

1 AN ACT concerning safety.

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

4 (30 ILCS 105/5.380 rep.)

5 Section 3. The State Finance Act is amended by repealing  
6 Section 5.380.

7 (225 ILCS 52/Act rep.)

8 Section 5. The Industrial Hygienists Licensure Act is  
9 repealed.

10 Section 7. The Commercial and Public Building Asbestos  
11 Abatement Act is amended by changing Section 20 as follows:

12 (225 ILCS 207/20)

13 Sec. 20. Powers and Duties of the Department.

14 (a) The Department is empowered to promulgate any rules  
15 necessary to ensure proper implementation and administration  
16 of this Act, and compliance with the federal Asbestos School  
17 Hazard Abatement Reauthorization Act of 1990.

18 (b) Rules promulgated by the Department shall include, but  
19 not be limited to, rules relating to the correct and safe  
20 performance of response action services, rules for the  
21 assessment of civil penalties for violations of this Act or

1 rules promulgated under it, and rules providing for the  
2 training and licensing of persons and firms (i) to perform  
3 asbestos inspection, (ii) to perform abatement work, and (iii)  
4 to serve as asbestos abatement contractors, response action  
5 contractors, and asbestos workers. The Department is empowered  
6 to inspect activities regulated by this Act to ensure  
7 compliance.

8 Except as otherwise provided by Department rule, on and  
9 after the effective date of this amendatory Act of the 98th  
10 General Assembly, any licensing requirement adopted pursuant  
11 to this Section that may be satisfied by an industrial  
12 hygienist licensed pursuant to the Industrial Hygienists  
13 Licensure Act repealed in this amendatory Act may be satisfied  
14 by a Certified Industrial Hygienist certified by the American  
15 Board of Industrial Hygiene.

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

18 (1) Publish a list of response action contractors  
19 licensed under this Act, except that the Department shall  
20 not be required to publish a list of licensed asbestos  
21 workers; and

22 (2) Adopt rules for the collection of fees for training  
23 course approval and for the licensing of inspectors,  
24 project designers, contractors, supervisors, and workers.

25 (d) The provisions of the Illinois Administrative  
26 Procedure Act are hereby expressly adopted and shall apply to

1 all administrative rules and procedures of the Department of  
2 Public Health under this Act, except that in case of conflict  
3 between the Illinois Administrative Procedure Act and this Act  
4 the provisions of this Act shall control, and except that  
5 Section 5-35 of the Illinois Administrative Procedure Act  
6 relating to procedures for rulemaking does not apply to the  
7 adoption of any rule required by federal law in connection with  
8 which the Department is precluded by law from exercising any  
9 discretion.

10 (e) All final administrative decisions of the Department  
11 under this Act shall be subject to judicial review pursuant to  
12 the provisions of the Administrative Review Law and the rules  
13 adopted under it. The term "administrative decision" has the  
14 meaning ascribed to it in Section 3-101 of the Code of Civil  
15 Procedure.

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

1 shall be given an opportunity to request hearing.

2 The hearing shall be conducted by the Director or by an  
3 individual designated in writing by the Director as Hearing  
4 Officer to conduct the hearing. On the basis of any such  
5 hearing, or upon default of the asbestos abatement contractor,  
6 applicant or license holder, the Director shall make a  
7 determination specifying his or her findings and conclusions. A  
8 copy of the determination shall be sent by certified mail,  
9 return receipt requested, or served personally upon the  
10 applicant, contractor, or license holder.

11 The procedure governing hearings authorized by this  
12 Section shall be in accordance with rules promulgated by the  
13 Department. A full and complete record shall be kept of all  
14 proceedings, including the notice of hearing, complaint, and  
15 all other documents in the nature of pleadings, written motions  
16 filed in the proceedings, and the report and orders of the  
17 Director and Hearing Officer. All testimony shall be reported  
18 but need not be transcribed unless the decision is sought to be  
19 reviewed under the Administrative Review Law. A copy or copies  
20 of the transcript may be obtained by any interested party on  
21 payment of the cost of preparing the copy or copies. The  
22 Director or Hearing Officer shall, upon his or her own motion  
23 or on the written request of any party to the proceeding, issue  
24 subpoenas requiring the attendance and the giving of testimony  
25 by witnesses, and subpoenas duces tecum requiring the  
26 production of books, papers, records, or memoranda. All

1 subpoenas and subpoenas duces tecum issued under this Act may  
2 be served by any person of legal age. The fees of witnesses for  
3 attendance and travel shall be the same as the fees of  
4 witnesses before the courts of this State, such fees to be paid  
5 when the witness is excused from further attendance. When the  
6 witness is subpoenaed at the instance of the Director or  
7 Hearing Officer, such fees shall be paid in the same manner as  
8 other expenses of the Department, and when the witness is  
9 subpoenaed at the instance of any other party to any such  
10 proceeding the Department may require that the cost of service  
11 of the subpoena or subpoena duces tecum and the fee of the  
12 witness be borne by the party at whose instance the witness is  
13 summoned. In such case, the Department in its discretion may  
14 require a deposit to cover the cost of such service and witness  
15 fees. A subpoena or subpoena duces tecum so issued as above  
16 stated shall be served in the same manner as a subpoena issued  
17 by a circuit court.

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

1           The Director or Hearing Officer, or any party in an  
2 investigation or hearing before the Department, may cause the  
3 depositions of witnesses within this State to be taken in the  
4 manner prescribed by law for like depositions in civil actions  
5 in courts of this State, and, to that end, compel the  
6 attendance of witnesses and the production of books, papers,  
7 records, or memoranda.

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

9           Section 8. The Lead Poisoning Prevention Act is amended by  
10 changing Section 11.1 as follows:

11           (410 ILCS 45/11.1) (from Ch. 111 1/2, par. 1311.1)

12           Sec. 11.1. Licensing of lead abatement contractors and  
13 workers. Except as otherwise provided in this Act, performing  
14 lead abatement or mitigation without a license is a Class A  
15 misdemeanor. The Department shall provide by rule for the  
16 licensing of lead abatement contractors and lead abatement  
17 workers and shall establish standards and procedures for the  
18 licensure. The Department may collect a reasonable fee for the  
19 licenses. The fees shall be deposited into the Lead Poisoning  
20 Screening, Prevention, and Abatement Fund and used by the  
21 Department for the costs of licensing lead abatement  
22 contractors and workers and other activities prescribed by this  
23 Act.

24           The Department shall promote and encourage minorities and

1 females and minority and female owned entities to apply for  
2 licensure under this Act as either licensed lead abatement  
3 workers or licensed lead abatement contractors.

4 The Department may adopt any rules necessary to ensure  
5 proper implementation and administration of this Act and of the  
6 federal Toxic Substances Control Act, 15 USC 2682 and 2684, and  
7 the regulations promulgated thereunder: Lead; Requirements for  
8 Lead-Based Paint Activities (40 CFR 745). The application of  
9 this Section shall not be limited to the activities taken in  
10 regard to lead poisoned children and shall include all  
11 activities related to lead abatement, mitigation and training.

12 Except as otherwise provided by Department rule, on and  
13 after the effective date of this amendatory Act of the 98th  
14 General Assembly, any licensing requirement adopted pursuant  
15 to this Section that may be satisfied by an industrial  
16 hygienist licensed pursuant to the Industrial Hygienists  
17 Licensure Act repealed in this amendatory Act may be satisfied  
18 by a Certified Industrial Hygienist certified by the American  
19 Board of Industrial Hygiene.

20 (Source: P.A. 89-381, eff. 8-18-95.)

21 Section 10. The Environmental Protection Act is amended by  
22 changing Sections 17, 22.2, and 22.8 as follows:

23 (415 ILCS 5/17) (from Ch. 111 1/2, par. 1017)

24 Sec. 17. Rules; chlorination requirements.

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

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

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

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

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

19 (4) Does not provide any raw water treatment other than  
20 fluoridation;

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

24 (6) Has a certified operator of the proper class, or ~~if~~  
25 ~~it~~ is an exempt community ~~public~~ water supply, under the  
26 Public Water Supply Operations Act ~~has a registered person~~



1 ~~responsible in charge of operation of the public water~~  
2 ~~supply;~~

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

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

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1 (Source: P.A. 92-574, eff. 6-26-02.)

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

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

4 (a) There are hereby created within the State Treasury 2  
5 special funds to be known respectively as the "Hazardous Waste  
6 Fund" and the "Hazardous Waste Research Fund", constituted from  
7 the fees collected pursuant to this Section. In addition to the  
8 fees collected under this Section, the Hazardous Waste Fund  
9 shall include other moneys made available from any source for  
10 deposit into the Fund.

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

14 (A) 9 cents per gallon or \$18.18 per cubic yard, if  
15 the hazardous waste disposal site is located off the  
16 site where such waste was produced. The maximum amount  
17 payable under this subdivision (A) with respect to the  
18 hazardous waste generated by a single generator and  
19 deposited in monofills is \$30,000 per year. If, as a  
20 result of the use of multiple monofills, waste fees in  
21 excess of the maximum are assessed with respect to a  
22 single waste generator, the generator may apply to the  
23 Agency for a credit.

24 (B) 9 cents or \$18.18 per cubic yard, if the  
25 hazardous waste disposal site is located on the site

1           where such waste was produced, provided however the  
2           maximum amount of fees payable under this paragraph (B)  
3           is \$30,000 per year for each such hazardous waste  
4           disposal site.

5           (C) If the hazardous waste disposal site is an  
6           underground injection well, \$6,000 per year if not more  
7           than 10,000,000 gallons per year are injected, \$15,000  
8           per year if more than 10,000,000 gallons but not more  
9           than 50,000,000 gallons per year are injected, and  
10          \$27,000 per year if more than 50,000,000 gallons per  
11          year are injected.

12          (D) 3 cents per gallon or \$6.06 per cubic yard of  
13          hazardous waste received for treatment at a hazardous  
14          waste treatment site, if the hazardous waste treatment  
15          site is located off the site where such waste was  
16          produced and if such hazardous waste treatment site is  
17          owned, controlled and operated by a person other than  
18          the generator of such waste. After treatment at such  
19          hazardous waste treatment site, the waste shall not be  
20          subject to any other fee imposed by this subsection  
21          (b). For purposes of this subsection (b), the term  
22          "treatment" is defined as in Section 3.505 but shall  
23          not include recycling, reclamation or reuse.

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

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

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

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

26          (6) For the purposes of this subsection (b), "monofill"

1 means a facility, or a unit at a facility, that accepts  
2 only wastes bearing the same USEPA hazardous waste  
3 identification number, or compatible wastes as determined  
4 by the Agency.

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

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

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

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

5           (3) In an amount up to 30% of the amount collected as  
6 fees provided for in this Section, for use by the Agency to  
7 conduct groundwater protection activities, including  
8 providing grants to appropriate units of local government  
9 which are addressing protection of underground waters  
10 pursuant to the provisions of this Act.

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

14           (5) To the extent the Agency has received and deposited  
15 monies in the Fund other than fees collected under  
16 subsection (b) of this Section, to pay for the cost of  
17 Agency employees for services provided in reviewing the  
18 performance of response actions pursuant to Title XVII of  
19 this Act.

20           (6) In an amount up to 15% of the fees collected  
21 annually under subsection (b) of this Section, for use by  
22 the Agency for administration of the provisions of this  
23 Section.

24           (e) The Agency shall deposit 10% of all receipts collected  
25 under subsection (b) of this Section, but not to exceed  
26 \$200,000 per year, in the State Treasury to the credit of the

1 Hazardous Waste Research Fund established by this Act. Pursuant  
2 to appropriation, all monies in such Fund shall be used by the  
3 University of Illinois for the purposes set forth in this  
4 subsection.

5 The University of Illinois may enter into contracts with  
6 business, industrial, university, governmental or other  
7 qualified individuals or organizations to assist in the  
8 research and development intended to recycle, reduce the volume  
9 of, separate, detoxify or reduce the hazardous properties of  
10 hazardous wastes in Illinois. Monies in the Fund may also be  
11 used by the University of Illinois for technical studies,  
12 monitoring activities, and educational and research activities  
13 which are related to the protection of underground waters.  
14 Monies in the Hazardous Waste Research Fund may be used to  
15 administer the Illinois Health and Hazardous Substances  
16 Registry Act. Monies in the Hazardous Waste Research Fund shall  
17 not be used for any sanitary landfill or the acquisition or  
18 construction of any facility. This does not preclude the  
19 purchase of equipment for the purpose of public demonstration  
20 projects. The University of Illinois shall adopt guidelines for  
21 cost sharing, selecting, and administering projects under this  
22 subsection.

23 (f) Notwithstanding any other provision or rule of law, and  
24 subject only to the defenses set forth in subsection (j) of  
25 this Section, the following persons shall be liable for all  
26 costs of removal or remedial action incurred by the State of



1 Illinois or any unit of local government as a result of a  
2 release or substantial threat of a release of a hazardous  
3 substance or pesticide:

4 (1) the owner and operator of a facility or vessel from  
5 which there is a release or substantial threat of release  
6 of a hazardous substance or pesticide;

7 (2) any person who at the time of disposal, transport,  
8 storage or treatment of a hazardous substance or pesticide  
9 owned or operated the facility or vessel used for such  
10 disposal, transport, treatment or storage from which there  
11 was a release or substantial threat of a release of any  
12 such hazardous substance or pesticide;

13 (3) any person who by contract, agreement, or otherwise  
14 has arranged with another party or entity for transport,  
15 storage, disposal or treatment of hazardous substances or  
16 pesticides owned, controlled or possessed by such person at  
17 a facility owned or operated by another party or entity  
18 from which facility there is a release or substantial  
19 threat of a release of such hazardous substances or  
20 pesticides; and

21 (4) any person who accepts or accepted any hazardous  
22 substances or pesticides for transport to disposal,  
23 storage or treatment facilities or sites from which there  
24 is a release or a substantial threat of a release of a  
25 hazardous substance or pesticide.

26 Any monies received by the State of Illinois pursuant to

1 this subsection (f) shall be deposited in the State Treasury to  
2 the credit of the Hazardous Waste Fund.

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

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

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

24 (h) For purposes of this Section:

25 (1) The term "facility" means:

26 (A) any building, structure, installation,

1 equipment, pipe or pipeline including but not limited  
2 to any pipe into a sewer or publicly owned treatment  
3 works, well, pit, pond, lagoon, impoundment, ditch,  
4 landfill, storage container, motor vehicle, rolling  
5 stock, or aircraft; or

6 (B) any site or area where a hazardous substance  
7 has been deposited, stored, disposed of, placed, or  
8 otherwise come to be located.

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

10 (A) any person owning or operating a vessel or  
11 facility;

12 (B) in the case of an abandoned facility, any  
13 person owning or operating the abandoned facility or  
14 any person who owned, operated, or otherwise  
15 controlled activities at the abandoned facility  
16 immediately prior to such abandonment;

17 (C) in the case of a land trust as defined in  
18 Section 2 of the Land Trustee as Creditor Act, the  
19 person owning the beneficial interest in the land  
20 trust;

21 (D) in the case of a fiduciary (other than a land  
22 trustee), the estate, trust estate, or other interest  
23 in property held in a fiduciary capacity, and not the  
24 fiduciary. For the purposes of this Section,  
25 "fiduciary" means a trustee, executor, administrator,  
26 guardian, receiver, conservator or other person

1 holding a facility or vessel in a fiduciary capacity;

2 (E) in the case of a "financial institution",  
3 meaning the Illinois Housing Development Authority and  
4 that term as defined in Section 2 of the Illinois  
5 Banking Act, that has acquired ownership, operation,  
6 management, or control of a vessel or facility through  
7 foreclosure or under the terms of a security interest  
8 held by the financial institution or under the terms of  
9 an extension of credit made by the financial  
10 institution, the financial institution only if the  
11 financial institution takes possession of the vessel  
12 or facility and the financial institution exercises  
13 actual, direct, and continual or recurrent managerial  
14 control in the operation of the vessel or facility that  
15 causes a release or substantial threat of a release of  
16 a hazardous substance or pesticide resulting in  
17 removal or remedial action;

18 (F) In the case of an owner of residential  
19 property, the owner if the owner is a person other than  
20 an individual, or if the owner is an individual who  
21 owns more than 10 dwelling units in Illinois, or if the  
22 owner, or an agent, representative, contractor, or  
23 employee of the owner, has caused, contributed to, or  
24 allowed the release or threatened release of a  
25 hazardous substance or pesticide. The term  
26 "residential property" means single family residences

1 of one to 4 dwelling units, including accessory land,  
2 buildings, or improvements incidental to those  
3 dwellings that are exclusively used for the  
4 residential use. For purposes of this subparagraph  
5 (F), the term "individual" means a natural person, and  
6 shall not include corporations, partnerships, trusts,  
7 or other non-natural persons.

8 (G) In the case of any facility, title or control  
9 of which was conveyed due to bankruptcy, foreclosure,  
10 tax delinquency, abandonment, or similar means to a  
11 unit of State or local government, any person who  
12 owned, operated, or otherwise controlled activities at  
13 the facility immediately beforehand.

14 (H) The term "owner or operator" does not include a  
15 unit of State or local government which acquired  
16 ownership or control through bankruptcy, tax  
17 delinquency, abandonment, or other circumstances in  
18 which the government acquires title by virtue of its  
19 function as sovereign. The exclusion provided under  
20 this paragraph shall not apply to any State or local  
21 government which has caused or contributed to the  
22 release or threatened release of a hazardous substance  
23 from the facility, and such a State or local government  
24 shall be subject to the provisions of this Act in the  
25 same manner and to the same extent, both procedurally  
26 and substantively, as any nongovernmental entity,

1 including liability under Section 22.2(f).

2 (i) The costs and damages provided for in this Section may  
3 be imposed by the Board in an action brought before the Board  
4 in accordance with Title VIII of this Act, except that Section  
5 33(c) of this Act shall not apply to any such action.

6 (j) (1) There shall be no liability under this Section for a  
7 person otherwise liable who can establish by a preponderance of  
8 the evidence that the release or substantial threat of release  
9 of a hazardous substance and the damages resulting therefrom  
10 were caused solely by:

11 (A) an act of God;

12 (B) an act of war;

13 (C) an act or omission of a third party other than an  
14 employee or agent of the defendant, or other than one whose  
15 act or omission occurs in connection with a contractual  
16 relationship, existing directly or indirectly, with the  
17 defendant (except where the sole contractual arrangement  
18 arises from a published tariff and acceptance for carriage  
19 by a common carrier by rail), if the defendant establishes  
20 by a preponderance of the evidence that (i) he exercised  
21 due care with respect to the hazardous substance concerned,  
22 taking into consideration the characteristics of such  
23 hazardous substance, in light of all relevant facts and  
24 circumstances, and (ii) he took precautions against  
25 foreseeable acts or omissions of any such third party and  
26 the consequences that could foreseeably result from such

1 acts or omissions; or

2 (D) any combination of the foregoing paragraphs.

3 (2) There shall be no liability under this Section for any  
4 release permitted by State or federal law.

5 (3) There shall be no liability under this Section for  
6 damages as a result of actions taken or omitted in the course  
7 of rendering care, assistance, or advice in accordance with  
8 this Section or the National Contingency Plan pursuant to the  
9 Comprehensive Environmental Response, Compensation and  
10 Liability Act of 1980 (P.L. 96-510) or at the direction of an  
11 on-scene coordinator appointed under such plan, with respect to  
12 an incident creating a danger to public health or welfare or  
13 the environment as a result of any release of a hazardous  
14 substance or a substantial threat thereof. This subsection  
15 shall not preclude liability for damages as the result of gross  
16 negligence or intentional misconduct on the part of such  
17 person. For the purposes of the preceding sentence, reckless,  
18 willful, or wanton misconduct shall constitute gross  
19 negligence.

20 (4) There shall be no liability under this Section for any  
21 person (including, but not limited to, an owner of residential  
22 property who applies a pesticide to the residential property or  
23 who has another person apply a pesticide to the residential  
24 property) for response costs or damages as the result of the  
25 storage, handling and use, or recommendation for storage,  
26 handling and use, of a pesticide consistent with:

1           (A) its directions for storage, handling and use as  
2           stated in its label or labeling;

3           (B) its warnings and cautions as stated in its label or  
4           labeling; and

5           (C) the uses for which it is registered under the  
6           Federal Insecticide, Fungicide and Rodenticide Act and the  
7           Illinois Pesticide Act.

8           (4.5) There shall be no liability under subdivision (f)(1)  
9           of this Section for response costs or damages as the result of  
10          a release of a pesticide from an agrichemical facility site if  
11          the Agency has received notice from the Department of  
12          Agriculture pursuant to Section 19.3 of the Illinois Pesticide  
13          Act, the owner or operator of the agrichemical facility is  
14          proceeding with a corrective action plan under the Agrichemical  
15          Facility Response Action Program implemented under that  
16          Section, and the Agency has provided a written endorsement of a  
17          corrective action plan.

18          (4.6) There shall be no liability under subdivision (f)(1)  
19          of this Section for response costs or damages as the result of  
20          a substantial threat of a release of a pesticide from an  
21          agrichemical facility site if the Agency has received notice  
22          from the Department of Agriculture pursuant to Section 19.3 of  
23          the Illinois Pesticide Act and the owner or operator of the  
24          agrichemical facility is proceeding with a corrective action  
25          plan under the Agrichemical Facility Response Action Program  
26          implemented under that Section.



1           (5) Nothing in this subsection (j) shall affect or modify  
2 in any way the obligations or liability of any person under any  
3 other provision of this Act or State or federal law, including  
4 common law, for damages, injury, or loss resulting from a  
5 release or substantial threat of a release of any hazardous  
6 substance or for removal or remedial action or the costs of  
7 removal or remedial action of such hazardous substance.

8           (6) (A) The term "contractual relationship", for the  
9 purpose of this subsection includes, but is not limited to,  
10 land contracts, deeds or other instruments transferring title  
11 or possession, unless the real property on which the facility  
12 concerned is located was acquired by the defendant after the  
13 disposal or placement of the hazardous substance on, in, or at  
14 the facility, and one or more of the circumstances described in  
15 clause (i), (ii), or (iii) of this paragraph is also  
16 established by the defendant by a preponderance of the  
17 evidence:

18           (i) At the time the defendant acquired the facility the  
19 defendant did not know and had no reason to know that any  
20 hazardous substance which is the subject of the release or  
21 threatened release was disposed of on, in or at the  
22 facility.

23           (ii) The defendant is a government entity which  
24 acquired the facility by escheat, or through any other  
25 involuntary transfer or acquisition, or through the  
26 exercise of eminent domain authority by purchase or

1           condemnation.

2           (iii) The defendant acquired the facility by  
3           inheritance or bequest.

4           In addition to establishing the foregoing, the defendant  
5           must establish that he has satisfied the requirements of  
6           subparagraph (C) of paragraph (1) of this subsection (j).

7           (B) To establish the defendant had no reason to know, as  
8           provided in clause (i) of subparagraph (A) of this paragraph,  
9           the defendant must have undertaken, at the time of acquisition,  
10          all appropriate inquiry into the previous ownership and uses of  
11          the property consistent with good commercial or customary  
12          practice in an effort to minimize liability. For purposes of  
13          the preceding sentence, the court shall take into account any  
14          specialized knowledge or experience on the part of the  
15          defendant, the relationship of the purchase price to the value  
16          of the property if uncontaminated, commonly known or reasonably  
17          ascertainable information about the property, the obviousness  
18          of the presence or likely presence of contamination at the  
19          property, and the ability to detect such contamination by  
20          appropriate inspection.

21          (C) Nothing in this paragraph (6) or in subparagraph (C) of  
22          paragraph (1) of this subsection shall diminish the liability  
23          of any previous owner or operator of such facility who would  
24          otherwise be liable under this Act. Notwithstanding this  
25          paragraph (6), if the defendant obtained actual knowledge of  
26          the release or threatened release of a hazardous substance at

1 such facility when the defendant owned the real property and  
2 then subsequently transferred ownership of the property to  
3 another person without disclosing such knowledge, such  
4 defendant shall be treated as liable under subsection (f) of  
5 this Section and no defense under subparagraph (C) of paragraph  
6 (1) of this subsection shall be available to such defendant.

7 (D) Nothing in this paragraph (6) shall affect the  
8 liability under this Act of a defendant who, by any act or  
9 omission, caused or contributed to the release or threatened  
10 release of a hazardous substance which is the subject of the  
11 action relating to the facility.

12 (E)(i) Except as provided in clause (ii) of this  
13 subparagraph (E), a defendant who has acquired real property  
14 shall have established a rebuttable presumption against all  
15 State claims and a conclusive presumption against all private  
16 party claims that the defendant has made all appropriate  
17 inquiry within the meaning of subdivision (6)(B) of this  
18 subsection (j) if the defendant proves that immediately prior  
19 to or at the time of the acquisition:

20 (I) the defendant obtained a Phase I Environmental  
21 Audit of the real property that meets or exceeds the  
22 requirements of this subparagraph (E), and the Phase I  
23 Environmental Audit did not disclose the presence or likely  
24 presence of a release or a substantial threat of a release  
25 of a hazardous substance or pesticide at, on, to, or from  
26 the real property; or

1           (II) the defendant obtained a Phase II Environmental  
2           Audit of the real property that meets or exceeds the  
3           requirements of this subparagraph (E), and the Phase II  
4           Environmental Audit did not disclose the presence or likely  
5           presence of a release or a substantial threat of a release  
6           of a hazardous substance or pesticide at, on, to, or from  
7           the real property.

8           (ii) No presumption shall be created under clause (i) of  
9           this subparagraph (E), and a defendant shall be precluded from  
10          demonstrating that the defendant has made all appropriate  
11          inquiry within the meaning of subdivision (6)(B) of this  
12          subsection (j), if:

13           (I) the defendant fails to obtain all Environmental  
14           Audits required under this subparagraph (E) or any such  
15           Environmental Audit fails to meet or exceed the  
16           requirements of this subparagraph (E);

17           (II) a Phase I Environmental Audit discloses the  
18           presence or likely presence of a release or a substantial  
19           threat of a release of a hazardous substance or pesticide  
20           at, on, to, or from real property, and the defendant fails  
21           to obtain a Phase II Environmental Audit;

22           (III) a Phase II Environmental Audit discloses the  
23           presence or likely presence of a release or a substantial  
24           threat of a release of a hazardous substance or pesticide  
25           at, on, to, or from the real property;

26           (IV) the defendant fails to maintain a written

1 compilation and explanatory summary report of the  
2 information reviewed in the course of each Environmental  
3 Audit under this subparagraph (E); or

4 (V) there is any evidence of fraud, material  
5 concealment, or material misrepresentation by the  
6 defendant of environmental conditions or of related  
7 information discovered during the course of an  
8 Environmental Audit.

9 (iii) For purposes of this subparagraph (E), the term  
10 "environmental professional" means an individual (other than a  
11 practicing attorney) who, through academic training,  
12 occupational experience, and reputation (such as engineers,  
13 industrial hygienists, or geologists) can objectively conduct  
14 one or more aspects of an Environmental Audit and who either:

15 (I) maintains at the time of the Environmental Audit  
16 and for at least one year thereafter at least \$500,000 of  
17 environmental consultants' professional liability  
18 insurance coverage issued by an insurance company licensed  
19 to do business in Illinois; or

20 (II) is an Illinois licensed professional engineer or a  
21 Certified Industrial Hygienist certified by the American  
22 Board of Industrial Hygiene ~~an Illinois licensed~~  
23 ~~industrial hygienist.~~

24 An environmental professional may employ persons who are  
25 not environmental professionals to assist in the preparation of  
26 an Environmental Audit if such persons are under the direct

1 supervision and control of the environmental professional.

2 (iv) For purposes of this subparagraph (E), the term "real  
3 property" means any interest in any parcel of land, and  
4 includes, but is not limited to, buildings, fixtures, and  
5 improvements.

6 (v) For purposes of this subparagraph (E), the term "Phase  
7 I Environmental Audit" means an investigation of real property,  
8 conducted by environmental professionals, to discover the  
9 presence or likely presence of a release or a substantial  
10 threat of a release of a hazardous substance or pesticide at,  
11 on, to, or from real property, and whether a release or a  
12 substantial threat of a release of a hazardous substance or  
13 pesticide has occurred or may occur at, on, to, or from the  
14 real property. Until such time as the United States  
15 Environmental Protection Agency establishes standards for  
16 making appropriate inquiry into the previous ownership and uses  
17 of the facility pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii), the  
18 investigation shall comply with the procedures of the American  
19 Society for Testing and Materials, including the document known  
20 as Standard E1527-97, entitled "Standard Procedures for  
21 Environmental Site Assessment: Phase 1 Environmental Site  
22 Assessment Process". Upon their adoption, the standards  
23 promulgated by USEPA pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii)  
24 shall govern the performance of Phase I Environmental Audits.  
25 In addition to the above requirements, the Phase I  
26 Environmental Audit shall include a review of recorded land

1 title records for the purpose of determining whether the real  
2 property is subject to an environmental land use restriction  
3 such as a No Further Remediation Letter, Environmental Land Use  
4 Control, or Highway Authority Agreement.

5 (vi) For purposes of subparagraph (E), the term "Phase II  
6 Environmental Audit" means an investigation of real property,  
7 conducted by environmental professionals, subsequent to a  
8 Phase I Environmental Audit. If the Phase I Environmental Audit  
9 discloses the presence or likely presence of a hazardous  
10 substance or a pesticide or a release or a substantial threat  
11 of a release of a hazardous substance or pesticide:

12 (I) In or to soil, the defendant, as part of the Phase  
13 II Environmental Audit, shall perform a series of soil  
14 borings sufficient to determine whether there is a presence  
15 or likely presence of a hazardous substance or pesticide  
16 and whether there is or has been a release or a substantial  
17 threat of a release of a hazardous substance or pesticide  
18 at, on, to, or from the real property.

19 (II) In or to groundwater, the defendant, as part of  
20 the Phase II Environmental Audit, shall: review  
21 information regarding local geology, water well locations,  
22 and locations of waters of the State as may be obtained  
23 from State, federal, and local government records,  
24 including but not limited to the United States Geological  
25 Survey, the State Geological Survey of the University of  
26 Illinois, and the State Water Survey of the University of

1 Illinois; and perform groundwater monitoring sufficient to  
2 determine whether there is a presence or likely presence of  
3 a hazardous substance or pesticide, and whether there is or  
4 has been a release or a substantial threat of a release of  
5 a hazardous substance or pesticide at, on, to, or from the  
6 real property.

7 (III) On or to media other than soil or groundwater,  
8 the defendant, as part of the Phase II Environmental Audit,  
9 shall perform an investigation sufficient to determine  
10 whether there is a presence or likely presence of a  
11 hazardous substance or pesticide, and whether there is or  
12 has been a release or a substantial threat of a release of  
13 a hazardous substance or pesticide at, on, to, or from the  
14 real property.

15 (vii) The findings of each Environmental Audit prepared  
16 under this subparagraph (E) shall be set forth in a written  
17 audit report. Each audit report shall contain an affirmation by  
18 the defendant and by each environmental professional who  
19 prepared the Environmental Audit that the facts stated in the  
20 report are true and are made under a penalty of perjury as  
21 defined in Section 32-2 of the Criminal Code of 1961. It is  
22 perjury for any person to sign an audit report that contains a  
23 false material statement that the person does not believe to be  
24 true.

25 (viii) The Agency is not required to review, approve, or  
26 certify the results of any Environmental Audit. The performance



1 of an Environmental Audit shall in no way entitle a defendant  
2 to a presumption of Agency approval or certification of the  
3 results of the Environmental Audit.

4 The presence or absence of a disclosure document prepared  
5 under the Responsible Property Transfer Act of 1988 shall not  
6 be a defense under this Act and shall not satisfy the  
7 requirements of subdivision (6)(A) of this subsection (j).

8 (7) No person shall be liable under this Section for  
9 response costs or damages as the result of a pesticide release  
10 if the Agency has found that a pesticide release occurred based  
11 on a Health Advisory issued by the U.S. Environmental  
12 Protection Agency or an action level developed by the Agency,  
13 unless the Agency notified the manufacturer of the pesticide  
14 and provided an opportunity of not less than 30 days for the  
15 manufacturer to comment on the technical and scientific  
16 justification supporting the Health Advisory or action level.

17 (8) No person shall be liable under this Section for  
18 response costs or damages as the result of a pesticide release  
19 that occurs in the course of a farm pesticide collection  
20 program operated under Section 19.1 of the Illinois Pesticide  
21 Act, unless the release results from gross negligence or  
22 intentional misconduct.

23 (k) If any person who is liable for a release or  
24 substantial threat of release of a hazardous substance or  
25 pesticide fails without sufficient cause to provide removal or  
26 remedial action upon or in accordance with a notice and request

1 by the Agency or upon or in accordance with any order of the  
2 Board or any court, such person may be liable to the State for  
3 punitive damages in an amount at least equal to, and not more  
4 than 3 times, the amount of any costs incurred by the State of  
5 Illinois as a result of such failure to take such removal or  
6 remedial action. The punitive damages imposed by the Board  
7 shall be in addition to any costs recovered from such person  
8 pursuant to this Section and in addition to any other penalty  
9 or relief provided by this Act or any other law.

10 Any monies received by the State pursuant to this  
11 subsection (k) shall be deposited in the Hazardous Waste Fund.

12 (1) Beginning January 1, 1988, and prior to January 1,  
13 2013, the Agency shall annually collect a \$250 fee for each  
14 Special Waste Hauling Permit Application and, in addition,  
15 shall collect a fee of \$20 for each waste hauling vehicle  
16 identified in the annual permit application and for each  
17 vehicle which is added to the permit during the annual period.  
18 Beginning January 1, 2013, the Agency shall issue 3-year  
19 Special Waste Hauling Permits instead of annual Special Waste  
20 Hauling Permits and shall collect a \$750 fee for each Special  
21 Waste Hauling Permit Application. In addition, beginning  
22 January 1, 2013, the Agency shall collect a fee of \$60 for each  
23 waste hauling vehicle identified in the permit application and  
24 for each vehicle that is added to the permit during the 3-year  
25 period. The Agency shall deposit 85% of such fees collected  
26 under this subsection in the State Treasury to the credit of

1 the Hazardous Waste Research Fund; and shall deposit the  
2 remaining 15% of such fees collected in the State Treasury to  
3 the credit of the Environmental Protection Permit and  
4 Inspection Fund. The majority of such receipts which are  
5 deposited in the Hazardous Waste Research Fund pursuant to this  
6 subsection shall be used by the University of Illinois for  
7 activities which relate to the protection of underground  
8 waters.

9 (l-5) (Blank).

10 (m) (Blank).

11 (n) (Blank).

12 (Source: P.A. 97-220, eff. 7-28-11; 97-1081, eff. 8-24-12.)

13 (415 ILCS 5/22.8) (from Ch. 111 1/2, par. 1022.8)

14 Sec. 22.8. Environmental Protection Permit and Inspection  
15 Fund.

16 (a) There is hereby created in the State Treasury a special  
17 fund to be known as the Environmental Protection Permit and  
18 Inspection Fund. All fees collected by the Agency pursuant to  
19 this Section, Section 9.6, 12.2, 16.1, 22.2 (j) (6) (E) (v) (IV),  
20 56.4, 56.5, 56.6, and subsection (f) of Section 5 of this Act  
21 or pursuant to Section 22 of the Public Water Supply Operations  
22 Act and funds collected under subsection (b.5) of Section 42 of  
23 this Act shall be deposited into the Fund. In addition to any  
24 monies appropriated from the General Revenue Fund, monies in  
25 the Fund shall be appropriated by the General Assembly to the

1 Agency in amounts deemed necessary for manifest, permit, and  
2 inspection activities and for processing requests under  
3 Section 22.2 (j) (6) (E) (v) (IV).

4 The General Assembly may appropriate monies in the Fund  
5 deemed necessary for Board regulatory and adjudicatory  
6 proceedings.

7 (a-5) As soon as practicable after the effective date of  
8 this amendatory Act of the 98th General Assembly, but no later  
9 than January 1, 2014, the State Comptroller shall direct and  
10 the State Treasurer shall transfer all monies in the Industrial  
11 Hygiene Regulatory and Enforcement Fund to the Environmental  
12 Protection Permit and Inspection Fund to be used in accordance  
13 with the terms of the Environmental Protection Permit and  
14 Inspection Fund.

15 (b) The Agency shall collect from the owner or operator of  
16 any of the following types of hazardous waste disposal sites or  
17 management facilities which require a RCRA permit under  
18 subsection (f) of Section 21 of this Act, or a UIC permit under  
19 subsection (g) of Section 12 of this Act, an annual fee in the  
20 amount of:

21 (1) \$35,000 (\$70,000 beginning in 2004) for a hazardous  
22 waste disposal site receiving hazardous waste if the  
23 hazardous waste disposal site is located off the site where  
24 such waste was produced;

25 (2) \$9,000 (\$18,000 beginning in 2004) for a hazardous  
26 waste disposal site receiving hazardous waste if the

1 hazardous waste disposal site is located on the site where  
2 such waste was produced;

3 (3) \$7,000 (\$14,000 beginning in 2004) for a hazardous  
4 waste disposal site receiving hazardous waste if the  
5 hazardous waste disposal site is an underground injection  
6 well;

7 (4) \$2,000 (\$4,000 beginning in 2004) for a hazardous  
8 waste management facility treating hazardous waste by  
9 incineration;

10 (5) \$1,000 (\$2,000 beginning in 2004) for a hazardous  
11 waste management facility treating hazardous waste by a  
12 method, technique or process other than incineration;

13 (6) \$1,000 (\$2,000 beginning in 2004) for a hazardous  
14 waste management facility storing hazardous waste in a  
15 surface impoundment or pile;

16 (7) \$250 (\$500 beginning in 2004) for a hazardous waste  
17 management facility storing hazardous waste other than in a  
18 surface impoundment or pile; and

19 (8) Beginning in 2004, \$500 for a large quantity  
20 hazardous waste generator required to submit an annual or  
21 biennial report for hazardous waste generation.

22 (c) Where two or more operational units are located within  
23 a single hazardous waste disposal site, the Agency shall  
24 collect from the owner or operator of such site an annual fee  
25 equal to the highest fee imposed by subsection (b) of this  
26 Section upon any single operational unit within the site.

1           (d) The fee imposed upon a hazardous waste disposal site  
2 under this Section shall be the exclusive permit and inspection  
3 fee applicable to hazardous waste disposal at such site,  
4 provided that nothing in this Section shall be construed to  
5 diminish or otherwise affect any fee imposed upon the owner or  
6 operator of a hazardous waste disposal site by Section 22.2.

7           (e) The Agency shall establish procedures, no later than  
8 December 1, 1984, relating to the collection of the hazardous  
9 waste disposal site fees authorized by this Section. Such  
10 procedures shall include, but not be limited to the time and  
11 manner of payment of fees to the Agency, which shall be  
12 quarterly, payable at the beginning of each quarter for  
13 hazardous waste disposal site fees. Annual fees required under  
14 paragraph (7) of subsection (b) of this Section shall accompany  
15 the annual report required by Board regulations for the  
16 calendar year for which the report applies.

17           (f) For purposes of this Section, a hazardous waste  
18 disposal site consists of one or more of the following  
19 operational units:

20                 (1) a landfill receiving hazardous waste for disposal;

21                 (2) a waste pile or surface impoundment, receiving  
22 hazardous waste, in which residues which exhibit any of the  
23 characteristics of hazardous waste pursuant to Board  
24 regulations are reasonably expected to remain after  
25 closure;

26                 (3) a land treatment facility receiving hazardous

1 waste; or

2 (4) a well injecting hazardous waste.

3 (g) The Agency shall assess a fee for each manifest  
4 provided by the Agency. For manifests provided on or after  
5 January 1, 1989 but before July 1, 2003, the fee shall be \$1  
6 per manifest. For manifests provided on or after July 1, 2003,  
7 the fee shall be \$3 per manifest.

8 (Source: P.A. 93-32, eff. 7-1-03.)

9 Section 13. The Illinois Pesticide Act is amended by  
10 changing Section 19.3 as follows:

11 (415 ILCS 60/19.3)

12 Sec. 19.3. Agrichemical Facility Response Action Program.

13 (a) It is the policy of the State of Illinois that an  
14 Agrichemical Facility Response Action Program be implemented  
15 to reduce potential agrichemical pollution and minimize  
16 environmental degradation risk potential at these sites. In  
17 this Section, "agrichemical facility" means a site where  
18 agrichemicals are stored or handled, or both, in preparation  
19 for end use. "Agrichemical facility" does not include basic  
20 manufacturing or central distribution sites utilized only for  
21 wholesale purposes. As used in this Section, "agrichemical"  
22 means pesticides or commercial fertilizers at an agrichemical  
23 facility.

24 The program shall provide guidance for assessing the threat

1 of soil agrichemical contaminants to groundwater and  
2 recommending which sites need to establish a voluntary  
3 corrective action program.

4 The program shall establish appropriate site-specific soil  
5 cleanup objectives, which shall be based on the potential for  
6 the agrichemical contaminants to move from the soil to  
7 groundwater and the potential of the specific soil agrichemical  
8 contaminants to cause an exceedence of a Class I or Class III  
9 groundwater quality standard or a health advisory level. The  
10 Department shall use the information found and procedures  
11 developed in the Agrichemical Facility Site Contamination  
12 Study or other appropriate physical evidence to establish the  
13 soil agrichemical contaminant levels of concern to groundwater  
14 in the various hydrological settings to establish  
15 site-specific cleanup objectives.

16 No remediation of a site may be recommended unless (i) the  
17 agrichemical contamination level in the soil exceeds the  
18 site-specific cleanup objectives or (ii) the agrichemical  
19 contaminant level in the soil exceeds levels where physical  
20 evidence and risk evaluation indicates probability of the site  
21 causing an exceedence of a groundwater quality standard.

22 When a remediation plan must be carried out over a number  
23 of years due to limited financial resources of the owner or  
24 operator of the agrichemical facility, those soil agrichemical  
25 contaminated areas that have the greatest potential to  
26 adversely impact vulnerable Class I groundwater aquifers and



1 adjacent potable water wells shall receive the highest priority  
2 rating and be remediated first.

3 (b) The Agrichemical Facility Response Action Program  
4 Board ("the Board") is created. The Board members shall consist  
5 of the following:

6 (1) The Director or the Director's designee.

7 (2) One member who represents pesticide manufacturers.

8 (3) Two members who represent retail agrichemical  
9 dealers.

10 (4) One member who represents agrichemical  
11 distributors.

12 (5) One member who represents active farmers.

13 (6) One member at large.

14 The public members of the Board shall be appointed by the  
15 Governor for terms of 2 years. Those persons on the Board who  
16 represent pesticide manufacturers, agrichemical dealers,  
17 agrichemical distributors, and farmers shall be selected from  
18 recommendations made by the associations whose membership  
19 reflects those specific areas of interest. The members of the  
20 Board shall be appointed within 90 days after the effective  
21 date of this amendatory Act of 1995. Vacancies on the Board  
22 shall be filled within 30 days. The Board may fill any  
23 membership position vacant for a period exceeding 30 days.

24 The members of the Board shall be paid no compensation, but  
25 shall be reimbursed for their expenses incurred in performing  
26 their duties. If a civil proceeding is commenced against a

1 Board member arising out of an act or omission occurring within  
2 the scope of the Board member's performance of his or her  
3 duties under this Section, the State, as provided by rule,  
4 shall indemnify the Board member for any damages awarded and  
5 court costs and attorney's fees assessed as part of a final and  
6 unreversed judgement, or shall pay the judgment, unless the  
7 court or jury finds that the conduct or inaction that gave rise  
8 to the claim or cause of action was intentional, wilful or  
9 wanton misconduct and was not intended to serve or benefit  
10 interests of the State.

11 The chairperson of the Board shall be selected by the Board  
12 from among the public members.

13 (c) The Board has the authority to do the following:

14 (1) Cooperate with the Department and review and  
15 approve an agrichemical facility remediation program as  
16 outlined in the handbook or manual as set forth in  
17 subdivision (d)(8) of this Section.

18 (2) Review and give final approval to each agrichemical  
19 facility corrective action plan.

20 (3) Approve any changes to an agrichemical facility's  
21 corrective action plan that may be necessary.

22 (4) Upon completion of the corrective action plan,  
23 recommend to the Department that the site-specific cleanup  
24 objectives have been met and that a notice of closure be  
25 issued by the Department stating that no further remedial  
26 action is required to remedy the past agrichemical

1 contamination.

2 (5) When a soil agrichemical contaminant assessment  
3 confirms that remedial action is not required in accordance  
4 with the Agrichemical Facility Response Action Program,  
5 recommend that a notice of closure be issued by the  
6 Department stating that no further remedial action is  
7 required to remedy the past agrichemical contamination.

8 (6) Periodically review the Department's  
9 administration of the Agrichemical Incident Response Trust  
10 Fund and actions taken with respect to the Fund. The Board  
11 shall also provide advice to the Interagency Committee on  
12 Pesticides regarding the proper handling of agrichemical  
13 incidents at agrichemical facilities in Illinois.

14 (d) The Director has the authority to do the following:

15 (1) When requested by the owner or operator of an  
16 agrichemical facility, may investigate the agrichemical  
17 facility site contamination.

18 (2) After completion of the investigation under  
19 subdivision (d)(1) of this Section, recommend to the owner  
20 or operator of an agrichemical facility that a voluntary  
21 assessment be made of the soil agrichemical contaminant  
22 when there is evidence that the evaluation of risk  
23 indicates that groundwater could be adversely impacted.

24 (3) Review and make recommendations on any corrective  
25 action plan submitted by the owner or operator of an  
26 agrichemical facility to the Board for final approval.

1           (4) On approval by the Board, issue an order to the  
2 owner or operator of an agrichemical facility that has  
3 filed a voluntary corrective action plan that the owner or  
4 operator may proceed with that plan.

5           (5) Provide remedial project oversight, monitor  
6 remedial work progress, and report to the Board on the  
7 status of remediation projects.

8           (6) Provide staff to support the activities of the  
9 Board.

10          (7) Take appropriate action on the Board's  
11 recommendations regarding policy needed to carry out the  
12 Board's responsibilities under this Section.

13          (8) In cooperation with the Board, incorporate the  
14 following into a handbook or manual: the procedures for  
15 site assessment; pesticide constituents of concern and  
16 associated parameters; guidance on remediation techniques,  
17 land application, and corrective action plans; and other  
18 information or instructions that the Department may find  
19 necessary.

20          (9) Coordinate preventive response actions at  
21 agrichemical facilities pursuant to the Groundwater  
22 Quality Standards adopted pursuant to Section 8 of the  
23 Illinois Groundwater Protection Act to mitigate resource  
24 groundwater impairment.

25          Upon completion of the corrective action plan and upon  
26 recommendation of the Board, the Department shall issue a

1 notice of closure stating that site-specific cleanup  
2 objectives have been met and no further remedial action is  
3 required to remedy the past agrichemical contamination.

4 When a soil agrichemical contaminant assessment confirms  
5 that remedial action is not required in accordance with the  
6 Agrichemical Facility Response Action Program and upon the  
7 recommendation of the Board, a notice of closure shall be  
8 issued by the Department stating that no further remedial  
9 action is required to remedy the past agrichemical  
10 contamination.

11 (e) Upon receipt of notification of an agrichemical  
12 contaminant in groundwater pursuant to the Groundwater Quality  
13 Standards, the Department shall evaluate the severity of the  
14 agrichemical contamination and shall submit to the  
15 Environmental Protection Agency an informational notice  
16 characterizing it as follows:

17 (1) An agrichemical contaminant in Class I or Class III  
18 groundwater has exceeded the levels of a standard adopted  
19 pursuant to the Illinois Groundwater Protection Act or a  
20 health advisory established by the Illinois Environmental  
21 Protection Agency or the United States Environmental  
22 Protection Agency; or

23 (2) An agrichemical has been detected at a level that  
24 requires preventive notification pursuant to a standard  
25 adopted pursuant to the Illinois Groundwater Protection  
26 Act.

1 (f) When agrichemical contamination is characterized as in  
2 subdivision (e)(1) of this Section, a facility may elect to  
3 participate in the Agrichemical Facility Response Action  
4 Program. In these instances, the scope of the corrective action  
5 plans developed, approved, and completed under this program  
6 shall be limited to the soil agrichemical contamination present  
7 at the site unless implementation of the plan is coordinated  
8 with the Illinois Environmental Protection Agency as follows:

9 (1) Upon receipt of notice of intent to include  
10 groundwater in an action by a facility, the Department  
11 shall also notify the Illinois Environmental Protection  
12 Agency.

13 (2) Upon receipt of the corrective action plan, the  
14 Department shall coordinate a joint review of the plan with  
15 the Illinois Environmental Protection Agency.

16 (3) The Illinois Environmental Protection Agency may  
17 provide a written endorsement of the corrective action  
18 plan.

19 (4) The Illinois Environmental Protection Agency may  
20 approve a groundwater management zone for a period of 5  
21 years after the implementation of the corrective action  
22 plan to allow for groundwater impairment mitigation  
23 results.

24 (5) The Department, in cooperation with the Illinois  
25 Environmental Protection Agency, shall recommend a  
26 proposed corrective action plan to the Board for final

1 approval to proceed with remediation. The recommendation  
2 shall be based on the joint review conducted under  
3 subdivision (f)(2) of this Section and the status of any  
4 endorsement issued under subdivision (f)(3) of this  
5 Section.

6 (6) The Department, in cooperation with the Illinois  
7 Environmental Protection Agency, shall provide remedial  
8 project oversight, monitor remedial work progress, and  
9 report to the Board on the status of the remediation  
10 project.

11 (7) The Department shall, upon completion of the  
12 corrective action plan and recommendation of the Board,  
13 issue a notice of closure stating that no further remedial  
14 action is required to remedy the past agrichemical  
15 contamination.

16 (g) When an owner or operator of an agrichemical facility  
17 initiates a soil contamination assessment on the owner's or  
18 operator's own volition and independent of any requirement  
19 under this Section 19.3, information contained in that  
20 assessment may be held as confidential information by the owner  
21 or operator of the facility.

22 (h) Except as otherwise provided by Department rule, on and  
23 after the effective date of this amendatory Act of the 98th  
24 General Assembly, any Agrichemical Facility Response Action  
25 Program requirement that may be satisfied by an industrial  
26 hygienist licensed pursuant to the Industrial Hygienists

1 Licensure Act repealed in this amendatory Act may be satisfied  
2 by a Certified Industrial Hygienist certified by the American  
3 Board of Industrial Hygiene.

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

5 Section 15. The Rivers, Lakes, and Streams Act is amended  
6 by changing Section 14a as follows:

7 (615 ILCS 5/14a) (from Ch. 19, par. 61a)

8 Sec. 14a. It is the express intention of this legislation  
9 that close cooperation shall exist between the Pollution  
10 Control Board, the Environmental Protection Agency, and the  
11 Department of Natural Resources and that every resource of  
12 State government shall be applied to the proper preservation  
13 and utilization of the waters of Lake Michigan.

14 The Environmental Protection Agency shall work in close  
15 cooperation with the City of Chicago and other affected units  
16 of government to: (1) terminate discharge of pollutional waste  
17 materials to Lake Michigan from vessels in both intra-state and  
18 inter-state navigation, and (2) abate domestic, industrial,  
19 and other pollution to assure that Lake Michigan beaches in  
20 Illinois are suitable for full body contact sports, meeting  
21 criteria of the Pollution Control Board.

22 The Environmental Protection Agency shall regularly  
23 conduct water quality and lake bed surveys to evaluate the  
24 ecology and the quality of water in Lake Michigan. Results of



1 such surveys shall be made available, without charge, to all  
2 interested persons and agencies. It shall be the responsibility  
3 of the Director of the Environmental Protection Agency to  
4 report biennially ~~annually~~ or at such other times as the  
5 Governor shall direct; such report shall provide hydrologic,  
6 biologic, and chemical data together with recommendations to  
7 the Governor and members of the General Assembly.

8 The requirement for reporting to the General Assembly shall  
9 be satisfied by filing copies of the report with the Speaker,  
10 the Minority Leader and the Clerk of the House of  
11 Representatives and the President, the Minority Leader and the  
12 Secretary of the Senate and the Legislative Research Unit, as  
13 required by Section 3.1 of "An Act to revise the law in  
14 relation to the General Assembly", approved February 25, 1874,  
15 as amended, and filing such additional copies with the State  
16 Government Report Distribution Center for the General Assembly  
17 as is required under paragraph (t) of Section 7 of the State  
18 Library Act.

19 In meeting the requirements of this Act, the Pollution  
20 Control Board, Environmental Protection Agency and Department  
21 of Natural Resources are authorized to be in direct contact  
22 with individuals, municipalities, public and private  
23 corporations and other organizations which are or may be  
24 contributing to the discharge of pollution to Lake Michigan.

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

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.