

1 AN ACT concerning State government.

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
20 attendance of witnesses and the production of books, papers,
21 records, or 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 5.826 as follows:

9 (30 ILCS 105/5.826 new)

10 Sec. 5.826. 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~~

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

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

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

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

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

~~(3) adopt rules for the collection of fees for training course approval; and for licensing of inspectors, management planners, project designers, contractors, 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 Agency
24 ~~Department~~ is empowered to inspect activities regulated by this
25 Act to ensure compliance.

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

3 ~~(1) Publish a list of response action contractors~~
4 ~~licensed under this Act, except that the Department shall~~
5 ~~not be required to publish a list of licensed asbestos~~
6 ~~workers; and~~

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

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

22 (e) All final administrative decisions of the Board
23 ~~Department~~ under this Act shall be subject to judicial review
24 pursuant to the provisions of Title XI of the Environmental
25 Protection Act ~~the Administrative Review Law and the rules~~
26 ~~adopted under it. The term "administrative decision" has the~~

1 ~~meaning ascribed to it in Section 3-101 of the Code of Civil~~
2 ~~Procedure.~~

3 (f) (Blank). ~~The Director, after notice and opportunity for~~
4 ~~hearing to the applicant or license holder, may deny, suspend,~~
5 ~~or revoke a license or expunge such person from the State list~~
6 ~~in any case in which he or she finds that there has been a~~
7 ~~substantial failure to comply with the provisions of this Act~~
8 ~~or the standards or rules established under it. Notice shall be~~
9 ~~provided by certified mail, return receipt requested, or by~~
10 ~~personal service setting forth the particular response for the~~
11 ~~proposed action and fixing a date, not less than 15 days from~~
12 ~~the date of such mailing or service, at which time the~~
13 ~~applicant, asbestos abatement contractor, or license holder~~
14 ~~shall be given an opportunity to request hearing. The hearing~~
15 ~~shall be conducted by the Director or by an individual~~
16 ~~designated in writing by the Director as Hearing Officer to~~
17 ~~conduct the hearing. On the basis of any such hearing, or upon~~
18 ~~default of the asbestos abatement contractor, applicant or~~
19 ~~license holder, the Director shall make a determination~~
20 ~~specifying his or her findings and conclusions. A copy of the~~
21 ~~determination shall be sent by certified mail, return receipt~~
22 ~~requested, or served personally upon the applicant,~~
23 ~~contractor, or license holder.~~

24 ~~The procedure governing hearings authorized by this~~
25 ~~Section shall be in accordance with rules promulgated by the~~
26 ~~Department. A full and complete record shall be kept of all~~

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

1 ~~require a deposit to cover the cost of such service and witness~~
2 ~~fees. A subpoena or subpoena duces tecum so issued as above~~
3 ~~stated shall be served in the same manner as a subpoena issued~~
4 ~~by a circuit court.~~

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

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

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

22 (225 ILCS 207/25)

23 Sec. 25. Consistency with federal law. Rules issued under
24 this Act, ~~including those governing the preparation of a list~~
25 ~~of response action contractors and the removal of response~~

1 ~~action contractors from the list as provided for in Section 20,~~
2 shall not be inconsistent with rules and regulations
3 promulgated by the United States Environmental Protection
4 Agency under the Toxic Substances Control Act, the Clean Air
5 Act, or other applicable federal statutes.

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

7 (225 ILCS 207/40)

8 Sec. 40. Enforcement. Notwithstanding the existence or
9 pursuit of any other remedy, the Director may, in the manner
10 provided by law and in the name of the People of the State and
11 through the State's Attorney or the Attorney General who shall
12 represent the Director in the proceedings, maintain an action
13 for prosecution, injunction, or other relief or process against
14 any Building/Facility Owner or any other person or unit of
15 local government to enforce and compel compliance with the
16 provisions of this Act, the rules promulgated under it and any
17 order entered for any action under this Act and its rules.
18 Enforcement proceedings under this Section shall be conducted
19 in accordance with Title VIII of the Environmental Protection
20 Act. A person who violates this Act is guilty of a Class A
21 misdemeanor punishable by a fine of \$1,000 for each day the
22 violation exists in addition to other civil penalties or up to
23 6 months imprisonment or both a fine and imprisonment.

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

1 (225 ILCS 207/55)

2 Sec. 55. Civil penalties. The Board ~~Department~~ is empowered
3 to assess civil penalties for violations of this Act and the
4 rules promulgated under this Act pursuant to rules for such
5 penalties established by the Board ~~Department~~.

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

7 (225 ILCS 207/60)

8 Sec. 60. Illinois School Asbestos Abatement Fund. All fees
9 and penalties collected by the Agency ~~Department~~ pursuant to
10 this Act shall be deposited into the Illinois School Asbestos
11 Abatement Fund created by Section 16 of the Asbestos Abatement
12 Act, and shall be available to the Agency ~~Department~~ for the
13 administration of the Asbestos Abatement Act and this Act ~~as~~
14 ~~provided in that Act.~~

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

16 (225 ILCS 207/30 rep.)

17 (225 ILCS 207/35 rep.)

18 (225 ILCS 207/45 rep.)

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

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

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

2 Sec. 4. Environmental Protection Agency; establishment;
3 duties.

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

21 (b) The Agency shall have the duty to collect and
22 disseminate such information, acquire such technical data, and
23 conduct such experiments as may be required to carry out the
24 purposes of this Act, including ascertainment of the quantity
25 and nature of discharges from any contaminant source and data
26 on those sources, and to operate and arrange for the operation

1 of devices for the monitoring of environmental quality.

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

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

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

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

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

26 (f) The Agency shall appear before the Board in any hearing

1 upon a petition for variance, the denial of a permit, or the
2 validity or effect of a rule or regulation of the Board, and
3 shall have the authority to appear before the Board in any
4 hearing under the Act.

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

20 (h) The Agency shall have authority to require the
21 submission of complete plans and specifications from any
22 applicant for a permit required by this Act or by regulations
23 thereunder, and to require the submission of such reports
24 regarding actual or potential violations of this Act, any rule
25 or regulation adopted under this Act, any permit or term or
26 condition of a permit, or any Board order, as may be necessary

1 for the purposes of this Act.

2 (i) The Agency shall have authority to make recommendations
3 to the Board for the adoption of regulations under Title VII of
4 the Act.

5 (i-5) The Agency shall have authority to make
6 recommendations to the Board for the adoption of regulations
7 under Title VII of this Act to fulfill the purposes of the
8 Asbestos Abatement Act and the Commercial and Public Buildings
9 Asbestos Abatement Act.

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

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

1 be returned to the contributor.

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

5 (1) The Agency is hereby designated as water pollution
6 agency for the state for all purposes of the Federal Water
7 Pollution Control Act, as amended; as implementing agency for
8 the State for all purposes of the Safe Drinking Water Act,
9 Public Law 93-523, as now or hereafter amended, except Section
10 1425 of that Act; as air pollution agency for the state for all
11 purposes of the Clean Air Act of 1970, Public Law 91-604,
12 approved December 31, 1970, as amended; and as solid waste
13 agency for the state for all purposes of the Solid Waste
14 Disposal Act, Public Law 89-272, approved October 20, 1965, and
15 amended by the Resource Recovery Act of 1970, Public Law
16 91-512, approved October 26, 1970, as amended, and amended by
17 the Resource Conservation and Recovery Act of 1976, (P.L.
18 94-580) approved October 21, 1976, as amended; as noise control
19 agency for the state for all purposes of the Noise Control Act
20 of 1972, Public Law 92-574, approved October 27, 1972, as
21 amended; and as implementing agency for the State for all
22 purposes of the Comprehensive Environmental Response,
23 Compensation, and Liability Act of 1980 (P.L. 96-510), as
24 amended; and otherwise as pollution control agency for the
25 State pursuant to federal laws integrated with the foregoing
26 laws, for financing purposes or otherwise. The Agency is hereby

1 authorized to take all action necessary or appropriate to
2 secure to the State the benefits of such federal Acts, provided
3 that the Agency shall transmit to the United States without
4 change any standards adopted by the Pollution Control Board
5 pursuant to Section 5(c) of this Act. This subsection (l) of
6 Section 4 shall not be construed to bar or prohibit the
7 Environmental Protection Trust Fund Commission from accepting,
8 receiving, and administering on behalf of the State any grants,
9 gifts, loans or other funds for which the Commission is
10 eligible pursuant to the Environmental Protection Trust Fund
11 Act. The Agency is hereby designated as the State agency for
12 all purposes of administering the requirements of Section 313
13 of the federal Emergency Planning and Community Right-to-Know
14 Act of 1986.

15 Any municipality, sanitary district, or other political
16 subdivision, or any Agency of the State or interstate Agency,
17 which makes application for loans or grants under such federal
18 Acts shall notify the Agency of such application; the Agency
19 may participate in proceedings under such federal Acts.

20 (m) The Agency shall have authority, consistent with
21 Section 5(c) and other provisions of this Act, and for purposes
22 of Section 303(e) of the Federal Water Pollution Control Act,
23 as now or hereafter amended, to engage in planning processes
24 and activities and to develop plans in cooperation with units
25 of local government, state agencies and officers, and other
26 appropriate persons in connection with the jurisdiction or

1 duties of each such unit, agency, officer or person. Public
2 hearings shall be held on the planning process, at which any
3 person shall be permitted to appear and be heard, pursuant to
4 procedural regulations promulgated by the Agency.

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

16 (o) The Agency shall have the authority to issue
17 certificates of competency to persons and laboratories meeting
18 the minimum standards established by the Agency in accordance
19 with Section 4(n) of this Act and to promulgate and enforce
20 regulations relevant to the issuance and use of such
21 certificates. The Agency may enter into formal working
22 agreements with other departments or agencies of state
23 government under which all or portions of this authority may be
24 delegated to the cooperating department or agency.

25 (p) Except as provided in Section 17.7, the Agency shall
26 have the duty to analyze samples as required from each public

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

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

18 (r) The Agency may enter into written delegation agreements
19 with any unit of local government under which it may delegate
20 all or portions of its inspecting, investigating and
21 enforcement functions. Such delegation agreements shall
22 require that work performed thereunder be in accordance with
23 Agency criteria and subject to Agency review. Notwithstanding
24 any other provision of law to the contrary, no unit of local
25 government shall be liable for any injury resulting from the
26 exercise of its authority pursuant to such a delegation

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

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

21 (t) The Agency shall have authority to distribute grants,
22 subject to appropriation by the General Assembly, to units of
23 local government for financing and construction of wastewater
24 facilities in both incorporated and unincorporated areas. With
25 respect to all monies appropriated from the Build Illinois Bond
26 Fund and the Build Illinois Purposes Fund for wastewater

1 facility grants, the Agency shall make distributions in
2 conformity with the rules and regulations established pursuant
3 to the Anti-Pollution Bond Act, as now or hereafter amended.

4 (u) Pursuant to the Illinois Administrative Procedure Act,
5 the Agency shall have the authority to adopt such rules as are
6 necessary or appropriate for the Agency to implement Section
7 31.1 of this Act.

8 (v) (Blank.)

9 (w) Neither the State, nor the Director, nor the Board, nor
10 any State employee shall be liable for any damages or injury
11 arising out of or resulting from any action taken under
12 subsection (s).

13 (x)(1) The Agency shall have authority to distribute
14 grants, subject to appropriation by the General Assembly,
15 to units of local government for financing and construction
16 of public water supply facilities. With respect to all
17 monies appropriated from the Build Illinois Bond Fund or
18 the Build Illinois Purposes Fund for public water supply
19 grants, such grants shall be made in accordance with rules
20 promulgated by the Agency. Such rules shall include a
21 requirement for a local match of 30% of the total project
22 cost for projects funded through such grants.

23 (2) The Agency shall not terminate a grant to a unit of
24 local government for the financing and construction of
25 public water supply facilities unless and until the Agency
26 adopts rules that set forth precise and complete standards,

1 pursuant to Section 5-20 of the Illinois Administrative
2 Procedure Act, for the termination of such grants. The
3 Agency shall not make determinations on whether specific
4 grant conditions are necessary to ensure the integrity of a
5 project or on whether subagreements shall be awarded, with
6 respect to grants 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 making such determinations. The Agency
11 shall not issue a stop-work order in relation to such
12 grants unless and until the Agency adopts precise and
13 complete standards, pursuant to Section 5-20 of the
14 Illinois Administrative Procedure Act, for determining
15 whether to issue a stop-work order.

16 (y) The Agency shall have authority to release any person
17 from further responsibility for preventive or corrective
18 action under this Act following successful completion of
19 preventive or corrective action undertaken by such person upon
20 written request by the person.

21 (z) To the extent permitted by any applicable federal law
22 or regulation, for all work performed for State construction
23 projects which are funded in whole or in part by a capital
24 infrastructure bill enacted by the 96th General Assembly by
25 sums appropriated to the Environmental Protection Agency, at
26 least 50% of the total labor hours must be performed by actual

1 residents of the State of Illinois. For purposes of this
2 subsection, "actual residents of the State of Illinois" means
3 persons domiciled in the State of Illinois. The Department of
4 Labor shall promulgate rules providing for the enforcement of
5 this subsection.

6 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;
7 96-800, eff. 10-30-09; 96-1000, eff. 7-2-10.)

8 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

9 Sec. 5. Pollution Control Board.

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

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

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

25 Beginning on July 1, 2003 or when all of the new members to

1 be initially appointed under this amendatory Act of the 93rd
2 General Assembly have been appointed by the Governor, whichever
3 occurs later, the Board shall consist of 5 technically
4 qualified members, no more than 3 of whom may be of the same
5 political party, to be appointed by the Governor with the
6 advice and consent of the Senate. Members shall have verifiable
7 technical, academic, or actual experience in the field of
8 pollution control or environmental law and regulation.

9 Of the members initially appointed pursuant to this
10 amendatory Act of the 93rd General Assembly, one shall be
11 appointed for a term ending July 1, 2004, 2 shall be appointed
12 for terms ending July 1, 2005, and 2 shall be appointed for
13 terms ending July 1, 2006. Thereafter, all members shall hold
14 office for 3 years from the first day of July in the year in
15 which they were appointed, except in case of an appointment to
16 fill a vacancy. In case of a vacancy in the office when the
17 Senate is not in session, the Governor may make a temporary
18 appointment until the next meeting of the Senate, when he or
19 she shall nominate some person to fill such office; and any
20 person so nominated, who is confirmed by the Senate, shall hold
21 the office during the remainder of the term.

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

26 Board members shall be paid \$37,000 per year or an amount

1 set by the Compensation Review Board, whichever is greater, and
2 the Chairman shall be paid \$43,000 per year or an amount set by
3 the Compensation Review Board, whichever is greater. Each
4 member shall devote his or her entire time to the duties of the
5 office, and shall hold no other office or position of profit,
6 nor engage in any other business, employment, or vocation. Each
7 member shall be reimbursed for expenses necessarily incurred
8 and shall make a financial disclosure upon appointment.

9 Each Board member may employ one secretary and one
10 assistant, and the Chairman one secretary and 2 assistants. The
11 Board also may employ and compensate hearing officers to
12 preside at hearings under this Act, and such other personnel as
13 may be necessary. Hearing officers shall be attorneys licensed
14 to practice law in Illinois.

15 The Board may have an Executive Director; if so, the
16 Executive Director shall be appointed by the Governor with the
17 advice and consent of the Senate. The salary and duties of the
18 Executive Director shall be fixed by the Board.

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

21 The Board shall hold at least one meeting each month and
22 such additional meetings as may be prescribed by Board rules.
23 In addition, special meetings may be called by the Chairman or
24 by any 2 Board members, upon delivery of 24 hours written
25 notice to the office of each member. All Board meetings shall
26 be open to the public, and public notice of all meetings shall

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

7 If there is no vacancy on the Board, 4 members of the Board
8 shall constitute a quorum to transact business; otherwise, a
9 majority of the Board shall constitute a quorum to transact
10 business, and no vacancy shall impair the right of the
11 remaining members to exercise all of the powers of the Board.
12 Every action approved by a majority of the members of the Board
13 shall be deemed to be the action of the Board. The Board shall
14 keep a complete and accurate record of all its meetings.

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

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

23 (c) The Board shall have authority to act for the State in
24 regard to the adoption of standards for submission to the
25 United States under any federal law respecting environmental
26 protection. Such standards shall be adopted in accordance with

1 Title VII of the Act and upon adoption shall be forwarded to
2 the Environmental Protection Agency for submission to the
3 United States pursuant to subsections (l) and (m) of Section 4
4 of this Act. Nothing in this paragraph shall limit the
5 discretion of the Governor to delegate authority granted to the
6 Governor under any federal law.

7 (d) The Board shall have authority to conduct proceedings
8 upon complaints charging violations of this Act, any rule or
9 regulation adopted under this Act, any permit or term or
10 condition of a permit, or any Board order; upon administrative
11 citations; upon petitions for variances or adjusted standards;
12 upon petitions for review of the Agency's final determinations
13 on permit applications in accordance with Title X of this Act;
14 upon petitions to remove seals under Section 34 of this Act;
15 and upon other petitions for review of final determinations
16 which are made pursuant to this Act or Board rule and which
17 involve a subject which the Board is authorized to regulate.
18 The Board may also conduct other proceedings as may be provided
19 by this Act or any other statute or rule.

20 (e) In connection with any proceeding pursuant to
21 subsection (b) or (d) of this Section, the Board may subpoena
22 and compel the attendance of witnesses and the production of
23 evidence reasonably necessary to resolution of the matter under
24 consideration. The Board shall issue such subpoenas upon the
25 request of any party to a proceeding under subsection (d) of
26 this Section or upon its own motion.

1 (f) The Board may prescribe reasonable fees for permits
2 required pursuant to this Act. Such fees in the aggregate may
3 not exceed the total cost to the Agency for its inspection and
4 permit systems. The Board may not prescribe any permit fees
5 which are different in amount from those established by this
6 Act.

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

8 (415 ILCS 5/28) (from Ch. 111 1/2, par. 1028)

9 Sec. 28. Proposal of regulations; procedure.

10 (a) Any person may present written proposals for the
11 adoption, amendment, or repeal of the Board's regulations, and
12 the Board may make such proposals on its own motion. If the
13 Board finds that any such proposal is supported by an adequate
14 statement of reasons, is accompanied by a petition signed by at
15 least 200 persons, is not plainly devoid of merit and does not
16 deal with a subject on which a hearing has been held within the
17 preceding 6 months, the Board shall schedule a public hearing
18 for consideration of the proposal. If such proposal is made by
19 the Agency or by the Department, the Board shall schedule a
20 public hearing without regard to the above conditions. The
21 Board may hold one or more hearings to consider both the merits
22 and the economics of the proposal. The Board may also in its
23 discretion schedule a public hearing upon any proposal without
24 regard to the above conditions.

25 No substantive regulation shall be adopted, amended, or

1 repealed until after a public hearing within the area of the
2 State concerned. In the case of state-wide regulations hearings
3 shall be held in at least two areas. At least 20 days prior to
4 the scheduled date of the hearing the Board shall give notice
5 of such hearing by public advertisement in a newspaper of
6 general circulation in the area of the state concerned of the
7 date, time, place and purpose of such hearing; give written
8 notice to any person in the area concerned who has in writing
9 requested notice of public hearings; and make available to any
10 person upon request copies of the proposed regulations,
11 together with summaries of the reasons supporting their
12 adoption.

13 Any public hearing relating to the adoption, amendment, or
14 repeal of Board regulations under this subsection shall be held
15 before a qualified hearing officer, who shall be attended by at
16 least one member of the Board, designated by the Chairman. All
17 such hearings shall be open to the public, and reasonable
18 opportunity to be heard with respect to the subject of the
19 hearing shall be afforded to any person. All testimony taken
20 before the Board shall be recorded stenographically. The
21 transcript so recorded, and any written submissions to the
22 Board in relation to such hearings, shall be open to public
23 inspection, and copies thereof shall be made available to any
24 person upon payment of the actual cost of reproducing the
25 original.

26 After such hearing the Board may revise the proposed

1 regulations before adoption in response to suggestions made at
2 the hearing, without conducting a further hearing on the
3 revisions.

4 In addition, the Board may revise the proposed regulations
5 after hearing in response to objections or suggestions made by
6 the Joint Committee on Administrative Rules pursuant to
7 subsection (b) of Section 5-40 and subsection (a) of Section
8 5-110 of the Illinois Administrative Procedure Act, where the
9 Board finds (1) that such objections or suggestions relate to
10 the statutory authority upon which the regulation is based,
11 whether the regulation is in proper form, or whether adequate
12 notice was given, and (2) that the record before the Board is
13 sufficient to support such a change without further hearing.

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

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

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

23 (b) The Board shall not, on its own motion, propose
24 regulations pursuant to subsection (a) of this Section or
25 Sections 28.2, 28.4 or 28.5 of this Act to implement the
26 provisions required by or related to the Clean Air Act

1 Amendments of 1990, as now or hereafter amended. However,
2 nothing herein shall preclude the Board from, on its own
3 motion:

4 (1) making technical corrections to adopted rules
5 pursuant to Section 100.240 of Title 1 of the Illinois
6 Administrative Code;

7 (2) modifying a proposed rule following receipt of
8 comments, objections, or suggestions without agreement of
9 the proponent after the end of the hearing and comment
10 period;

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

13 (4) initiating rulemaking necessitated by a court
14 order directed to the Board.

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

16 (415 ILCS 5/59 new)

17 Sec. 59. Asbestos Abatement Act; Commercial and Public
18 Buildings Asbestos Abatement Act.

19 (a) On July 1, 2013, all powers, duties, rights, and
20 responsibilities of the Department of Public Health and the
21 Director of Public Health under the Asbestos Abatement Act and
22 the Commercial and Public Buildings Asbestos Abatement Act,
23 other than those related to the licensure of persons and
24 entities to perform the functions regulated by those Acts, are
25 transferred to the Illinois Environmental Protection Agency

1 and the Director of the Illinois Environmental Protection
2 Agency. In the context of any laws or rules needed to implement
3 or enforce the non-licensing related provisions of either the
4 Asbestos Abatement Act or the Commercial and Public Buildings
5 Asbestos Abatement Act, including, but not limited to, Part 855
6 of Title 77 of the Illinois Administrative Code, on and after
7 July 1, 2013, all references to the Department of Public Health
8 shall be construed to mean the Illinois Environmental
9 Protection Agency, and all references to the Director of Public
10 Health shall be construed to mean the Director of the Illinois
11 Environmental Protection Agency.

12 (b) Those employees of the Department of Public Health
13 needed to administer either the Asbestos Abatement Act or the
14 Commercial and Public Buildings Asbestos Abatement Act, other
15 than those employees who perform work related to the licensure
16 of persons and entities to perform the functions regulated by
17 those Acts, shall be transferred to the Illinois Environmental
18 Protection Agency. The status and rights of such employees
19 under the Personnel Code shall not be affected by the transfer.
20 The rights of the employees and the State of Illinois and its
21 agencies under the Personnel Code and applicable collective
22 bargaining agreements or under any pension, retirement, or
23 annuity plan shall not be affected by this amendatory Act of
24 the 98th General Assembly.

25 (c) All books, records, papers, documents, property (real
26 and personal), contracts, causes of action, and pending

1 business pertaining to the powers, duties, rights, and
2 responsibilities transferred by this amendatory Act from the
3 Department of Public Health to the Illinois Environmental
4 Protection Agency, including, but not limited to, material in
5 electronic or magnetic format and necessary computer hardware
6 and software, shall be transferred to the Illinois
7 Environmental Protection Agency.

8 (d) All unexpended appropriations and balances and other
9 funds available for use by the Department of Public Health for
10 the administration of the Asbestos Abatement Act or the
11 Commercial and Public Buildings Asbestos Abatement Act shall be
12 transferred for use by the Illinois Environmental Protection
13 Agency pursuant to the direction of the Director of the
14 Illinois Environmental Protection Agency. Unexpended balances
15 so transferred shall be expended only for the purpose for which
16 the appropriations were originally made.

17 (e) Whenever reports or notices are now required to be made
18 or given or papers or documents furnished or served by any
19 person to or upon the Department of Public Health in connection
20 with any of the powers, duties, rights, and responsibilities
21 transferred by this amendatory Act of the 98th General
22 Assembly, the same shall be made, given, furnished, or served
23 in the same manner to or upon the Illinois Environmental
24 Protection Agency.

25 (f) This amendatory Act of the 98th General Assembly does
26 not affect any act done, ratified, or canceled or any right

1 occurring or established or any action or proceeding had or
2 commenced in an administrative, civil, or criminal cause by the
3 Department of Public Health before this amendatory Act of the
4 98th General Assembly takes effect; such actions or proceedings
5 may be prosecuted and continued by the Illinois Environmental
6 Protection Agency.

7 (g) Any rules of the Department of Public Health in
8 connection with any of the non-licensing related powers,
9 duties, rights, and responsibilities transferred by this
10 amendatory Act of the 98th General Assembly and that are in
11 full force on the effective date of this amendatory Act of the
12 98th General Assembly shall become the rules of the Illinois
13 Pollution Control Board. This amendatory Act of the 98th
14 General Assembly does not affect the legality of any such rules
15 in the Illinois Administrative Code.

16 Any proposed rules filed with the Secretary of State by the
17 Department of Public Health in connection with any of the
18 non-licensing related powers, duties, rights, and
19 responsibilities transferred by this amendatory Act of the 98th
20 General Assembly that are pending in the rulemaking process on
21 the effective date of this amendatory Act of the 98th General
22 Assembly and pertain to the non-licensing related powers,
23 duties, rights, and responsibilities transferred, shall be
24 deemed to have been filed by the Illinois Environmental
25 Protection Agency.

26 As soon as practicable after the effective date of this

1 amendatory Act of the 98th General Assembly, the Illinois
2 Environmental Protection Agency shall review, revise and
3 clarify the rules transferred to it under this amendatory Act
4 of the 98th General Assembly to reflect the reorganization of
5 powers, duties, rights, and responsibilities affected by this
6 amendatory Act of the 98th General Assembly, using the
7 procedures for recodification of rules available under the
8 Illinois Administrative Procedure Act, except that existing
9 title, part, and section numbering for the affected rules may
10 be retained. In so doing, the Illinois Environmental Protection
11 Agency shall ensure that a single set of standards apply to all
12 parties similarly situated.

13 Under no circumstances shall this process, or the
14 re-codification of rules provided for under this subsection
15 (g), allow for the weakening of protection from asbestos
16 exposure or increase the risk to human health or the
17 environment therefrom.

18 (h) Asbestos Advisory Committee.

19 (1) There is created the Asbestos Advisory Committee,
20 composed of the following members appointed by the
21 Governor:

22 (A) one member recommended by the Illinois Chamber
23 of Commerce;

24 (B) one member recommended by the Illinois
25 Association of Realtors;

26 (C) one member recommended by the Illinois

1 Municipal League;

2 (D) one member recommended by the Illinois
3 Statewide School Management Alliance;

4 (E) one member recommended by the Illinois
5 Specialty and Mechanical Contractors Association;

6 (F) one member recommended by the Chicago Local
7 Section of the American Industrial Hygiene
8 Association;

9 (G) one member recommended by the Illinois
10 Environmental Contractors Association;

11 (H) one member recommended by the American
12 Federation of Labor and Congress of Industrial
13 Organizations (AFL-CIO);

14 (I) one member recommended by the Illinois Chapter
15 of the American Institute of Architects;

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

18 (K) one member employed by an Illinois-based
19 business providing Illinois-approved asbestos training
20 courses;

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

23 (M) one member recommended by the Illinois Pipe
24 Trades Association; and

25 (N) one member recommended by the Laborers
26 International Union of North America.

1 Administrative support shall be provided to the
2 Committee by the Environmental Protection Agency.

3 (2) The members of the Committee shall be appointed for
4 terms of 4 years, and may be reappointed; appointments to
5 fill vacancies shall be for the balance of the current
6 term. Members shall serve without compensation, but may be
7 reimbursed for actual expenses from funds appropriated for
8 that purpose. Members shall elect annually from their
9 number a chairperson and such other officers as they may
10 deem necessary. The Committee shall meet at least annually
11 and at the call of the chairperson.

12 (3) The Committee shall:

13 (A) review, evaluate, and make recommendations to
14 the Director of the Environmental Protection Agency
15 regarding laws, rules, and procedures related to
16 asbestos remediation;

17 (B) review, evaluate, and make recommendations to
18 the Director of Public Health regarding the training
19 and licensing of persons and entities to engage in
20 asbestos remediation;

21 (C) make recommendations to the Director of the
22 Environmental Protection Agency relating to the
23 efforts to implement this Section, together with the
24 changes in this amendatory Act of the 98th General
25 Assembly to the Asbestos Abatement Act and the
26 Commercial and Public Buildings Act; and

1 (D) make recommendations to the Director of Public
2 Health relating to the efforts to implement this
3 Section and the Asbestos Occupations Licensure Act,
4 together with the changes in this amendatory Act of the
5 98th General Assembly to the Asbestos Abatement Act and
6 the Commercial and Public Buildings Act.

7 (i) On and after the effective date of this amendatory Act
8 of the 98th General Assembly, except for those functions
9 expressly provided for in the Asbestos Occupations Licensure
10 Act, all rulemaking by the Agency in carrying out its
11 responsibilities under the Asbestos Abatement Act and the
12 Commercial and Public Buildings Act shall be done by the
13 Pollution Control Board in accordance with Title VII of this
14 Act.

15 Section 99. Effective date. This Act takes effect July 1,
16 2013.