

1 AN ACT concerning safety.

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

4 (30 ILCS 105/5.380 rep.)

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

7 (225 ILCS 52/Act rep.)

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9 repealed.

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

12 (225 ILCS 207/20)

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

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

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

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

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13 Licensure Act repealed in this amendatory Act may be satisfied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

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

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

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

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

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

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

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

1 shall be given an opportunity to request hearing.

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

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

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

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

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

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

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

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

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

24 The Department shall promote and encourage minorities and

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

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

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

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

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

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

24 Sec. 17. Rules; chlorination requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Any monies received by the State of Illinois pursuant to

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

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

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

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

24 (h) For purposes of this Section:

25 (1) The term "facility" means:

26 (A) any building, structure, installation,

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

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

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

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

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

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

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

1 holding a facility or vessel in a fiduciary capacity;

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

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

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

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

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

1 including liability under Section 22.2(f).

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

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

11 (A) an act of God;

12 (B) an act of war;

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

1 acts or omissions; or

2 (D) any combination of the foregoing paragraphs.

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

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

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

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

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

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

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

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

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

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

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

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

1 condemnation.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (IV) the defendant fails to maintain a written

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

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

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

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

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

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

1 supervision and control of the environmental professional.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (l-5) (Blank).

10 (m) (Blank).

11 (n) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) a land treatment facility receiving hazardous

1 waste; or

2 (4) a well injecting hazardous waste.

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

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

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

11 (415 ILCS 60/19.3)

12 Sec. 19.3. Agrichemical Facility Response Action Program.

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

24 The program shall provide guidance for assessing the threat

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

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

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

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

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

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

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

7 (2) One member who represents pesticide manufacturers.

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

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

12 (5) One member who represents active farmers.

13 (6) One member at large.

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

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

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

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

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

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

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

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

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

1 contamination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 becoming law.