be taken as  
16 it may deem necessary to meet the emergency, including but not  
17 limited to the issuance of a stop work order and notice to the  
18 Department for the immediate removal of a contractor or  
19 contractors from the list provided for in Section 10.  
20 Notwithstanding any other provision in this Act, such order  
21 shall be effective immediately. The State's Attorney and  
22 Sheriff of the county in which the school is located shall  
23 enforce the order after receiving notice thereof. Any  
24 contractor affected by such an order is entitled, upon request,

1 to a hearing as provided for in rules and regulations  
2 promulgated pursuant to this Act. When such conditions are  
3 abated, in the opinion of the Agency ~~Department~~, the Agency  
4 ~~Department~~ may authorize the reinstatement of the activities  
5 and shall provide notice to the Department that it may  
6 authorize the inclusion on the list of contractors of those  
7 activities and contractors which were the subject of a stop  
8 work order.

9 (Source: P.A. 84-951.)

10 (105 ILCS 105/12b) (from Ch. 122, par. 1412b)

11 Sec. 12b. Civil Penalties. The Board ~~Department~~ is  
12 empowered to assess civil penalties against a contractor  
13 inspector, management planner, project designer, supervisor,  
14 worker, project manager, or air sampling professional for  
15 violations of this Act and the rules promulgated thereunder,  
16 pursuant to rules for such penalties established by the Board  
17 ~~Department~~.

18 (Source: P.A. 86-416.)

19 (105 ILCS 105/12c) (from Ch. 122, par. 1412c)

20 Sec. 12c. Under emergency conditions, an employee of a  
21 school district may clean or dispose of less than 3 linear feet  
22 or 3 square feet of friable or non-friable asbestos containing  
23 material in schools without meeting the definition of an  
24 "asbestos worker" as defined in this Act, provided the employee

1 has completed the maximum asbestos awareness program provided  
2 for in federal law or rules. "Emergency conditions" for the  
3 purpose of this Section shall mean:

4 1) the facility is without heat, water, gas, or electric;  
5 or

6 2) the facility is unable to keep outside elements such as  
7 water from entering the interior of the structure; or

8 3) the dislodging or falling of less than 3 linear feet or  
9 3 square feet of asbestos containing materials.

10 The Board ~~Department~~ may further define, by rule, what  
11 circumstances constitute an "emergency condition" under this  
12 Section. The Department may also set forth, by rule, the  
13 training or awareness program a school employee must meet as a  
14 prerequisite to conducting of asbestos clean-up or disposal  
15 pursuant to this Section.

16 (Source: P.A. 86-647.)

17 (105 ILCS 105/13) (from Ch. 122, par. 1413)

18 Sec. 13. Federal funding. To the extent that federal funds  
19 become available for the removal of asbestos from schools and  
20 subject to any limitations which may be imposed, such federal  
21 funds shall be used in lieu of State financing of corrective  
22 actions and for any administrative costs incurred by the Agency  
23 ~~Department~~ in the administration of this Act.

24 (Source: P.A. 83-1325.)

1 (105 ILCS 105/14) (from Ch. 122, par. 1414)

2 Sec. 14. Enforcement. Notwithstanding the existence or  
3 pursuit of any other remedy, the Director may, in the manner  
4 provided by law, in the name of the People of the State and  
5 through the Attorney General who shall represent the Director  
6 in the proceedings, maintain an action for injunction or other  
7 relief or process against any school, the governing body  
8 thereof and any other person or unit of local government to  
9 enforce and compel compliance with the provisions of this Act,  
10 the rules and regulations promulgated thereunder and any order  
11 entered for any response action pursuant to this Act and such  
12 rules and regulations. Enforcement proceedings under this  
13 Section shall be conducted in accordance with Title VIII of the  
14 Environmental Protection Act.

15 (Source: P.A. 86-416.)

16 (105 ILCS 105/16) (from Ch. 122, par. 1416)

17 Sec. 16. Illinois School Asbestos Abatement Fund. All fees  
18 and penalties collected by the Agency ~~Department~~ pursuant to  
19 this Act shall be deposited into the Illinois School Asbestos  
20 Abatement Fund which is hereby created in the State Treasury.  
21 Subject to appropriation, all monies deposited in the Illinois  
22 School Asbestos Abatement Fund under this Act shall be  
23 available to the Agency ~~Department~~ for its administration of  
24 this Act and of the federal Asbestos Hazard Emergency Response  
25 Act of 1986. Subject to appropriation, all moneys deposited in

1 the Illinois School Asbestos Abatement Fund shall be available  
2 to the Agency ~~Department of Public Health~~ for administration of  
3 the Asbestos Abatement Act and the Commercial and Public  
4 Building Asbestos Abatement Act. The Illinois School Asbestos  
5 Abatement Fund is not subject to sweeps, administrative charges  
6 or chargebacks, or any other fiscal or budgetary maneuver that  
7 would in any way transfer any moneys from the Illinois School  
8 Asbestos Abatement Fund to any other Fund of the State or in  
9 the State treasury.

10 (Source: P.A. 89-143, eff. 7-14-95.)

11 (105 ILCS 105/6c rep.)

12 (105 ILCS 105/10 rep.)

13 (105 ILCS 105/10a rep.)

14 (105 ILCS 105/10b rep.)

15 (105 ILCS 105/15a rep.)

16 Section 80. The Asbestos Abatement Act is amended by  
17 repealing Sections 6c, 10, 10a, 10b, and 15a.

18 Section 85. The Commercial and Public Building Asbestos  
19 Abatement Act is amended by changing Sections 15, 20, 25, 40,  
20 55, and 60 as follows:

21 (225 ILCS 207/15)

22 Sec. 15. Definitions. As used in this Act:

23 "Agency" means the Illinois Environmental Protection

1 Agency.

2 "Asbestos abatement contractor" means any entity that  
3 provides removal, enclosure, encapsulation, or disposal of  
4 asbestos containing materials.

5 "Asbestos containing building materials" or "ACBM" means  
6 surfacing asbestos containing materials or ACM, thermal system  
7 insulation ACM, or miscellaneous ACM that is found in or on  
8 interior structural members or other parts of a building.

9 "Asbestos" means the asbestiform varieties of chrysotile,  
10 amosite, crocidolite, tremolite, anthrophyllite, and  
11 actinolite.

12 "Asbestos inspector" means an individual who performs  
13 inspections of commercial and public buildings for the presence  
14 of asbestos containing materials.

15 "Asbestos materials" means any material or product that  
16 contains more than 1% asbestos.

17 "Asbestos consultant" means a person offering expert or  
18 professional advice as an asbestos professional or designated  
19 person.

20 "Asbestos professional" means an individual who is  
21 licensed by the Department to perform the duties of an  
22 inspector, management planner, project designer, project  
23 supervisor, project manager, or air sampling professional, as  
24 applicable, except project supervisors under the direct employ  
25 of a licensed asbestos abatement contractor.

26 "Asbestos supervisor" means an asbestos abatement



1 contractor, foreman, or person designated as the asbestos  
2 abatement contractor's representative who is responsible for  
3 the onsite supervision of the removal, encapsulation, or  
4 enclosure of friable or nonfriable asbestos-containing  
5 materials in a commercial or public building.

6 "Asbestos worker" means an individual who cleans, removes,  
7 encapsulates, encloses, hauls, or disposes of friable asbestos  
8 material.

9 "Board" means the Illinois Pollution Control Board.

10 "Building/facility owner" is the legal entity, including a  
11 lessee, that exercises control over management and record  
12 keeping functions relating to a building or facility in which  
13 activities covered by this standard take place.

14 "Commercial or public building" means the interior space of  
15 any building, except that the term does not include any  
16 residential apartment building of fewer than 10 units or  
17 detached single family homes. The term includes, but is not  
18 limited to: industrial and office buildings, residential  
19 apartment buildings and condominiums of 10 or more dwelling  
20 units, government-owned buildings, colleges, museums,  
21 airports, hospitals, churches, schools, preschools, stores,  
22 warehouses, and factories. Interior space includes exterior  
23 hallways connecting buildings, porticos, and mechanical  
24 systems used to condition interior space.

25 "Department" means the Department of Public Health.

26 "Designated person" means a person designated by the local

1 education agency, as defined by the Asbestos Abatement Act, to  
2 ensure that the management plan has been properly implemented.

3 "Director" means the Director of the Illinois  
4 Environmental Protection Agency ~~Public Health~~.

5 "Encapsulation" means the treatment of ACM with a material  
6 that surrounds or embeds asbestos fibers in an adhesive matrix  
7 that prevents the release of fibers as the encapsulant creates  
8 a membrane over the surfaces (bridging encapsulant) or  
9 penetrates the material and binds its components together  
10 (penetrating encapsulant).

11 "Enclosure" means the construction of airtight walls and  
12 ceilings between the asbestos containing material and the  
13 building environment, or around surfaces coated with asbestos  
14 containing materials, or any other appropriate scientific  
15 procedure as determined by the Agency ~~Department~~ that prevents  
16 the release of asbestos.

17 "Friable", when referring to material in a commercial or  
18 public building, means that the material, when dry, may be  
19 crumbled, pulverized, or reduced to powder by hand pressure and  
20 includes previously nonfriable materials after such previously  
21 nonfriable material becomes damaged to the extent that, when  
22 dry, it may be crumbled, pulverized, or reduced to powder by  
23 hand pressure.

24 "Inspection" means an activity undertaken in a public or  
25 commercial building to determine the presence or location, or  
26 to assess the condition of, friable or nonfriable asbestos

1 containing building material (ACBM) or suspected ACBM, whether  
2 by visual or physical examination, or by collecting samples of  
3 such material.

4 "Nonfriable" means material in a commercial or public  
5 building which, when dry, may not be crumbled, pulverized, or  
6 reduced to powder by hand pressure.

7 "Person" means any individual, group of individuals,  
8 association, trust, partnership, corporation, person doing  
9 business under an assumed name, or any other entity.

10 "Project designer" means an individual who designs  
11 response actions for commercial or public buildings.

12 "Response action" means a method, including removal,  
13 encapsulation, enclosure, repair, operations and maintenance,  
14 that protects human health and the environment from friable  
15 ACBM.

16 "Response action contractor" means any entity that engages  
17 in response action services.

18 "Response action services" means the service of designing  
19 and conducting removal, encapsulation, enclosure, repair, or  
20 operations and maintenance of friable asbestos containing  
21 building materials, inspection of public or commercial  
22 buildings, and inspection of asbestos containing materials.  
23 The term does not include the design or conducting of response  
24 actions that involve removal or possible disturbance of an  
25 amount of asbestos containing building material comprising  
26 less than 3 square feet or less than 3 lineal feet of other

1 friable asbestos containing building material.

2 (Source: P.A. 93-894, eff. 8-10-04.)

3 (225 ILCS 207/20)

4 Sec. 20. Powers and Duties of the Agency and the Board  
5 Department.

6 (a) In accordance with Title VII of the Environmental  
7 Protection Act, and after consultation with the Asbestos  
8 Advisory Committee as set forth in subsection (h) of Section 59  
9 of the Environmental Protection Act, the Agency may propose,  
10 and the Pollution Control Board may adopt, The Department is  
11 empowered to promulgate any rules necessary to ensure proper  
12 implementation and administration of this Act, and compliance  
13 with the federal Asbestos School Hazard Abatement  
14 Reauthorization Act of 1990.

15 (b) Rules adopted by the Board ~~promulgated by the~~  
16 ~~Department~~ shall include, but not be limited to, rules relating  
17 to the correct and safe performance of response action  
18 services, and rules for the assessment of civil penalties for  
19 violations of this Act or rules promulgated under it, ~~and rules~~  
20 ~~providing for the training and licensing of persons and firms~~  
21 ~~(i) to perform asbestos inspection, (ii) to perform abatement~~  
22 ~~work, and (iii) to serve as asbestos abatement contractors,~~  
23 ~~response action contractors, and asbestos workers.~~ The  
24 Department is empowered to inspect activities regulated by this  
25 Act to ensure compliance.

1 Except as otherwise provided by Department rule, on and  
2 after the effective date of this amendatory Act of the 98th  
3 General Assembly, any licensing requirement adopted pursuant  
4 to this Section that may be satisfied by an industrial  
5 hygienist licensed pursuant to the Industrial Hygienists  
6 Licensure Act repealed in this amendatory Act may be satisfied  
7 by a Certified Industrial Hygienist certified by the American  
8 Board of Industrial Hygiene.

9 (c) (Blank). ~~In carrying out its responsibilities under~~  
10 ~~this Act, the Department shall:~~

11 ~~(1) Publish a list of response action contractors~~  
12 ~~licensed under this Act, except that the Department shall~~  
13 ~~not be required to publish a list of licensed asbestos~~  
14 ~~workers; and~~

15 ~~(2) Adopt rules for the collection of fees for training~~  
16 ~~course approval and for the licensing of inspectors,~~  
17 ~~project designers, contractors, supervisors, and workers.~~

18 (d) All rulemaking under this Act shall be conducted in  
19 accordance with Title VII of the Environmental Protection Act.  
20 ~~The provisions of the Illinois Administrative Procedure Act are~~  
21 ~~hereby expressly adopted and shall apply to all administrative~~  
22 ~~rules and procedures of the Department of Public Health under~~  
23 ~~this Act, except that in case of conflict between the Illinois~~  
24 ~~Administrative Procedure Act and this Act the provisions of~~  
25 ~~this Act shall control, and except that Section 5-35 of the~~  
26 ~~Illinois Administrative Procedure Act relating to procedures~~

1 ~~for rulemaking does not apply to the adoption of any rule~~  
2 ~~required by federal law in connection with which the Department~~  
3 ~~is precluded by law from exercising any discretion.~~

4 (e) All final administrative decisions of the Board  
5 ~~Department~~ under this Act shall be subject to judicial review  
6 pursuant to the provisions of Title XI of the Environmental  
7 Protection Act ~~the Administrative Review Law and the rules~~  
8 ~~adopted under it. The term "administrative decision" has the~~  
9 ~~meaning ascribed to it in Section 3-101 of the Code of Civil~~  
10 ~~Procedure.~~

11 (f) (Blank). ~~The Director, after notice and opportunity for~~  
12 ~~hearing to the applicant or license holder, may deny, suspend,~~  
13 ~~or revoke a license or expunge such person from the State list~~  
14 ~~in any case in which he or she finds that there has been a~~  
15 ~~substantial failure to comply with the provisions of this Act~~  
16 ~~or the standards or rules established under it. Notice shall be~~  
17 ~~provided by certified mail, return receipt requested, or by~~  
18 ~~personal service setting forth the particular response for the~~  
19 ~~proposed action and fixing a date, not less than 15 days from~~  
20 ~~the date of such mailing or service, at which time the~~  
21 ~~applicant, asbestos abatement contractor, or license holder~~  
22 ~~shall be given an opportunity to request hearing.~~

23 ~~The hearing shall be conducted by the Director or by an~~  
24 ~~individual designated in writing by the Director as Hearing~~  
25 ~~Officer to conduct the hearing. On the basis of any such~~  
26 ~~hearing, or upon default of the asbestos abatement contractor,~~

1 ~~applicant or license holder, the Director shall make a~~  
2 ~~determination specifying his or her findings and conclusions. A~~  
3 ~~copy of the determination shall be sent by certified mail,~~  
4 ~~return receipt requested, or served personally upon the~~  
5 ~~applicant, contractor, or license holder.~~

6 ~~The procedure governing hearings authorized by this~~  
7 ~~Section shall be in accordance with rules promulgated by the~~  
8 ~~Department. A full and complete record shall be kept of all~~  
9 ~~proceedings, including the notice of hearing, complaint, and~~  
10 ~~all other documents in the nature of pleadings, written motions~~  
11 ~~filed in the proceedings, and the report and orders of the~~  
12 ~~Director and Hearing Officer. All testimony shall be reported~~  
13 ~~but need not be transcribed unless the decision is sought to be~~  
14 ~~reviewed under the Administrative Review Law. A copy or copies~~  
15 ~~of the transcript may be obtained by any interested party on~~  
16 ~~payment of the cost of preparing the copy or copies. The~~  
17 ~~Director or Hearing Officer shall, upon his or her own motion~~  
18 ~~or on the written request of any party to the proceeding, issue~~  
19 ~~subpoenas requiring the attendance and the giving of testimony~~  
20 ~~by witnesses, and subpoenas duces tecum requiring the~~  
21 ~~production of books, papers, records, or memoranda. All~~  
22 ~~subpoenas and subpoenas duces tecum issued under this Act may~~  
23 ~~be served by any person of legal age. The fees of witnesses for~~  
24 ~~attendance and travel shall be the same as the fees of~~  
25 ~~witnesses before the courts of this State, such fees to be paid~~  
26 ~~when the witness is excused from further attendance. When the~~

1 ~~witness is subpoenaed at the instance of the Director or~~  
2 ~~Hearing Officer, such fees shall be paid in the same manner as~~  
3 ~~other expenses of the Department, and when the witness is~~  
4 ~~subpoenaed at the instance of any other party to any such~~  
5 ~~proceeding the Department may require that the cost of service~~  
6 ~~of the subpoena or subpoena duces tecum and the fee of the~~  
7 ~~witness be borne by the party at whose instance the witness is~~  
8 ~~summoned. In such case, the Department in its discretion may~~  
9 ~~require a deposit to cover the cost of such service and witness~~  
10 ~~fees. A subpoena or subpoena duces tecum so issued as above~~  
11 ~~stated shall be served in the same manner as a subpoena issued~~  
12 ~~by a circuit court.~~

13 ~~Any circuit court of this State, upon the application of~~  
14 ~~the Director, or upon the application of any other party to the~~  
15 ~~proceeding, may, in its discretion, compel the attendance of~~  
16 ~~witnesses, the production of books, papers, records, or~~  
17 ~~memoranda and the giving of testimony before the Director or~~  
18 ~~Hearing Officer conducting an investigation or holding a~~  
19 ~~hearing authorized by this Act, by an attachment for contempt~~  
20 ~~or otherwise, in the same manner as production of evidence may~~  
21 ~~be compelled before the court.~~

22 ~~The Director or Hearing Officer, or any party in an~~  
23 ~~investigation or hearing before the Department, may cause the~~  
24 ~~depositions of witnesses within this State to be taken in the~~  
25 ~~manner prescribed by law for like depositions in civil actions~~  
26 ~~in courts of this State, and, to that end, compel the~~



1 ~~attendance of witnesses and the production of books, papers,~~  
2 ~~records, or memoranda.~~

3 (Source: P.A. 98-78, eff. 7-15-13.)

4 (225 ILCS 207/25)

5 Sec. 25. Consistency with federal law. Rules issued under  
6 this Act, ~~including those governing the preparation of a list~~  
7 ~~of response action contractors and the removal of response~~  
8 ~~action contractors from the list as provided for in Section 20,~~  
9 shall not be inconsistent with rules and regulations  
10 promulgated by the United States Environmental Protection  
11 Agency under the Toxic Substances Control Act, the Clean Air  
12 Act, or other applicable federal statutes.

13 (Source: P.A. 89-143, eff. 7-14-95.)

14 (225 ILCS 207/40)

15 Sec. 40. Enforcement. Notwithstanding the existence or  
16 pursuit of any other remedy, the Director may, in the manner  
17 provided by law and in the name of the People of the State and  
18 through the State's Attorney or the Attorney General who shall  
19 represent the Director in the proceedings, maintain an action  
20 for prosecution, injunction, or other relief or process against  
21 any Building/Facility Owner or any other person or unit of  
22 local government to enforce and compel compliance with the  
23 provisions of this Act, the rules promulgated under it and any  
24 order entered for any action under this Act and its rules.

1 Enforcement proceedings under this Section shall be conducted  
2 in accordance with Title VIII of the Environmental Protection  
3 Act. A person who violates this Act is guilty of a Class A  
4 misdemeanor punishable by a fine of \$1,000 for each day the  
5 violation exists in addition to other civil penalties or up to  
6 6 months imprisonment or both a fine and imprisonment.

7 (Source: P.A. 89-143, eff. 7-14-95.)

8 (225 ILCS 207/55)

9 Sec. 55. Civil penalties. The Board ~~Department~~ is empowered  
10 to assess civil penalties for violations of this Act and the  
11 rules promulgated under this Act pursuant to rules for such  
12 penalties established by the Board ~~Department~~.

13 (Source: P.A. 89-143, eff. 7-14-95.)

14 (225 ILCS 207/60)

15 Sec. 60. Illinois School Asbestos Abatement Fund. All fees  
16 and penalties collected by the Agency ~~Department~~ pursuant to  
17 this Act shall be deposited into the Illinois School Asbestos  
18 Abatement Fund created by Section 16 of the Asbestos Abatement  
19 Act, and shall be available to the Agency ~~Department~~ for the  
20 administration of the Asbestos Abatement Act and this Act ~~as~~  
21 ~~provided in that Act.~~

22 (Source: P.A. 89-143, eff. 7-14-95.)

23 (225 ILCS 207/30 rep.)

1 (225 ILCS 207/35 rep.)

2 (225 ILCS 207/45 rep.)

3 Section 90. The Commercial and Public Building Asbestos  
4 Abatement Act is amended by repealing Sections 30, 35, and 45.

5 Section 95. The Environmental Protection Act is amended by  
6 adding Section 4, 5, 28, and 59 as follows:

7 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

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

10 (a) There is established in the Executive Branch of the  
11 State Government an agency to be known as the Environmental  
12 Protection Agency. This Agency shall be under the supervision  
13 and direction of a Director who shall be appointed by the  
14 Governor with the advice and consent of the Senate. The term of  
15 office of the Director shall expire on the third Monday of  
16 January in odd numbered years, provided that he or she shall  
17 hold office until a successor is appointed and has qualified.  
18 The Director shall receive an annual salary as set by the  
19 Compensation Review Board. The Director, in accord with the  
20 Personnel Code, shall employ and direct such personnel, and  
21 shall provide for such laboratory and other facilities, as may  
22 be necessary to carry out the purposes of this Act. In  
23 addition, the Director may by agreement secure such services as  
24 he or she may deem necessary from any other department, agency,

1 or unit of the State Government, and may employ and compensate  
2 such consultants and technical assistants as may be required.

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

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

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

17 (1) Inspecting and investigating to ascertain possible  
18 violations of this Act, any rule or regulation adopted  
19 under this Act, any permit or term or condition of a  
20 permit, or any Board order; or

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

1 storage tank.

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

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

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

1 required.

2 (h) The Agency shall have authority to require the  
3 submission of complete plans and specifications from any  
4 applicant for a permit required by this Act or by regulations  
5 thereunder, and to require the submission of such reports  
6 regarding actual or potential violations of this Act, any rule  
7 or regulation adopted under this Act, any permit or term or  
8 condition of a permit, or any Board order, as may be necessary  
9 for the purposes of this Act.

10 (i) The Agency shall have authority to make recommendations  
11 to the Board for the adoption of regulations under Title VII of  
12 the Act.

13 (i-5) The Agency shall have authority to make  
14 recommendations to the Board for the adoption of regulations  
15 under Title VII of the Act to fulfill the purposes of the  
16 Asbestos Abatement Act and the Commercial and Public Buildings  
17 Asbestos Abatement Act.

18 (j) The Agency shall have the duty to represent the State  
19 of Illinois in any and all matters pertaining to plans,  
20 procedures, or negotiations for interstate compacts or other  
21 governmental arrangements relating to environmental  
22 protection.

23 (k) The Agency shall have the authority to accept, receive,  
24 and administer on behalf of the State any grants, gifts, loans,  
25 indirect cost reimbursements, or other funds made available to  
26 the State from any source for purposes of this Act or for air

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

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

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

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

23 Any municipality, sanitary district, or other political  
24 subdivision, or any Agency of the State or interstate Agency,  
25 which makes application for loans or grants under such federal  
26 Acts shall notify the Agency of such application; the Agency



1 may participate in proceedings under such federal Acts.

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

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

24 (o) The Agency shall have the authority to issue  
25 certificates of competency to persons and laboratories meeting  
26 the minimum standards established by the Agency in accordance

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

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

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

26 (r) The Agency may enter into written delegation agreements

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

16 (s) The Agency shall have authority to take whatever  
17 preventive or corrective action is necessary or appropriate,  
18 including but not limited to expenditure of monies appropriated  
19 from the Build Illinois Bond Fund and the Build Illinois  
20 Purposes Fund for removal or remedial action, whenever any  
21 hazardous substance or pesticide is released or there is a  
22 substantial threat of such a release into the environment. The  
23 State, the Director, and any State employee shall be  
24 indemnified for any damages or injury arising out of or  
25 resulting from any action taken under this subsection. The  
26 Director of the Agency is authorized to enter into such

1 contracts and agreements as are necessary to carry out the  
2 Agency's duties under this subsection.

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

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

16 (v) (Blank.)

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

21 (x)(1) The Agency shall have authority to distribute  
22 grants, subject to appropriation by the General Assembly,  
23 to units of local government for financing and construction  
24 of public water supply facilities. With respect to all  
25 monies appropriated from the Build Illinois Bond Fund or  
26 the Build Illinois Purposes Fund for public water supply

1 grants, such grants shall be made in accordance with rules  
2 promulgated by the Agency. Such rules shall include a  
3 requirement for a local match of 30% of the total project  
4 cost for projects funded through such grants.

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

24 (y) The Agency shall have authority to release any person  
25 from further responsibility for preventive or corrective  
26 action under this Act following successful completion of

1 preventive or corrective action undertaken by such person upon  
2 written request by the person.

3 (z) To the extent permitted by any applicable federal law  
4 or regulation, for all work performed for State construction  
5 projects which are funded in whole or in part by a capital  
6 infrastructure bill enacted by the 96th General Assembly by  
7 sums appropriated to the Environmental Protection Agency, at  
8 least 50% of the total labor hours must be performed by actual  
9 residents of the State of Illinois. For purposes of this  
10 subsection, "actual residents of the State of Illinois" means  
11 persons domiciled in the State of Illinois. The Department of  
12 Labor shall promulgate rules providing for the enforcement of  
13 this subsection.

14 (aa) The Agency may adopt rules requiring the electronic  
15 submission of any information required to be submitted to the  
16 Agency pursuant to any State or federal law or regulation or  
17 any court or Board order. Any rules adopted under this  
18 subsection (aa) must include, but are not limited to,  
19 identification of the information to be submitted  
20 electronically.

21 (Source: P.A. 98-72, eff. 7-15-13.)

22 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)  
23 Sec. 5. Pollution Control Board.

24 (a) There is hereby created an independent board to be  
25 known as the Pollution Control Board.

1           Until July 1, 2003 or when all of the new members to be  
2 initially appointed under this amendatory Act of the 93rd  
3 General Assembly have been appointed by the Governor, whichever  
4 occurs later, the Board shall consist of 7 technically  
5 qualified members, no more than 4 of whom may be of the same  
6 political party, to be appointed by the Governor with the  
7 advice and consent of the Senate.

8           The term of each appointed member of the Board who is in  
9 office on June 30, 2003 shall terminate at the close of  
10 business on that date or when all of the new members to be  
11 initially appointed under this amendatory Act of the 93rd  
12 General Assembly have been appointed by the Governor, whichever  
13 occurs later.

14           Beginning on July 1, 2003 or when all of the new members to  
15 be initially appointed under this amendatory Act of the 93rd  
16 General Assembly have been appointed by the Governor, whichever  
17 occurs later, the Board shall consist of 5 technically  
18 qualified members, no more than 3 of whom may be of the same  
19 political party, to be appointed by the Governor with the  
20 advice and consent of the Senate. Members shall have verifiable  
21 technical, academic, or actual experience in the field of  
22 pollution control or environmental law and regulation.

23           Of the members initially appointed pursuant to this  
24 amendatory Act of the 93rd General Assembly, one shall be  
25 appointed for a term ending July 1, 2004, 2 shall be appointed  
26 for terms ending July 1, 2005, and 2 shall be appointed for

1 terms ending July 1, 2006. Thereafter, all members shall hold  
2 office for 3 years from the first day of July in the year in  
3 which they were appointed, except in case of an appointment to  
4 fill a vacancy. In case of a vacancy in the office when the  
5 Senate is not in session, the Governor may make a temporary  
6 appointment until the next meeting of the Senate, when he or  
7 she shall nominate some person to fill such office; and any  
8 person so nominated, who is confirmed by the Senate, shall hold  
9 the office during the remainder of the term.

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

14 Board members shall be paid \$37,000 per year or an amount  
15 set by the Compensation Review Board, whichever is greater, and  
16 the Chairman shall be paid \$43,000 per year or an amount set by  
17 the Compensation Review Board, whichever is greater. Each  
18 member shall devote his or her entire time to the duties of the  
19 office, and shall hold no other office or position of profit,  
20 nor engage in any other business, employment, or vocation. Each  
21 member shall be reimbursed for expenses necessarily incurred  
22 and shall make a financial disclosure upon appointment.

23 Each Board member may employ one secretary and one  
24 assistant, and the Chairman one secretary and 2 assistants. The  
25 Board also may employ and compensate hearing officers to  
26 preside at hearings under this Act, and such other personnel as



1 may be necessary. Hearing officers shall be attorneys licensed  
2 to practice law in Illinois.

3 The Board may have an Executive Director; if so, the  
4 Executive Director shall be appointed by the Governor with the  
5 advice and consent of the Senate. The salary and duties of the  
6 Executive Director shall be fixed by the Board.

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

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

21 If there is no vacancy on the Board, 4 members of the Board  
22 shall constitute a quorum to transact business; otherwise, a  
23 majority of the Board shall constitute a quorum to transact  
24 business, and no vacancy shall impair the right of the  
25 remaining members to exercise all of the powers of the Board.  
26 Every action approved by a majority of the members of the Board

1 shall be deemed to be the action of the Board. The Board shall  
2 keep a complete and accurate record of all its meetings.

3 (b) The Board shall determine, define and implement the  
4 environmental control standards applicable in the State of  
5 Illinois and may adopt rules and regulations in accordance with  
6 Title VII of this Act.

7 (b-5) The Board may adopt rules and regulations in  
8 accordance with Title VII of this Act as needed to fulfill the  
9 purposes of the Asbestos Abatement Act and the Commercial and  
10 Public Buildings Asbestos Abatement Act.

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

21 (d) The Board shall have authority to conduct proceedings  
22 upon complaints charging violations of this Act, any rule or  
23 regulation adopted under this Act, any permit or term or  
24 condition of a permit, or any Board order; upon administrative  
25 citations; upon petitions for variances or adjusted standards;  
26 upon petitions for review of the Agency's final determinations

1 on permit applications in accordance with Title X of this Act;  
2 upon petitions to remove seals under Section 34 of this Act;  
3 and upon other petitions for review of final determinations  
4 which are made pursuant to this Act or Board rule and which  
5 involve a subject which the Board is authorized to regulate.  
6 The Board may also conduct other proceedings as may be provided  
7 by this Act or any other statute or rule.

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

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

21 (Source: P.A. 95-331, eff. 8-21-07.)

22 (415 ILCS 5/28) (from Ch. 111 1/2, par. 1028)

23 Sec. 28. Proposal of regulations; procedure.

24 (a) Any person may present written proposals for the  
25 adoption, amendment, or repeal of the Board's regulations, and

1 the Board may make such proposals on its own motion. If the  
2 Board finds that any such proposal is supported by an adequate  
3 statement of reasons, is accompanied by a petition signed by at  
4 least 200 persons, is not plainly devoid of merit and does not  
5 deal with a subject on which a hearing has been held within the  
6 preceding 6 months, the Board shall schedule a public hearing  
7 for consideration of the proposal. If such proposal is made by  
8 the Agency or by the Department, the Board shall schedule a  
9 public hearing without regard to the above conditions. The  
10 Board may hold one or more hearings to consider both the merits  
11 and the economics of the proposal. The Board may also in its  
12 discretion schedule a public hearing upon any proposal without  
13 regard to the above conditions.

14 No substantive regulation shall be adopted, amended, or  
15 repealed until after a public hearing within the area of the  
16 State concerned. In the case of state-wide regulations hearings  
17 shall be held in at least two areas. At least 20 days prior to  
18 the scheduled date of the hearing the Board shall give notice  
19 of such hearing by public advertisement in a newspaper of  
20 general circulation in the area of the state concerned of the  
21 date, time, place and purpose of such hearing; give written  
22 notice to any person in the area concerned who has in writing  
23 requested notice of public hearings; and make available to any  
24 person upon request copies of the proposed regulations,  
25 together with summaries of the reasons supporting their  
26 adoption.

1 Any public hearing relating to the adoption, amendment, or  
2 repeal of Board regulations under this subsection shall be held  
3 before a qualified hearing officer, who shall be attended by at  
4 least one member of the Board, designated by the Chairman. All  
5 such hearings shall be open to the public, and reasonable  
6 opportunity to be heard with respect to the subject of the  
7 hearing shall be afforded to any person. All testimony taken  
8 before the Board shall be recorded stenographically. The  
9 transcript so recorded, and any written submissions to the  
10 Board in relation to such hearings, shall be open to public  
11 inspection, and copies thereof shall be made available to any  
12 person upon payment of the actual cost of reproducing the  
13 original.

14 After such hearing the Board may revise the proposed  
15 regulations before adoption in response to suggestions made at  
16 the hearing, without conducting a further hearing on the  
17 revisions.

18 In addition, the Board may revise the proposed regulations  
19 after hearing in response to objections or suggestions made by  
20 the Joint Committee on Administrative Rules pursuant to  
21 subsection (b) of Section 5-40 and subsection (a) of Section  
22 5-110 of the Illinois Administrative Procedure Act, where the  
23 Board finds (1) that such objections or suggestions relate to  
24 the statutory authority upon which the regulation is based,  
25 whether the regulation is in proper form, or whether adequate  
26 notice was given, and (2) that the record before the Board is

1 sufficient to support such a change without further hearing.

2 Any person heard or represented at a hearing or requesting  
3 notice shall be given written notice of the action of the Board  
4 with respect to the subject thereof.

5 No rule or regulation, or amendment or repeal thereof,  
6 shall become effective until a certified copy thereof has been  
7 filed with the Secretary of State, and thereafter as provided  
8 in the Illinois Administrative Procedure Act as amended.

9 Any person who files a petition for adoption of a  
10 regulation specific to that person shall pay a filing fee.

11 (b) The Board shall not, on its own motion, propose  
12 regulations pursuant to subsection (a) of this Section or  
13 Sections 28.2, 28.4 or 28.5 of this Act to implement the  
14 provisions required by or related to the Clean Air Act  
15 Amendments of 1990, as now or hereafter amended. However,  
16 nothing herein shall preclude the Board from, on its own  
17 motion:

18 (1) making technical corrections to adopted rules  
19 pursuant to Section 100.240 of Title 1 of the Illinois  
20 Administrative Code;

21 (2) modifying a proposed rule following receipt of  
22 comments, objections, or suggestions without agreement of  
23 the proponent after the end of the hearing and comment  
24 period;

25 (3) initiating procedural rulemaking in accordance  
26 with Section 26 of this Act; or

1           (4) initiating rulemaking necessitated by a court  
2           order directed to the Board.

3           (Source: P.A. 87-860; 87-1213; 88-45.)

4           (415 ILCS 5/59 new)

5           Sec. 59. Asbestos Abatement Act; Commercial and Public  
6           Buildings Asbestos Abatement Act.

7           (a) On July 1, 2014, all powers, duties, rights, and  
8           responsibilities of the Department of Public Health and the  
9           Director of Public Health under the Asbestos Abatement Act and  
10           the Commercial and Public Buildings Asbestos Abatement Act,  
11           other than those related to the licensure of persons and  
12           entities to perform the functions regulated by those Acts, are  
13           transferred to the Illinois Environmental Protection Agency  
14           and the Director of the Illinois Environmental Protection  
15           Agency. In the context of any laws or rules needed to implement  
16           or enforce the non-licensing related provisions of either the  
17           Asbestos Abatement Act or the Commercial and Public Buildings  
18           Asbestos Abatement Act, including, but not limited to, Part 855  
19           of Title 77 of the Illinois Administrative Code, on and after  
20           July 1, 2014, all references to the Department of Public Health  
21           shall be construed to mean the Illinois Environmental  
22           Protection Agency, and all references to the Director of Public  
23           Health shall be construed to mean the Director of the Illinois  
24           Environmental Protection Agency.

25           (b) Those employees of the Department of Public Health

1 needed to administer either the Asbestos Abatement Act or the  
2 Commercial and Public Buildings Asbestos Abatement Act, other  
3 than those employees who perform work related to the licensure  
4 of persons and entities to perform the functions regulated by  
5 those Acts, shall be transferred to the Illinois Environmental  
6 Protection Agency. The status and rights of such employees  
7 under the Personnel Code shall not be affected by the transfer.  
8 The rights of the employees and the State of Illinois and its  
9 agencies under the Personnel Code and applicable collective  
10 bargaining agreements or under any pension, retirement, or  
11 annuity plan shall not be affected by this amendatory Act of  
12 the 98th General Assembly.

13 (c) All books, records, papers, documents, property (real  
14 and personal), contracts, causes of action, and pending  
15 business pertaining to the powers, duties, rights, and  
16 responsibilities transferred by this amendatory Act from the  
17 Department of Public Health to the Illinois Environmental  
18 Protection Agency, including, but not limited to, material in  
19 electronic or magnetic format and necessary computer hardware  
20 and software, shall be transferred to the Illinois  
21 Environmental Protection Agency.

22 (d) All unexpended appropriations and balances and other  
23 funds available for use by the Department of Public Health for  
24 the administration of the Asbestos Abatement Act or the  
25 Commercial and Public Buildings Asbestos Abatement Act shall be  
26 transferred for use by the Illinois Environmental Protection



1 Agency pursuant to the direction of the Director of the  
2 Illinois Environmental Protection Agency. Unexpended balances  
3 so transferred shall be expended only for the purpose for which  
4 the appropriations were originally made.

5 (e) Whenever reports or notices are now required to be made  
6 or given or papers or documents furnished or served by any  
7 person to or upon the Department of Public Health in connection  
8 with any of the powers, duties, rights, and responsibilities  
9 transferred by this amendatory Act of the 98th General  
10 Assembly, the same shall be made, given, furnished, or served  
11 in the same manner to or upon the Illinois Environmental  
12 Protection Agency.

13 (f) This amendatory Act of the 98th General Assembly does  
14 not affect any act done, ratified, or canceled or any right  
15 occurring or established or any action or proceeding had or  
16 commenced in an administrative, civil, or criminal cause by the  
17 Department of Public Health before this amendatory Act of the  
18 98th General Assembly takes effect; such actions or proceedings  
19 may be prosecuted and continued by the Illinois Environmental  
20 Protection Agency.

21 (g) Any rules of the Department of Public Health in  
22 connection with any of the non-licensing related powers,  
23 duties, rights, and responsibilities transferred by this  
24 amendatory Act of the 98th General Assembly and that are in  
25 full force on the effective date of this amendatory Act of the  
26 98th General Assembly shall become the rules of the Illinois

1 Pollution Control Board. This amendatory Act of the 98th  
2 General Assembly does not affect the legality of any such rules  
3 in the Illinois Administrative Code.

4 Any proposed rules filed with the Secretary of State by the  
5 Department of Public Health in connection with any of the  
6 non-licensing related powers, duties, rights, and  
7 responsibilities transferred by this amendatory Act of the 98th  
8 General Assembly that are pending in the rulemaking process on  
9 the effective date of this amendatory Act of the 98th General  
10 Assembly and pertain to the non-licensing related powers,  
11 duties, rights, and responsibilities transferred, shall be  
12 deemed to have been filed by the Illinois Environmental  
13 Protection Agency.

14 As soon as practicable after the effective date of this  
15 amendatory Act of the 98th General Assembly, the Illinois  
16 Environmental Protection Agency shall review, revise and  
17 clarify the rules transferred to it under this amendatory Act  
18 of the 98th General Assembly to reflect the reorganization of  
19 powers, duties, rights, and responsibilities affected by this  
20 amendatory Act of the 98th General Assembly, using the  
21 procedures for recodification of rules available under the  
22 Illinois Administrative Procedure Act, except that existing  
23 title, part, and section numbering for the affected rules may  
24 be retained. In so doing, the Illinois Environmental Protection  
25 Agency shall ensure that a single set of standards apply to all  
26 parties similarly situated.

1       Under no circumstances shall this process, or the  
2 re-codification of rules provided for under this subsection  
3 (g), allow for the weakening of protection from asbestos  
4 exposure or increase the risk to human health or the  
5 environment therefrom.

6       (h) Asbestos Advisory Committee.

7       (1) There is created the Asbestos Advisory Committee,  
8 composed of the following members appointed by the  
9 Governor:

10       (A) one member recommended by the Illinois Chamber  
11 of Commerce;

12       (B) one member recommended by the Illinois  
13 Association of Realtors;

14       (C) one member recommended by the Illinois  
15 Municipal League;

16       (D) one member recommended by the Illinois  
17 Statewide School Management Alliance;

18       (E) one member recommended by the Illinois  
19 Specialty and Mechanical Contractors Association;

20       (F) one member recommended by the Chicago Local  
21 Section of the American Industrial Hygiene  
22 Association;

23       (G) one member recommended by the Illinois  
24 Environmental Contractors Association;

25       (H) one member recommended by the American  
26 Federation of Labor and Congress of Industrial

1           Organizations (AFL-CIO);

2           (I) one member recommended by the Illinois Chapter  
3           of the American Institute of Architects;

4           (J) one member employed by an Illinois-based  
5           business providing asbestos consulting services;

6           (K) one member employed by an Illinois-based  
7           business providing Illinois-approved asbestos training  
8           courses;

9           (L) one member recommended by the Heat and Frost  
10           Insulators and Asbestos Workers Union;

11           (M) one member recommended by the Illinois Pipe  
12           Trades Association; and

13           (N) one member recommended by the Laborers  
14           International Union of North America.

15           Administrative support shall be provided to the  
16           Committee by the Environmental Protection Agency.

17           (2) The members of the Committee shall be appointed for  
18           terms of 4 years, and may be reappointed; appointments to  
19           fill vacancies shall be for the balance of the current  
20           term. Members shall serve without compensation, but may be  
21           reimbursed for actual expenses from funds appropriated for  
22           that purpose. Members shall elect annually from their  
23           number a chairperson and such other officers as they may  
24           deem necessary. The Committee shall meet at least annually  
25           and at the call of the chairperson.

26           (3) The Committee shall:

1           (A) review, evaluate, and make recommendations to  
2           the Director of the Environmental Protection Agency  
3           regarding laws, rules, and procedures related to  
4           asbestos remediation;

5           (B) review, evaluate, and make recommendations to  
6           the Director of Public Health regarding the training  
7           and licensing of persons and entities to engage in  
8           asbestos remediation;

9           (C) make recommendations to the Director of the  
10           Environmental Protection Agency relating to the  
11           efforts to implement this Section, together with the  
12           changes in this amendatory Act of the 98th General  
13           Assembly to the Asbestos Abatement Act and the  
14           Commercial and Public Buildings Act; and

15           (D) make recommendations to the Director of Public  
16           Health relating to the efforts to implement this  
17           Section and the Asbestos Occupations Licensure Act,  
18           together with the changes in this amendatory Act of the  
19           98th General Assembly to the Asbestos Abatement Act and  
20           the Commercial and Public Buildings Act.

21           (i) On and after the effective date of this amendatory Act  
22           of the 98th General Assembly, except for those functions  
23           expressly provided for in the Asbestos Occupations Licensure  
24           Act, all rulemaking by the Agency in carrying out its  
25           responsibilities under the Asbestos Abatement Act and the  
26           Commercial and Public Buildings Act shall be done by the

1 Pollution Control Board in accordance with Title VII of this  
2 Act.

3 Section 99. Effective date. This Act takes effect July 1,  
4 2014.

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2	Statutes amended in order of appearance	
3	New Act	
4	30 ILCS 105/5.855 new	
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6	105 ILCS 105/4	from Ch. 122, par. 1404
7	105 ILCS 105/6	from Ch. 122, par. 1406
8	105 ILCS 105/6a	from Ch. 122, par. 1406a
9	105 ILCS 105/6b	from Ch. 122, par. 1406b
10	105 ILCS 105/7	from Ch. 122, par. 1407
11	105 ILCS 105/9	from Ch. 122, par. 1409
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13	105 ILCS 105/9b	from Ch. 122, par. 1409b
14	105 ILCS 105/11	from Ch. 122, par. 1411
15	105 ILCS 105/12a	from Ch. 122, par. 1412a
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21	105 ILCS 105/6c rep.	
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- 1 225 ILCS 207/15
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- 3 225 ILCS 207/25
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- 5 225 ILCS 207/55
- 6 225 ILCS 207/60
- 7 225 ILCS 207/30 rep.
- 8 225 ILCS 207/35 rep.
- 9 225 ILCS 207/45 rep.
- 10 415 ILCS 5/4 from Ch. 111 1/2, par. 1004
- 11 415 ILCS 5/5 from Ch. 111 1/2, par. 1005
- 12 415 ILCS 5/28 from Ch. 111 1/2, par. 1028
- 13 415 ILCS 5/59 new