

AN ACT concerning safety.

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

Section 5. The Environmental Protection Act is amended by changing Sections 7.2, 10, 13, 13.3, 17.5, 22.4, and 22.40 as follows:

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

Sec. 7.2. Identical in substance rulemakings.

(a) In the context of a mandate that the Board adopt regulations to secure federal authorization for a program, regulations that are "identical in substance" means State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois, except as provided in this Section. After consideration of comments from the USEPA, the Agency, the Attorney General and the public, the Board shall adopt the verbatim text of such USEPA regulations as are necessary and appropriate for authorization of the program. In adopting "identical in substance" regulations, the only changes that may be made by the Board to the federal regulations are those changes that are necessary for compliance with the Illinois Administrative Code, and

technical changes that in no way change the scope or meaning of any portion of the regulations, except as follows:

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

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

(3) If a USEPA rule prescribes the contents of a State regulation without setting forth the regulation itself, which would be an integral part of any regulation required to be adopted as an "identical in substance" regulation as defined in this Section, the Board shall adopt a regulation as prescribed, to the extent possible consistent with other relevant USEPA regulations and existing State law. The Board may not use this subsection to adopt any regulation which is a required rule as that term is defined by Section 28.2 of this Act. To the extent practicable, the Board in its proposed and adopted opinion shall include its rationale for adopting such regulation.

(4) Pursuant to subsection (a) of Section 5-75 of the Illinois Administrative Procedure Act, the Board may

incorporate USEPA rules by reference where it is possible to do so without causing confusion to the affected public.

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

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

(7) The Board may correct apparent typographical and grammatical errors in USEPA rules.

(8) The Board, in adopting "identical in substance" regulations, shall not adopt USEPA rules imposing standards that are less stringent than those in existing Board regulations. The Board may adopt such rules pursuant to the rulemaking requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act. For purposes of adopting "identical in substance" regulations, a revision to a federal regulation shall be considered "less stringent" than an existing Board regulation only if the federal revision, when compared on

a provision-by-provision basis to the specific Board regulatory requirement it would affect, directly and substantively reduces the level of environmental or public health protection required by the corresponding Board provision, as demonstrated by one or more of the following:

(A) the federal revision eliminates a numerical emission, discharge, or concentration limit, or increases it above the level established in the existing Board regulation;

(B) the federal revision eliminates or narrows the scope of a specific prohibition or restriction on an activity, substance, or process that is expressly set forth in the existing Board regulation; or

(C) the federal revision eliminates or weakens a specific, identified performance standard, design standard, or technology-based requirement that is set forth in the existing Board regulation.

(b) In adopting regulations that are "identical in substance" with specified federal regulations under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, subsection (a) of Section 22.7, or subsection (a) of Section 22.40, subsection (H) of Section 10, or specified federal determinations under subsection (e) of Section 9.1, the Board shall complete its rulemaking proceedings within one year after the adoption of the

corresponding federal rule. If the Board consolidates multiple federal rulemakings into a single Board rulemaking, the one-year period shall be calculated from the adoption date of the federal rule first adopted among those consolidated. After adopting an "identical in substance" rule, if the Board determines that an amendment is needed to that rule, the Board shall initiate a rulemaking proceeding to propose such amendment. The amendment shall be adopted within one year of the initiation of the Board's determination.

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

The one-year period may be extended by the Board for an additional period of time if necessary to complete the rulemaking proceeding. In order to extend the one-year period, the Board must make a finding, based upon the record in the rulemaking proceeding, that the one-year period is insufficient for completion of the rulemaking, and such finding shall specifically state the reasons for the extension. Except as otherwise provided above, the Board must make the finding that an extension of time is necessary prior to the expiration of the initial one-year period, and must also publish a notice of extension in the Illinois Register as expeditiously as practicable following its decision, stating

the specific reasons for the Board's decision to extend. The notice of extension need not appear in the Illinois Register prior to the expiration of the initial one year period and shall specify a date certain by which the Board anticipates completion of the rulemaking, except that if a date certain cannot be specified because of a need to delay adoption pending occurrence of an event beyond the Board's control, the notice shall specify the event, explain its circumstances, and contain an estimate of the amount of time needed to complete the rulemaking after the occurrence of the specified event.

(Source: P.A. 97-945, eff. 8-10-12.)

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

Sec. 10. Regulations.

(A) The Board, pursuant to procedures prescribed in Title VII of this Act, may adopt regulations to promote the purposes of this Title. Without limiting the generality of this authority, such regulations may among other things prescribe:

(a) (Blank);

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

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

air pollution;

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

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

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

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

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

(1) that are required by federal law;

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

(3) that are necessary to comply with the requirements of the federal Clean Air Act; or

(4) that are necessary to comply with air quality standards adopted by the Board.

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

(D) The Board shall adopt regulations requiring the owner or operator of a gasoline dispensing system that dispenses more than 10,000 gallons of gasoline per month to install and operate a system for the recovery of gasoline vapor emissions arising from the fueling of motor vehicles that meets the requirements of Section 182 of the federal Clean Air Act (42 U.S.C. 7511a). These regulations shall apply only in areas of the State that are classified as moderate, serious, severe, or extreme nonattainment areas for ozone pursuant to Section 181 of the federal Clean Air Act (42 U.S.C. 7511), but shall not apply in such areas classified as moderate nonattainment areas for ozone if the Administrator of the U.S. Environmental Protection Agency promulgates standards for vehicle-based (onboard) systems for the control of vehicle refueling

emissions pursuant to Section 202(a)(6) of the federal Clean Air Act (42 U.S.C. 7521(a)(6)) by November 15, 1992.

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

(F) Any person who, prior to June 8, 1988, has filed a timely Notice of Intent to Petition for an Adjusted RACT Emissions Limitation and who subsequently timely files a completed petition for an adjusted RACT emissions limitation pursuant to 35 Ill. Adm. Code Part 215, Subpart I, shall be subject to the procedures contained in Subpart I but shall be excluded by operation of law from 35 Ill. Adm. Code Part 215, Subparts PP, QQ, and RR, including the applicable definitions in 35 Ill. Adm. Code Part 211. Such persons shall instead be subject to a separate regulation which the Board is hereby authorized to adopt pursuant to the adjusted RACT emissions limitation procedure in 35 Ill. Adm. Code Part 215, Subpart I. In its final action on the petition, the Board shall create a separate rule which establishes Reasonably Available Control Technology (RACT) for such person. The purpose of this procedure is to create separate and independent regulations for purposes of SIP submittal, review, and approval by USEPA.

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

(H) In accordance with subsection (b) of Section 7.2, the Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere; those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act, except that the Board shall not adopt under this subsection (H) any standards less stringent than those existing in Board regulations. The Board may consolidate into a single rulemaking under this subsection all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, shall not apply to identical in substance regulations adopted pursuant to this subsection. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State. Nothing in this subsection shall be construed to limit the right of any person to submit a proposal to the Board, or the authority of the Board to adopt, air quality standards more stringent than

the standards promulgated by the Administrator, pursuant to the rulemaking requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act.

(Source: P.A. 103-154, eff. 6-30-23.)

(415 ILCS 5/13) (from Ch. 111 1/2, par. 1013)

Sec. 13. Regulations.

(a) The Board, pursuant to procedures prescribed in Title VII of this Act, may adopt regulations to promote the purposes and provisions of this Title. Without limiting the generality of this authority, such regulations may among other things prescribe:

(1) Water quality standards specifying among other things, the maximum short-term and long-term concentrations of various contaminants in the waters, the minimum permissible concentrations of dissolved oxygen and other desirable matter in the waters, and the temperature of such waters;

(2) Effluent standards specifying the maximum amounts or concentrations, and the physical, chemical, thermal, biological and radioactive nature of contaminants that may be discharged into the waters of the State, as defined herein, including, but not limited to, waters to any sewage works, or into any well, or from any source within the State;

(3) Standards for the issuance of permits for

construction, installation, or operation of any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution or designed to prevent water pollution or for the construction or installation of any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State;

(4) The circumstances under which the operators of sewage works are required to obtain and maintain certification by the Agency under Section 13.5 and the types of sewage works to which those requirements apply, which may, without limitation, include wastewater treatment works, pretreatment works, and sewers and collection systems;

(5) Standards for the filling or sealing of abandoned water wells and holes, and holes for disposal of drainage in order to protect ground water against contamination;

(6) Standards and conditions regarding the sale, offer, or use of any pesticide, detergent, or any other article determined by the Board to constitute a water pollution hazard, provided that any such regulations relating to pesticides shall be adopted only in accordance with the "Illinois Pesticide Act", approved August 14, 1979 as amended;

(7) Alert and abatement standards relative to water-pollution episodes or emergencies which constitute an acute danger to health or to the environment;

(8) Requirements and procedures for the inspection of any equipment, facility, or vessel that may cause or contribute to water pollution;

(9) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their sources, the collection of samples and the collection, reporting and retention of data resulting from such monitoring.

(b) Notwithstanding other provisions of this Act and for purposes of implementing an NPDES program, the Board shall adopt:

(1) Requirements, standards, and procedures which, together with other regulations adopted pursuant to this Section 13, are necessary or appropriate to enable the State of Illinois to implement and participate in the National Pollutant Discharge Elimination System (NPDES) pursuant to and under the Federal Water Pollution Control Act, as now or hereafter amended. All regulations adopted by the Board governing the NPDES program shall be consistent with and at least as stringent as the applicable provisions of such federal Act and regulations pursuant thereto, and otherwise shall be consistent with all other provisions of this Act, and shall exclude from the requirement to obtain any operating permit otherwise required under this Title a facility for which an NPDES permit has been issued under Section 39(b); provided,

however, that for purposes of this paragraph, a UIC permit, as required under Section 12(g) and 39(d) of this Act, is not an operating permit.

(2) Regulations for the exemption of any category or categories of persons or contaminant sources from the requirement to obtain any NPDES permit prescribed or from any standards or conditions governing such permit when the environment will be adequately protected without the requirement of such permit, and such exemption is either consistent with the Federal Water Pollution Control Act, as now or hereafter amended, or regulations pursuant thereto, or is necessary to avoid an arbitrary or unreasonable hardship to such category or categories of persons or sources.

(c) In accordance with Section 7.2, and notwithstanding any other provisions of this Act, for purposes of implementing a State UIC program, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 1421 of the Safe Drinking Water Act (P.L. 93-523), as amended, except that the Board shall not adopt under this subsection (c) any standards less stringent than those existing in Board regulations. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6

months. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to regulations adopted under this subsection.

(d) The Board may adopt regulations relating to a State UIC program that are not inconsistent with and are at least as stringent as the Safe Drinking Water Act (P.L. 93-523), as amended, or regulations adopted thereunder. Regulations adopted pursuant to this subsection shall be adopted in accordance with the provisions and requirements of Title VII of this Act and the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act.

(Source: P.A. 93-170, eff. 7-10-03.)

(415 ILCS 5/13.3) (from Ch. 111 1/2, par. 1013.3)

Sec. 13.3. In accordance with Section 7.2, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 307(b), (c), (d), 402(b)(8) and 402(b)(9) of the Federal Water Pollution Control Act, as amended, except that the Board shall not adopt under this Section any standards less stringent than those existing in Board regulations. The Board may consolidate into a single rulemaking under this Section all such federal regulations

adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this Section. Sections 5-35 and 5-75 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to regulations adopted under this Section. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State.

(Source: P.A. 88-45; 89-445, eff. 2-7-96.)

(415 ILCS 5/17.5) (from Ch. 111 1/2, par. 1017.5)

Sec. 17.5. In accordance with Section 7.2, the Board shall adopt regulations which are "identical in substance" to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the Safe Drinking Water Act (P.L. 93-523), as amended, except that the Board shall not adopt under this Section any standards less stringent than those existing in Board regulations. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this Section. Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to regulations adopted under this Section. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State. The Board

may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months.

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

(415 ILCS 5/22.4) (from Ch. 111 1/2, par. 1022.4)

Sec. 22.4. Hazardous waste; underground storage tanks; regulations.

(a) In accordance with Section 7.2, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 3001, 3002, 3003, 3004, and 3005, of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), except that the Board shall not adopt under this subsection (a) any standards less stringent than those existing in Board regulations. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act shall not apply to rules adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to rules adopted under this subsection.

(b) The Board may adopt regulations relating to a State hazardous waste management program that are not inconsistent

with and at least as stringent as the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), or regulations adopted thereunder. Regulations adopted pursuant to this subsection shall be adopted in accordance with the provisions and requirements of Title VII of this Act and the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act.

(c) Notwithstanding subsection (a) of this Section, the Board may adopt additional regulations identifying the characteristics of hazardous waste and additional regulations listing hazardous waste. In adopting such regulations, the Board shall take into account the toxicity, persistence, and degradability in nature, the potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics. The regulations may be revised from time to time as may be appropriate. Regulations adopted pursuant to this subsection shall be adopted in accordance with the provisions and requirements of this Act and the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act.

(d) (1) In accordance with Section 7.2, after the adoption of regulations by the United States Environmental Protection Agency to implement Section 9003 of Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), or any amendments to such regulations, the Board

shall adopt regulations relating to corrective action at underground storage tanks that are identical in substance to such federal regulations, except that the Board shall not adopt under this subsection (d) any standards less stringent than those existing in Board regulations.

(2) The rulemaking provisions of Title VII of this Act and of Section 5-35 of the Illinois Administrative Procedure Act shall not apply to regulations or amendments adopted pursuant to this subsection (d).

(3) For purposes of adopting regulations or amendments thereto under this subsection (d), corrective action shall not include requirements providing for design, construction, installation, general operation, release detection, release reporting, release determination investigation, release confirmation, out-of-service systems and their closure or financial responsibility.

(4) By January 1, 1992, the Board shall amend its rules pertaining to underground storage tanks adopted under paragraph (1) of this subsection to make those rules applicable to any heating oil underground storage tank.

(Source: P.A. 87-323; 87-1088; 88-45.)

(415 ILCS 5/22.40)

Sec. 22.40. Municipal solid waste landfill rules.

(a) In accordance with Sec. 7.2, the Board shall adopt rules that are identical in substance to federal regulations

or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 4004 and 4010 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) insofar as those regulations relate to a municipal solid waste landfill unit program, except that the Board shall not under this subsection (a) adopt any standards less stringent than those existing in Board regulations. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. Where the federal regulations authorize the State to adopt alternative standards, schedules, or procedures to the standards, schedules, or procedures contained in the federal regulations, the Board may adopt alternative standards, schedules, or procedures under subsection (b) or retain existing Board rules that establish alternative standards, schedules, or procedures that are not inconsistent with the federal regulations. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months.

The provisions and requirements of Title VII of this Act shall not apply to rules adopted under this subsection (a). Section 5-35 of the Illinois Administrative Procedure Act relating to the procedures for rulemaking shall not apply to regulations adopted under this subsection (a).

(b) The Board may adopt regulations relating to a State

municipal solid waste landfill program that are not inconsistent with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), or regulations adopted thereunder. Rules adopted under this subsection shall be adopted in accordance with the provisions and requirements of Title VII of this Act and the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act.

(c) (Blank.)

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

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