



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB3596

Introduced 2/18/2025, by Rep. Anna Moeller

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Wetlands Protection Act. Provides that no person may discharge dredged or fill material into a State jurisdictional wetland except with a permit issued by the Department of Natural Resources. Exempts certain activities from the requirements of the Act. Sets forth procedures for individual permit applications and other related procedural requirements. Provides that the Department shall not issue an individual permit unless the Environmental Protection Agency certifies to the Department that there will not be a violation of State water quality standards. Provides that the Department may issue an after-the-fact permit in certain emergency circumstances. Sets forth financial assurance requirements. Authorizes the Department to adopt general permits under the Act. Provides that any person who intends to conduct a regulated activity may do so in accordance with a general permit issued by the Department, which pre-authorizes a category of activities with minimal adverse effects. Provides procedures and requirements regarding preconstruction notifications. Provides that certain entities may establish and operate a mitigation bank or in lieu fee program. Describes procedures and requirements for mitigation banks. Grants the Department rulemaking powers. Provides that the Department shall prepare certain reports and studies. Provides for the review of final decisions of the Department. Provides for investigations by the Department and enforcement by a State's Attorney or the Attorney General. Provides for a civil penalty not to exceed \$10,000 per day of violation, with interest after judgment, and with certain costs, fees, and expenses, payable to the Wetlands Protection Fund. Provides that any person may file a complaint with the Illinois Pollution Control Board concerning a violation of the Act, a rule adopted under the Act, a condition of a permit issued under the Act, or an order of the Pollution Control Board issued under the Act. Provides for county and special district stormwater program authorities to control or regulate activities in any wetlands within their jurisdiction. Establishes the Wetlands Protection Fund. Provides that a permit review fee for all permit applications is to be set by the Department by rule. Makes corresponding changes to the State Finance Act. Makes findings. Defines terms. Effective immediately.

LRB104 09762 BDA 19828 b

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 1. Short title. This Act may be cited as the  
5 Wetlands Protection Act.

6 Section 5. Findings and intent. The General Assembly  
7 finds:

8 (1) In 1818, Illinois contained an estimated 8.2 million  
9 acres of wetlands. Based on the Illinois portion of the  
10 National Wetlands Inventory, less than 9% of those original  
11 acres of wetlands remain.

12 (2) As a result of the significant loss in wetland  
13 acreage, there has been a corresponding loss in the functional  
14 values and benefits that wetlands provide.

15 (3) Illinois is bordered by 880 miles of rivers, which are  
16 critical to navigation, commerce, recreation, and ecosystem  
17 health at home and downstream to the Gulf of Mexico, and the  
18 health of Illinois rivers is heavily influenced by the health  
19 of the tributaries and streams that flow into them.

20 (4) In Illinois, 9,894 total miles of streams provide  
21 water for surface water intakes, supplying public drinking  
22 water systems that rely at least in part on intermittent,  
23 ephemeral, or headwater streams.

1           (5) Continued loss of Illinois' wetlands and streams may  
2 deprive the People of the State of some or all of the benefits  
3 that they provide, including:

4           (A) reducing flood damages and protecting vulnerable  
5 communities by absorbing, storing, and conveying peak  
6 flows from storms;

7           (B) improving water quality by serving as  
8 sedimentation and filtering basins and as natural  
9 biological treatment areas;

10          (C) providing breeding, nesting, foraging, and  
11 protective habitat for approximately 40% of the State's  
12 threatened and endangered plants and animals, in addition  
13 to other forms of fish, wildlife, game, waterfowl, and  
14 shorebirds;

15          (D) protecting underground water resources and helping  
16 to recharge rivers, streams, and local or regional  
17 underground water supplies;

18          (E) serving as recreational areas for hunting,  
19 fishing, boating, hiking, bird watching, photography, and  
20 other uses;

21          (F) providing open space and aesthetic values,  
22 particularly in rapidly developing areas;

23          (G) providing unique educational and research  
24 opportunities because of their high diversity of plants  
25 and animals, their support for a high incidence of  
26 threatened and endangered species, and their function as a

1 natural buffer for rivers, lakes, and streams;

2 (H) supplying nutrients in freshwater food cycles and  
3 serving as nursery areas and sanctuaries for young fish;  
4 and

5 (I) helping to protect shorelines from the forces of  
6 water erosion.

7 (6) Our changing climate and its more extreme and less  
8 predictable weather patterns heighten the need for some or all  
9 of the benefits that Illinois' wetlands provide, including  
10 flood control, coastal resilience, water quality, aquifer  
11 recharge, habitat, and maintenance of baseflow to recharge  
12 rivers, streams, and local or regional underground water  
13 supplies.

14 (7) Illinois historically relied on the federal Clean  
15 Water Act's permit program administered by the U.S. Army Corps  
16 of Engineers and the U.S. Environmental Protection Agency to  
17 prevent harm to aquatic resources from unauthorized discharges  
18 of dredge or fill material.

19 (8) After rejection of the 1989 Wetland Delineation Manual  
20 and in light of uncertainty about federal protections for some  
21 "isolated" wetlands, the General Assembly passed the  
22 Interagency Wetland Policy Act of 1989 to protect these  
23 wetlands from State agency actions and achieve no net loss of  
24 wetlands.

25 (9) The Supreme Court's May 25, 2023 decision in Sackett  
26 v. EPA rolled back the scope of waters of the United States,

1 thereby removing federal Clean Water Act protections for many  
2 waters of the United States, including wetlands that provide  
3 significant flood control protections, such as bottomland  
4 hardwood forested wetlands that are separated from the  
5 Illinois River by levees.

6 (10) It is important for Illinois to adopt protections  
7 under State law to reinstate protections lost by rolling back  
8 the scope of the federal Clean Water Act.

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

10 "Adjacent" means bordering, contiguous, or neighboring.

11 "Adjacent wetlands" includes wetlands separated from  
12 waters of the United States by man-made dikes or barriers,  
13 natural river berms, beach dunes, and other man-made or  
14 natural structures.

15 "Affected property" means any property upon which a  
16 regulated activity is conducted.

17 "Agency" means the Illinois Environmental Protection  
18 Agency.

19 "Approved county or district" means a county or special  
20 district with a stormwater program that has been approved  
21 under Section 55 to issue permits under this Act instead of the  
22 Department of Natural Resources.

23 "Approved wetland specialist" means a person who has met  
24 the educational, training, and field experience requirements  
25 that have been adopted, by rule, under this Act or set forth in

1 an approved county or district code and that assure  
2 knowledgeable wetland delineations using the Corps of  
3 Engineers Wetland Delineation Manual in a manner that is  
4 consistent with subsection (f) of Section 25 of this Act.

5 "Avoidance" means any action that is taken in a manner  
6 that will cause a regulated activity not to occur and that is  
7 consistent with the federal Clean Water Act 404(b)(1)  
8 Guidelines developed by the U.S. Environmental Protection  
9 Agency and the U.S. Army Corps of Engineers.

10 "Bog" means a peat-accumulating wetland that has no  
11 significant inflows or outflows and that supports acidophilic  
12 mosses, particularly sphagnum, resulting in highly acidic  
13 conditions.

14 "Bottomland hardwood" means forested riverine floodplain  
15 forest, including flatwoods in northeastern Illinois, that are  
16 located in the 100-year flood plain of Illinois rivers and  
17 streams and that are at least seasonally flooded.

18 "Class I wetland" means a top tier wetland as indicated by  
19 type (such as bog, bottomland hardwood forest, or panne),  
20 designation (such as Ramsar wetland of international  
21 importance), or function (such as threatened or endangered  
22 species habitat or important flood protection) consistent with  
23 Section 25 of this Act. Class I wetlands do not include waters  
24 of the United States.

25 "Class II wetland" means a wetland, including its  
26 contiguous area, that is larger than 0.5 acres and is not a

1 Class I wetland. Class II wetlands do not include waters of the  
2 United States.

3 "Class III wetland" means a wetland, including its  
4 contiguous area, that is between 0.1 acres and 0.5 acres and is  
5 not a Class I wetland. Class III wetlands do not include waters  
6 of the United States.

7 "Commercial battery energy storage system" means a type of  
8 energy storage system that uses batteries to store and  
9 distribute energy in the form of electricity for the primary  
10 purpose of wholesale or retail sale and is not intended  
11 primarily for use on the property on which the device or  
12 devices reside.

13 "Commercial solar energy facility" means a "commercial  
14 solar energy system" as defined in Section 10-720 of the  
15 Illinois Property Tax Code.

16 "Contiguous area" means the portion of a wetland that  
17 extends beyond the property boundary of the affected property.

18 "Corps of Engineers" means the U.S. Army Corps of  
19 Engineers.

20 "Corps of Engineers Wetlands Delineation Manual" means the  
21 1987 U.S. Army Corps of Engineers, Wetlands Delineation  
22 Manual, Research Program Technical Report Y-87-1, and any  
23 applicable Regional Supplements thereto in effect May 24,  
24 2023.

25 "Cypress swamp" means forested, permanent, or  
26 semi-permanent bodies of water, with species assemblages

1 characteristic of the Gulf of Mexico and Southeastern Coastal  
2 Plains and including bald cypress, which are typically found  
3 in far southern Illinois.

4 "Department" means the Department of Natural Resources.

5 "Director" means the Director of Natural Resources.

6 "Discharge" means any addition of dredged or fill material  
7 into, including redeposit of dredged material other than  
8 incidental fallback within, State jurisdictional wetlands.

9 "Dredged material" means material that is excavated or  
10 dredged from waters of the U.S. and waters of the State.

11 "Fen" means a wetland fed by an alkaline water source,  
12 such as a calcareous spring or seep.

13 "Fill material" means material placed in a State  
14 jurisdictional wetland where the material has the effect of  
15 replacing any portion of a State jurisdictional wetland with  
16 dry land or changing the bottom elevation of any portion of a  
17 State jurisdictional wetland.

18 "General permit" means a permit issued by an approved  
19 county or district, or the Department, in a manner that is  
20 authorized under Section 40 of this Act. "General permit"  
21 includes a U.S. Army Corps of Engineers nationwide permit.

22 "High-Quality Aquatic Resources" or "HQAR" means  
23 high-quality aquatic resources consistent with the guidelines  
24 of the Chicago District of the U.S. Army Corps of Engineers or  
25 approved county or district codes.

26 "Individual permit" means a permit issued by the

1 Department under Section 25 of this Act after case-specific  
2 sequenced review (avoidance, minimization, mitigation) of the  
3 proposed project and certification of compliance with State  
4 water quality standards.

5 "In lieu fee mitigation" means a payment to an approved in  
6 lieu fee program made by a permittee to satisfy a mitigation  
7 requirement in accordance with this Act and implementing  
8 rules.

9 "Maintenance" means work to repair and keep in good  
10 working order existing structures in wetlands, including  
11 emergency reconstruction of recently damaged parts of  
12 currently serviceable structures, including dikes, dams,  
13 levees, groins, riprap, breakwaters, causeways, and bridge  
14 abutments or approaches, and transportation structures.  
15 "Maintenance" does not include any modification that changes  
16 the character, scope, or size of the original fill design but  
17 such a modification may be eligible to use Nationwide Permit  
18 3, Maintenance.

19 "Metropolitan Water Reclamation District" or "district"  
20 means a special district organized under the Metropolitan  
21 Water Reclamation District Act.

22 "Minimization" means reducing, as much as practicable, the  
23 adverse environmental impact of an unavoidable regulated  
24 activity in a manner that is consistent with this Act and the  
25 federal Clean Water Act 404(b)(1) Guidelines developed by the  
26 U.S. Environmental Protection Agency and the U.S. Army Corps

1 of Engineers.

2 "Mitigation" means the restoration, establishment,  
3 enhancement, or protection and maintenance of wetlands and  
4 other aquatic resources for the purpose of compensating for  
5 unavoidable adverse impacts that remain after all appropriate  
6 and practicable avoidance and minimization have been achieved.  
7 Mitigation must be consistent with the requirements of this  
8 Act. Mitigation may include wetlands creation if authorized by  
9 the Department in situations in which other mitigation is  
10 impractical and the likelihood of success is high. Wetland  
11 creation is restricted to areas that are currently  
12 non-wetlands.

13 "Mitigation bank" means a site, or suite of sites, where  
14 aquatic resources, such as wetlands, streams, wetland buffers,  
15 and riparian areas, are restored, established, enhanced, or  
16 preserved for the purpose of providing compensatory mitigation  
17 for impacts authorized by permits under this Act.

18 "Nationwide permit" means a nationwide permit issued by  
19 the U.S. Army Corps of Engineers as of the effective date of  
20 this Act.

21 "Navigable water" means traditionally navigable waters  
22 that were historically navigable, are presently navigable, or  
23 are susceptible to future navigable use. Navigable water also  
24 includes interstate waters (including interstate wetlands),  
25 impoundments of traditionally navigable waters and interstate  
26 waters (including interstate wetlands), and tributaries.

1 "Ordinary high water mark" means that line on the shore  
2 established by the fluctuations of water and indicated by  
3 physical characteristics, such as a clear, natural line  
4 impressed on the bank, shelving, changes in the character of  
5 soil, destruction of terrestrial vegetation, the presence of  
6 litter and debris, or other appropriate means that consider  
7 the characteristics of the surrounding areas.

8 "Panne" means wet interdunal flats located near Lake  
9 Michigan. "Panne" includes dune and swale wetlands.

10 "Permit" means a written authorization issued by the  
11 Department of Natural Resources under this Act and  
12 implementing rules. "Permit" includes general permits and  
13 individual permits.

14 "Person" means an individual, partnership, co-partnership,  
15 firm, company, limited liability company, corporation,  
16 association, joint-stock company, trust, estate, political  
17 subdivision, state or federal agency or other legal entity, or  
18 its legal representative, employee, agent or assigns.

19 "Preconstruction notification" means notice that a  
20 permittee must provide the Department before undertaking an  
21 activity authorized by a general permit.

22 "Prior converted cropland" means a wetland that was  
23 converted to agricultural use before December 23, 1985, that  
24 had an agricultural commodity produced on it at least once  
25 before December 23, 1985, that remains available for  
26 agricultural commodity production, and that, as of December

1 23, 1985, did not support woody vegetation and met the  
2 following hydrologic criteria for a farmed wetland: (i)  
3 inundation was less than 15 consecutive days during the  
4 growing season or 10% of the growing season, whichever is  
5 less, in most years (50% chance or more); and (ii) if a  
6 pothole, ponding was less than 7 consecutive days during the  
7 growing season in most years (50% chance or more) and  
8 saturation was less than 14 consecutive days during the  
9 growing season most years (50% chance or more). However, if  
10 the prior converted cropland is changed out of agricultural  
11 use (including conservation) and the area reverts to a  
12 wetland, the area may become subject to this Act under Section  
13 15.

14 "Regulated activity" means the discharge of dredged or  
15 fill material into a State jurisdictional wetland subject to  
16 this Act.

17 "Renewable energy facility" means (i) a commercial solar  
18 energy facility or commercial battery energy storage system;  
19 or (ii) supporting facilities. Supporting facilities mean  
20 transmission lines, substations, access roads, meteorological  
21 towers, storage containers, and equipment associated with the  
22 generation and storage of electricity by a commercial solar  
23 energy facility.

24 "Significant nexus" means connectivity or nexus to  
25 maintaining the chemical, physical, or biological integrity of  
26 navigable waters.

1 "State jurisdictional wetland" means a wetland that is  
2 protected by the requirements of this Act and is identified  
3 consistent with Department rules adopted under Section 40 of  
4 this Act. State jurisdictional wetlands are adjacent to or  
5 otherwise have a significant nexus to maintaining the  
6 chemical, physical, or biological integrity of navigable  
7 waters. A State jurisdictional wetland does not include waters  
8 of the United States.

9 "Threatened or endangered species" means those species  
10 that have been designated as threatened or endangered under  
11 the Illinois Endangered Species Protection Act and those  
12 species that have been listed as threatened or endangered  
13 under the federal Endangered Species Act.

14 "Upland" means non-wetland, dry land.

15 "Voluntary aquatic habitat restoration project" means  
16 activities that are voluntarily undertaken (not as required  
17 mitigation) to restore, reestablish, rehabilitate, or enhance  
18 altered, degraded, or former aquatic habitats that result in a  
19 net increase in aquatic habitat functions and services  
20 consistent with historic, pre-disturbance functions and  
21 services of the aquatic habitat.

22 "Wetlands" means those areas that are inundated or  
23 saturated by surface or groundwater at a frequency and  
24 duration sufficient to support, and that under normal  
25 circumstances do support, a prevalence of vegetation typically  
26 adapted for life in saturated soil conditions. "Wetlands"

1 includes areas that are delineated in accordance with the  
2 Corps of Engineers Wetland Delineation Manual.

3 Section 15. Exemptions.

4 (a) Consistent with Section 404(f) of the federal Clean  
5 Water Act, as long as they do not have as their purpose  
6 bringing a wetland into a use to which it was not previously  
7 subject where the flow or circulation of navigable waters may  
8 be impaired or the reach of such waters be reduced and do not  
9 entail discharge of toxic pollutants consistent with Section  
10 307 of the Clean Water Act, the following activities are not  
11 prohibited by or otherwise subject to regulation under this  
12 Act:

13 (1) Normal farming, silviculture, and ranching  
14 activities, including plowing, seeding, cultivating, minor  
15 drainage, and harvesting for the production of food,  
16 fiber, and forest products, or upland soil and water  
17 conservation practices.

18 (2) Maintenance, including emergency reconstruction of  
19 recently damaged parts, of currently serviceable  
20 structures, such as dikes, dams, levees, groins, riprap,  
21 breakwaters, causeways, bridge abutments or approaches,  
22 and transportation structures. Maintenance does not  
23 include any modification that changes the character,  
24 scope, or size of the original fill design. Emergency  
25 reconstruction must occur within a reasonable period of

1 time after damage occurs in order to qualify for this  
2 exemption.

3 (3) Construction or maintenance of farm or stock ponds  
4 or irrigation ditches, or the maintenance (but not  
5 construction) of drainage ditches. Discharge associated  
6 with siphons, pumps, headgates, wingwalls, weirs,  
7 diversion structures, and such other facilities as are  
8 appurtenant and functionally related to irrigation and  
9 ditches are included in this definition.

10 (4) Construction of temporary sedimentation basins on  
11 a construction site which does not include any regulated  
12 activities within a wetland. As used in this paragraph,  
13 the term "construction site" means any site involving the  
14 erection of buildings, roads, and other discrete  
15 structures and the installation of support facilities  
16 necessary for construction and utilization of such  
17 structures. "Construction site" also includes any other  
18 land areas which involve land-disturbing excavation  
19 activities, including quarrying or other mining  
20 activities, where an increase in the runoff of sediment is  
21 controlled through the use of temporary sedimentation  
22 basins.

23 (5) Construction or maintenance of farm roads or  
24 forest roads or temporary roads for moving mining  
25 equipment, where such roads are constructed and  
26 maintained, in accordance with best management practices,

1 to assure that flow and circulation patterns and chemical  
2 and biological characteristics of the wetland are not  
3 impaired, that the reach of the wetland is not reduced,  
4 and that any adverse effect on the aquatic environment  
5 will be otherwise minimized.

6 (6) Activities for the placement of pilings for linear  
7 projects, including bridges, elevated walkways, and power  
8 line structures in accordance with best management  
9 practices, to assure that the flow and circulation  
10 patterns and chemical and biological characteristics of  
11 the wetland are not impaired, that the reach of the  
12 wetland is not reduced, and that any adverse effect on the  
13 aquatic environment will be otherwise minimized.

14 (b) Any exemption that is authorized by and pertaining to  
15 wetlands that are subject to regulation under the federal  
16 Clean Water Act, or regulations promulgated thereunder, at the  
17 time of enactment of this Act, shall also be an exemption for  
18 the purpose of this Act.

19 (c) The following are exempt from regulation as State  
20 jurisdictional wetlands under this Act:

21 (1) Waste treatment systems, including treatment ponds  
22 or lagoons designed to meet the requirements of the  
23 federal Clean Water Act and comply with State water  
24 quality standards.

25 (2) Prior converted cropland unless there has been a  
26 change in use out of agricultural or conservation use and

1 the area reverts to a wetland.

2 (3) Ditches (including roadside ditches) excavated  
3 wholly in and draining only dry land and that do not carry  
4 a relatively permanent flow of water.

5 (4) An artificially irrigated area that would revert  
6 to upland if the irrigation ceased. This shall also  
7 include the pumping of water for purposes of waterfowl  
8 hunting or creating waterfowl habitat.

9 (5) An artificial lake or pond created by excavating  
10 or diking upland to collect and retain water and which are  
11 used exclusively for such purposes as stock watering,  
12 irrigation, settling basins, or rice growing.

13 (6) Artificial reflecting or swimming pools or other  
14 small ornamental bodies of water created by excavating or  
15 diking dry land to retain water for primarily aesthetic  
16 reasons.

17 (7) A water-filled depression created in dry land  
18 incidental to construction activity and pits excavated in  
19 dry land for the purpose of obtaining fill, sand, or  
20 gravel unless and until the construction or excavation  
21 operation is abandoned and the resulting water body meets  
22 the definition of "waters of the State" consistent with  
23 the Environmental Protection Act, including Section 3.550  
24 of the Environmental Protection Act.

25 (8) Swales and erosional features, including gullies,  
26 rills, and small washes, characterized by low volume,

1 infrequent, or short duration flow.

2 (9) Wetlands created by the construction of stormwater  
3 facilities in upland areas, provided that the facility was  
4 not created for the purpose of wetland mitigation.

5 (d) Any activity with respect to which a county or special  
6 district has an approved program under Section 55 of this Act.

7 Section 20. Applicability.

8 (a) The requirements of this Act apply to all State  
9 jurisdictional wetlands as that term is defined in this Act.  
10 If a wetland ceases to meet that definition because it becomes  
11 subject to regulation under the federal Clean Water Act, it  
12 shall no longer be subject to the provisions of this Act. The  
13 Department may enter into an agreement with the Corps of  
14 Engineers to coordinate the permit program under this Act with  
15 the Corps of Engineers permit program under Section 404 of the  
16 federal Clean Water Act.

17 (b) The following are presumed to be adjacent or have a  
18 significant nexus to maintaining the chemical, physical, or  
19 biological integrity of a navigable water and as such are  
20 State jurisdictional wetlands for purposes of this Act:

21 (1) wetlands that are wholly or partially located  
22 within 100 feet of the ordinary high water mark of a  
23 navigable water, interstate water, or tributary;

24 (2) wetlands that are wholly or partially located in  
25 the 100-year floodplain and are within 1,500 feet of the

1 ordinary high water mark of a navigable water, interstate  
2 water, or tributary;

3 (3) wetlands that are wholly or partially within 1,500  
4 feet of the ordinary high water mark of Lake Michigan; or

5 (4) wetlands that have a visible surface water or a  
6 regular shallow subsurface water connection to a navigable  
7 water.

8 (c) An affected property owner or developer may introduce  
9 information that is relevant to demonstrate that a particular  
10 wetland is not a State jurisdictional wetland, thereby  
11 rebutting the presumption in subsection (b). The Department  
12 shall consider information presented to rebut the presumption  
13 and determine whether the presumption has been rebutted. If  
14 the Department determines that the presumption is rebutted and  
15 the wetland is not a jurisdictional wetland for the purpose of  
16 this Act, the wetland shall not be subject to this Act.

17 Section 25. Regulated activities; individual permits;  
18 wetland classification; mitigation; delineation.

19 (a) No person may discharge dredged or fill material into  
20 a State jurisdictional wetland protected by this Act except in  
21 accordance with the terms of an individual or general permit  
22 issued by the Department under this Section or Section 30 of  
23 this Act. This subsection (a) becomes effective on the date  
24 the Department adopts rules under Section 40 of this Act.

25 (b) No permit shall be required under this Act, and the

1 requirements of the Act shall not apply to, renewable energy  
2 facility construction, maintenance, repair, improvement, or  
3 reconstruction that commenced construction before the  
4 effective date of rules adopted under Section 40 of this Act.  
5 For purposes of this subsection, "commenced construction"  
6 means:

7 (1) to have begun a continuous program of on-site  
8 physical construction, such as the placement, assembly, or  
9 installation of facilities or equipment or the conducting  
10 of site preparation work, including clearing, excavation,  
11 or removal of existing structures;

12 (2) to have submitted a binding application or bid to  
13 the Illinois Power Agency to execute a Renewable Energy  
14 Credit Contract under Section 1-75 of the Illinois Power  
15 Agency Act;

16 (3) to have entered into a binding contractual  
17 agreement for the purchase and sale of electricity; or

18 (4) to have obtained municipal or county siting  
19 approval, a special use permit, or building approval.

20 (c) Wetlands shall be classified as follows:

21 (1) The Department shall classify a wetland as Class I  
22 if the wetland:

23 (A) is or encompasses a bog, bottomland hardwood  
24 forest, fen, panne, or cypress swamp;

25 (B) has been designated a Ramsar wetland of  
26 international importance under the Convention on

1 Wetlands;

2 (C) is designated for important flood protection  
3 services under paragraph (3);

4 (D) is occupied or suitable habitat for a  
5 threatened or endangered species listed under State or  
6 federal law;

7 (E) has a Floristic Quality Index that is equal to  
8 or greater than 20 or a mean coefficient of  
9 conservatism (Mean C) equal to or greater than 3.5,  
10 determined in accordance with rules adopted by the  
11 Department; or

12 (F) is a High-Quality Aquatic Resource.

13 (2) The Department shall classify a non-Class I  
14 wetland as a Class II wetland if the wetland, including  
15 its contiguous area, is larger than 0.5 acres. However, if  
16 a non-Class I wetland is smaller than 0.5 acres it shall be  
17 designated a Class III wetland. If a Class III wetland is  
18 1/10th of an acre or smaller, there is no permit required.

19 (3) The Department may, in consultation with the  
20 Illinois Emergency Management Agency and Office of  
21 Homeland Security, the Federal Emergency Management Agency  
22 or local authorities, designate a wetland as a Class I  
23 wetland due to important flood protection services  
24 protecting human life and property if the wetland is no  
25 longer protected under the federal Clean Water Act.

26 (c) Mitigation shall be required in accordance with this

1 Act for permitted activities and shall be conducted according  
2 to the following preferred order:

3 (1) Discharges impacting Class I wetlands shall be  
4 mitigated through either on-site mitigation or off-site  
5 mitigation at an approved wetland mitigation bank within  
6 the same watershed as the location of the proposed fill.  
7 Mitigation shall be in kind, restoring to the maximum  
8 degree practicable, as determined by the Department, both  
9 the type and functions of the wetland that will be  
10 affected by the regulated activity. The mitigation ratio  
11 shall be 5:1 unless the Director, for good cause shown and  
12 on a case-by-case basis, authorizes a higher mitigation  
13 ratio not to exceed 6:1 or a lower mitigation ratio not  
14 less than 4:1. In lieu fee mitigation may be used for  
15 mitigation when there are no available mitigation credits  
16 within the watershed.

17 (2) Discharges impacting Class II wetlands shall be  
18 mitigated through either on-site mitigation or off-site  
19 mitigation at an approved wetland mitigation bank within  
20 the same watershed as the location of the proposed fill.  
21 Mitigation shall be in kind, restoring to the maximum  
22 degree practicable as determined by the Department, both  
23 the type and functions of the wetland that will be  
24 affected by the regulated activity. The mitigation ratio  
25 shall be 3:1 unless the Director, for good cause shown and  
26 on a case-by-case basis, authorizes a higher mitigation

1 ratio not to exceed 3.5:1 or a lower mitigation ratio not  
2 less than 2.5:1. In lieu fee mitigation may be used for  
3 mitigation when there are no available mitigation credits  
4 within the watershed.

5 (3) Discharges impacting Class III wetlands shall be  
6 mitigated through either participation in an approved  
7 wetland mitigation bank or an approved in-lieu fee  
8 program, unless the Department for good cause requires in  
9 kind on-site mitigation or off-site mitigation at an  
10 approved mitigation bank. The mitigation ratio shall be  
11 1.5:1 for compensation through an approved wetland  
12 mitigation bank and 2:1 for compensation through an  
13 approved in-lieu fee program. The Director, for good cause  
14 shown and on a case-by-case basis, may authorize a higher  
15 or lower mitigation ratio.

16 (d) Persons seeking a permit are responsible for wetland  
17 delineation and classification made by or under the  
18 supervision of an approved wetland specialist. Wetland  
19 delineations shall be made in accordance with the Corps of  
20 Engineers Wetland Delineation Manual. Classifications shall be  
21 in accordance with this Section or an approved program under  
22 Section 55. Delineations by the Corps of Engineers, by  
23 approved counties, or by Corps of Engineers approved agencies  
24 shall be honored.

25 (e) Persons seeking an individual permit shall provide the  
26 Department with a complete application, including, at a

1 minimum, the following items: (i) a map of the area that will  
2 be affected by the activity, including wetland and water  
3 boundaries for the areas affected and the existing uses and  
4 structures; (ii) a wetland delineation made in accordance with  
5 the Corps of Engineers Wetland Delineation Manual by or under  
6 the supervision of an approved wetland specialist and this  
7 Section; (iii) a description of the proposed activity,  
8 including its purpose, the location and dimensions of any  
9 structures, grading or fills, drainage, roads, sewers and  
10 water supply, parking lots, stormwater facilities, discharge  
11 of pollutants and on-site waste disposal; (iv) a description  
12 of any public benefit to be derived from the proposed project;  
13 (v) a description of avoidance, minimization, and mitigation,  
14 including a mitigation plan; and (vi) the names and addresses  
15 of adjacent landowners as determined by the current tax  
16 assessment rolls. The Department shall notify the applicant  
17 within 20 business days if the permit application is  
18 incomplete and provide a reasonable time for the applicant to  
19 correct deficiencies in the permit application. Within 90  
20 business days of receipt of a complete permit application, the  
21 Department shall either issue the permit, deny the permit, or  
22 issue the permit with conditions. All individual permit  
23 decisions are subject to public comment. If a public hearing  
24 is held, the deadline to make a permit determination is  
25 extended by 45 business days.

26 (f) The Department shall evaluate individual permit

1 requests through the following sequence: (i) avoidance of  
2 impacts to aquatic resources if a less environmentally  
3 damaging practicable alternative exists; (ii) minimization of  
4 unavoidable impacts by taking appropriate and practicable  
5 steps such as reduction of the footprint of the fill; (iii)  
6 compensatory mitigation for any remaining impacts to aquatic  
7 resources in accordance with this Act. The Department shall  
8 not issue an individual permit pursuant to this Section unless  
9 the Agency has certified to the Department that the proposed  
10 activity will not cause or contribute to a violation of a State  
11 water quality standard. The Agency shall, within 80 business  
12 days of receipt of a complete application, approve, deny, or  
13 approve with conditions the water quality certification. The  
14 applicant for a permit may mutually agree to extend the 80-day  
15 deadline up to an additional 80 business days in which the  
16 Agency must take final action on the water quality  
17 certification under this paragraph. If the Agency does not  
18 approve, deny, or approve with conditions the water quality  
19 certification within the extended time period, the  
20 certification requirements shall be waived and the Department  
21 may issue their permit decision consistent with the sections  
22 of this Act.

23 (g) Upon request by an applicant, the Department may issue  
24 an after-the-fact permit if the Department determines that the  
25 activities covered by the after-the-fact permit were  
26 undertaken and conducted in response to emergency

1 circumstances that constituted an imminent threat to persons,  
2 public infrastructure, personal property, or uninterrupted  
3 utility service. The request for an after-the-fact permit must  
4 be made as soon as reasonably possible after the event. The  
5 Department shall require compensatory mitigation. If the  
6 Department for good cause shown denies an after-the-fact  
7 permit, the applicant shall be in violation of this Act.  
8 However, the applicant and Department may, through mutual  
9 agreement, provide for compensatory mitigation, restoration,  
10 or other measures to resolve the violation. In such an  
11 instance, the applicant may appeal the denial of an  
12 after-the-fact permit consistent with the appeals procedures  
13 in this Act.

14 (h) The permit applicant and the Department may waive or  
15 extend the permit deadlines in this Section through mutual  
16 agreement. If the Department is unable to comply with the  
17 permit deadlines and they are not waived or extended through  
18 mutual agreement, the permit application will be denied  
19 without prejudice.

20 Section 30. General permits.

21 (a) Notwithstanding Section 25, any person who intends to  
22 conduct a regulated activity within the State may do so in  
23 accordance with a general permit issued by the Department  
24 under this Section. A general permit pre-authorizes a category  
25 of activities that are similar in nature and impact on water

1 quality, will have only minimal adverse effects when performed  
2 separately, will have minimal cumulative impacts on water  
3 quality provided the permittee complies with all of the  
4 conditions of the general permit, and will not cause or  
5 contribute to a violation of State water quality standards.

6 (b) Permits for all categories of activities, subject to  
7 the same permit limitations and conditions, that are the  
8 subject of a nationwide permit issued by the Corps of  
9 Engineers, in effect on the date of the enactment of this Act,  
10 are adopted as general permits covering regulated activities  
11 subject to this Act. Notwithstanding the foregoing, all such  
12 permits will include a preconstruction notification  
13 requirement and compensatory mitigation, unless the permit  
14 states compensatory mitigation is not required because the  
15 work is designed to improve water quality or, with respect to  
16 voluntary aquatic habitat restoration, to provide net increase  
17 in wetland function. In any case, compensatory mitigation is  
18 not required for impacts below 1/10 of an acre.

19 (c) The Department may, through rulemaking in accordance  
20 with the Illinois Administrative Procedure Act, adopt general  
21 permits covering activities not covered by general permits  
22 under subsection (b) of this Section if the Department  
23 determines that the activities in the category would be  
24 subject to the same permit limitations and conditions and will  
25 cause only minimal adverse environmental effects when  
26 performed separately, will have only minimal cumulative

1 adverse effect on the environment, will not cause or  
2 contribute to a violation of State water quality standards  
3 when performed separately, and will have only a minimal  
4 cumulative adverse effect on water quality. The Department  
5 shall prescribe best management practices for any general  
6 permit issued under this Section. The Department shall include  
7 compensatory mitigation requirements in general permits for  
8 impacts that exceed 1/10 of an acre.

9 (d) The Department shall adopt a general permit for:

10 (1) construction or maintenance of access roads for  
11 utility lines, substations, or related equipment or  
12 facilities with adequate culverts, bridges, or other  
13 structures to provide freshwater connectivity and passage  
14 for fish or other aquatic life;

15 (2) activities for the purpose of preserving and  
16 enhancing aviation safety or to prevent an airport hazard;  
17 and

18 (3) conservation activities, such as voluntary aquatic  
19 habitat restoration and fish passage.

20 The Department shall develop the general permit under  
21 paragraph (3) in consultation with local, state, and federal  
22 resource agencies, such as the U.S. Fish and Wildlife Service,  
23 and qualified non-profit organizations engaged in aquatic  
24 habitat restoration as a central part of their mission.

25 (e) No general permit adopted under subsection (b), (c),  
26 or (d) of this Section shall be for a period of more than 5

1 years after the date of its adoption, and the Department shall  
2 revoke or modify such a general permit, after opportunity for  
3 public hearing, if the Department determines that the  
4 activities authorized by the general permit have an adverse  
5 impact on the environment, cause or contribute to a violation  
6 of State water quality standards, or are more appropriately  
7 authorized by individual permits.

8 (f) Compliance with the terms of a general permit shall be  
9 deemed compliance with the provisions of this Act if the  
10 applicant:

11 (1) files a preconstruction notification in accordance  
12 with regulations adopted under this Act, including the  
13 specific requirements of the general permit;

14 (2) files all reports required by the general permit;

15 (3) complies with all limitations required by the  
16 general permit; and

17 (4) complies with applicable compensatory mitigation  
18 requirements.

19 (g) The Department may respond to a preconstruction  
20 notification issued under this Section within 30 days after  
21 the Department receives the notice. In any response, the  
22 Department may require the applicant to:

23 (1) provide more information to determine whether the  
24 applicant's proposed regulated activity is covered by the  
25 general permit;

26 (2) file a preconstruction notification for a

1 different general permit if the Department determines the  
2 applicant's proposed activity is not covered by the  
3 general permit for which the notification was filed; or

4 (3) apply for an individual permit if the Department  
5 determines that the proposed activity does not fall within  
6 the scope of any valid general permit.

7 (h) If a person files a preconstruction discharge  
8 notification and receives no response under subsection (g) of  
9 this Section for a general permit that is valid at the time of  
10 the notification but that general permit is later modified,  
11 revoked, or expires, that person may proceed as if that  
12 general permit were still valid for the purposes of the  
13 project for which the preconstruction discharge notification  
14 was filed.

15 (i) The Department may require bonds or letters of credit  
16 in favor of the State, including conditions sufficient to  
17 secure compliance with conditions and limitations of a permit  
18 under this Act.

19 Section 35. In lieu fee program; permittee responsible for  
20 on-site mitigation and mitigation banking.

21 (a) The following entities may establish and operate a  
22 mitigation bank or in lieu fee program consistent with this  
23 Act and rules implementing this Act:

24 (1) State agencies;

25 (2) qualified for-profit and non-profit entities; and

1           (3) units of local government, including, but not  
2           limited to, counties, the Metropolitan Water Reclamation  
3           District of Greater Chicago (MWRD), soil and water  
4           conservation districts, and county forest districts.

5           (b) Mitigation banks may be established on public or  
6           private lands and must be located on sites that possess the  
7           physical, chemical, and biological characteristics to support  
8           establishment of the desired aquatic resources and functions,  
9           such as wetland hydrology.

10          A mitigation bank may be approved to provide mitigation  
11          for impacts to wetlands that have been approved by the Corps of  
12          Engineers under Section 404 of the federal Clean Water Act,  
13          for impacts to wetlands under the Illinois Interagency  
14          Wetlands Policy Act of 1989, or for both. A mitigation bank  
15          must be approved by the Department in accordance with this Act  
16          and implementing rules, by an approved county, or by the Corps  
17          of Engineers in accordance with the process established in 33  
18          CFR 332.8 and 40 CFR 230.98.

19          (c) The requirements for mitigation banks shall include a  
20          mitigation bank instrument, long-term management and  
21          protection, monitoring requirements, remedial action  
22          procedures, reporting requirements, and financial assurances,  
23          such as performance bonds.

24          (d) In lieu fee programs must include (i) an agreement  
25          between an operating entity listed in subsection (a) and the  
26          Department that is similar to a mitigation bank instrument,

1 (ii) a time-table, such as a requirement to use funds to design  
2 and implement restoration projects within 3 years, (iii)  
3 accounting requirements, including, but not limited to,  
4 watershed-based accounting, (iv) monitoring requirements, (v)  
5 reporting requirements, and (vi) financial assurances. Any  
6 agency in lieu fee program must have provisions that protect  
7 the integrity of the fund and prevent this funding from being  
8 reassigned to other uses.

9 (e) The permittee is responsible for on-site mitigation as  
10 approved by the Department on a case-by-case basis in  
11 accordance with this Act and implementing rules if (i) on-site  
12 mitigation has a strong likelihood of success, (ii) the  
13 permittee has a Department approved monitoring plan, and (iii)  
14 sufficient financial assurances, such as bonds or letters of  
15 credit in favor of the State, have been provided as required by  
16 the Department to assure long-term success.

17 Section 40. Rulemaking and reporting.

18 (a) The Department shall adopt rules pursuant to the  
19 Illinois Administrative Procedure Act:

20 (1) to implement Sections 25 and 30 of this Act within  
21 one year after the effective date of this Act, including:

22 (A) rules for the review, issuance, denial, or  
23 issuance with conditions of individual permits; and

24 (B) rules to promulgate, revise, or revoke general  
25 permits;

1           (2) to administer and prioritize use of funding from  
2 the Wetlands Protection Fund under Section 60 of this Act;

3           (3) to approve mitigation banks and in lieu fee  
4 programs under Section 35 of this Act, including:

5           (A) criteria that an applicant to operate a  
6 mitigation or in lieu fee program under Section 35 of  
7 this Act shall meet and that are at least as stringent  
8 as the U.S. Army Corps of Engineers requirements set  
9 out in 33 CFR Part 332;

10           (B) requirements for in lieu fee agreements  
11 consistent with subsection (d) of Section 35 of this  
12 Act;

13           (C) priority for mitigation banks and in lieu fee  
14 programs that restore previously existing wetlands and  
15 small streams; and

16           (D) surety provisions for permittee-responsible  
17 on-site mitigation, mitigation banks, and in lieu fee  
18 programs;

19           (4) to establish, within one year after the effective  
20 date of this Act, the procedures under which a  
21 governmental body with a stormwater management program  
22 under Section 5-1062 of the Counties Code or under Section  
23 7h of the Metropolitan Water Reclamation District Act  
24 shall be recognized to have met the conditions of  
25 subsection (b) of Section 55 of this Act;

26           (5) to govern State jurisdictional wetlands

1 determinations; State jurisdictional wetlands are adjacent  
2 to or otherwise have a significant nexus to maintaining  
3 the chemical, physical or biological integrity of  
4 navigable waters;

5 (6) to establish procedures and standards for  
6 rebutting a significant nexus presumption under Section 20  
7 of this Act;

8 (7) to provide for approval of wetland delineators  
9 consistent with subsection (f) of Section 25 of this Act,  
10 including recognition of existing county, special  
11 district, or U.S. Army Corps of Engineers wetland  
12 delineator training programs, approval programs, or both;  
13 and

14 (8) to otherwise implement and administer this Act.

15 (b) The Department may provide by rule for any  
16 requirements regarding bonds or letters of credit in favor of  
17 the State, including conditions sufficient to secure  
18 compliance with conditions and limitations of a permit.

19 (c) The Department may consult with the Illinois Water  
20 Plan Task Force.

21 (d) The Department shall seek to create a joint permit  
22 process with the U.S. Army Corps of Engineers.

23 (e) Subject to appropriation, the Department shall do all  
24 of the following:

25 (1) provide a report to the Governor and the Illinois  
26 General Assembly regarding implementation of this Act and

1 recommendations, including legislative proposals, to  
2 enhance the effectiveness of this Act;

3 (2) provide recommendations to harmonize these  
4 wetlands protections with the Illinois Interagency  
5 Wetlands Policy Act of 1989; and

6 (3) study the impact of federal rollback of protection  
7 for waters beyond wetlands, such as ephemeral streams, in  
8 Illinois and provide recommendations, including possible  
9 legislative proposals, to protect the citizens of Illinois  
10 and waters of the State.

11 Section 45. Appeal of final Department decisions; judicial  
12 review.

13 (a) Any permit applicant who has been denied a permit in  
14 whole or in part, and any person who participated in the permit  
15 proceeding and who is aggrieved by a decision of the  
16 Department to grant a permit in whole or in part, may appeal  
17 the decision to the Director within 60 calendar days of the  
18 date the permit is granted or denied. In all such appeals, the  
19 burden of persuasion shall be on the party appealing the  
20 Department's decision. Appeals shall be in accordance with  
21 administrative rules set out by the Department, including  
22 allowed basis for appeals.

23 (b) A person who is aggrieved by a final decision made  
24 under this Act and who has participated in an appeal to the  
25 Director under subsection (a) of this Section, including

1 parties that have participated in the permit process if a  
2 permit was granted, may seek judicial review of the Director's  
3 decision under the Administrative Review Law.

4 Section 50. Investigation; enforcement.

5 (a) In accordance with constitutional limitations, the  
6 Department shall have authority to enter at all reasonable  
7 times upon any private or public lands for the purpose of  
8 inspecting and investigating to ascertain compliance and  
9 possible violations of this Act, implementing rules, or permit  
10 terms or conditions.

11 (b) The civil penalties provided for in this Section may  
12 be recovered in a civil action that may be instituted in a  
13 court with jurisdiction over the place where the violation  
14 occurred. The State's Attorney of the county in which the  
15 alleged violation occurred, or the Attorney General may, at  
16 the request of the Department or on the State's Attorney's or  
17 Attorney General's own motion, institute a civil action in a  
18 court of competent jurisdiction to recover civil penalties and  
19 to obtain an injunction to restrain violations of this Act and  
20 to compel compliance with this Act.

21 (c) Any person who violates any provision of this Act, any  
22 rule adopted under this Act, any permit issued under this Act,  
23 or any term or condition of a permit issued under this Act  
24 shall be liable for a civil penalty not to exceed \$10,000 per  
25 day of violation. Any such penalty shall be made payable to the

1 Wetlands Protection Fund and shall be deposited into that Fund  
2 as provided in Section 60. In assessing a penalty, courts  
3 shall consider any matters of record including:

4 (1) the duration and gravity of the violation;

5 (2) the presence or absence of due diligence on the  
6 part of the violator in attempting to comply with the Act;

7 (3) any economic benefits accrued by the violator  
8 through the violation;

9 (4) the likely deterrence effect of the penalty;

10 (5) any history on the part of the violator of past  
11 violations of this Act; and

12 (6) a recommendation by the Department to limit or  
13 waive penalties.

14 (d) All final orders imposing civil penalties under this  
15 Section shall prescribe the deadline for payment. If such a  
16 penalty is not paid within the time prescribed, interest on  
17 the penalty shall be charged at the rate set forth in  
18 subsection (a) of Section 1003 of the Illinois Income Tax Act  
19 unless the deadline for payment is stayed by a court pending  
20 appeal.

21 (e) The Department may terminate a permit if the permittee  
22 violated the terms or conditions of the permit, obtained the  
23 permit by misrepresentation, or failed to disclose relevant  
24 facts.

25 (f) The Attorney General or State's Attorney of the county  
26 where the affected wetland is located, may, upon his or her own

1 motion or upon request of the Department, institute a civil  
2 action in circuit court for an injunction or other appropriate  
3 legal action to restrain a violation of this Act. In the  
4 proceeding, the court shall determine whether a violation of  
5 this Act has been committed, and shall enter any order it  
6 considers necessary to remove the effects of the violation and  
7 to prevent the violation from occurring, continuing or being  
8 renewed in the future. An order may include a requirement that  
9 the violator restore the affected wetland area, including a  
10 provision that, if the violator does not comply by restoring  
11 the wetland within a reasonable time, the Department may  
12 restore the wetland to its condition prior to the violation  
13 and the violator shall be liable to the Department for the cost  
14 of the restoration. However, the Department retains the right  
15 to act to remedy emergency situations, such as threats to  
16 public safety, and the violator shall be liable to the  
17 Department for the cost of the restoration.

18 (g) Any person, other than the Attorney General or the  
19 State's Attorney, may file a complaint with the Illinois  
20 Pollution Control Board against any person allegedly violating  
21 this Act, any rule adopted under this Act, any permit issued  
22 under this Act, or any term or condition of a permit issued  
23 under this Act, or any relevant Board order. The Board shall  
24 have authority to conduct proceedings upon complaints charging  
25 such violations of this Act unless the Board determines that  
26 such complaint is duplicative or frivolous. The Board may

1 impose civil penalties for a violation of this Act as  
2 described in subsection (c).

3 (h) Any penalty assessed under this Act, including costs  
4 of wetland restoration and any restoration requirement, shall  
5 be recorded by the clerk of the court as a lien against the  
6 property and shall not be removed until the penalty is paid or  
7 the restoration is completed.

8 (i) All costs, fees, and expenses in connection with an  
9 enforcement or restoration action shall be assessed as damages  
10 against the violator.

11 (j) Enforcement actions under this Section may be  
12 concurrent or separate.

13 Section 55. County and special district authority.

14 (a) Nothing in this Act preempts or denies the right of any  
15 governmental body with a stormwater management program under  
16 Section 5-1062 of the Counties Code or a special district with  
17 a stormwater program under Section 7h of the Metropolitan  
18 Water Reclamation District Act from controlling or regulating  
19 activities in any wetlands within the jurisdiction of the  
20 governmental body.

21 (b) Upon the request of a governmental body with a  
22 stormwater management program under Section 5-1062 of the  
23 Counties Code or under Section 7h of the Metropolitan Water  
24 Reclamation District Act, the Director shall, within 30  
25 calendar days of receiving the written request or, in the case

1 of subsection (d), within 30 calendar days after the effective  
2 date of this Act, provide a letter of recognition delegating  
3 permitting authority under this Act to the county or special  
4 district stormwater program. Subject to subsection (c), the  
5 letter of recognition shall be provided if the governmental  
6 body's stormwater management program:

7 (1) provides wetlands protections that are consistent  
8 with the scope and intent of this Act and that are at least  
9 as stringent as those in this Act;

10 (2) has an administration and qualified staff to  
11 implement the governmental body's stormwater management  
12 program; and

13 (3) is implementing and enforcing its stormwater  
14 management program.

15 (c) Activities within or affecting wetlands that occur in  
16 the jurisdiction of a governmental body with a stormwater  
17 management program under Section 5-1062 of the Counties Code  
18 or under Section 7h of the Metropolitan Water Reclamation  
19 District Act and that meet the requirements of paragraphs (1),  
20 (2), and (3) of subsection (b) of this Section are deemed to be  
21 in compliance with the requirements of this Act, but must meet  
22 those county or special district stormwater management  
23 requirements, at a minimum. This also applies during the  
24 period that the Department is considering a county's request  
25 under subsection (b), but the requirements of this Act do  
26 apply until the county has requested recognition under

1 subsection (b).

2 (d) Lake, Cook, Kane, McHenry, and DuPage Counties and the  
3 Metropolitan Water Reclamation District of Greater Chicago are  
4 deemed to have requested recognition as of the effective date  
5 of this Act, and their programs are deemed to meet the  
6 requirements of paragraph (b) of this Section.

7 (e) The Director may rescind recognition status, or place  
8 conditions on recognition status, for any county or special  
9 district program as set out in administrative rule, if the  
10 defect with regard to subsection (b) is not resolved. However,  
11 notwithstanding any other provision of this Section, a county  
12 or special district delegation will not be revoked or modified  
13 if the local program remains at least as stringent as it was on  
14 the effective date of this Act.

15 (f) A governmental body with a stormwater management  
16 program under Section 5-1062 of the Counties Code or under  
17 Section 7h of the Metropolitan Water Reclamation District Act  
18 that has obtained recognition by the Director under this  
19 Section shall submit an annual report to the Director.

20 (g) Nothing in this Act shall be construed as a limitation  
21 or preemption of any home rule power.

22 (h) The Department may provide technical assistance and  
23 grant funding under Section 60 to governmental bodies with  
24 approved programs under this Section.

25 Section 60. Wetlands Protection Fund.

1           (a) The Wetlands Protection Fund shall be established as a  
2 special fund in the State treasury, to be managed by the  
3 Department, separate and distinct from the General Revenue  
4 Fund. Any interest earned by the Wetlands Protection Fund  
5 shall be credited to the Fund. The purpose of the Wetlands  
6 Protection Fund is to further wetlands and small streams  
7 protection and management. Its purpose is to supplement, not  
8 supplant, existing Department resources. The Wetlands  
9 Protection Fund may not be used to pay for compensatory  
10 mitigation obligations under this Act.

11           (b) Pursuant to Section 50, all penalties collected by the  
12 Department under this Act shall be deposited into the Wetlands  
13 Protection Fund.

14           (c) The Illinois General Assembly may appropriate  
15 additional moneys to the Wetlands Protection Fund to implement  
16 this Act.

17           (d) The Department shall use the moneys in the Wetlands  
18 Protection Fund to further wetlands and small streams  
19 protection and management. Eligible uses of moneys in the Fund  
20 include:

- 21           (1) providing technical assistance and grant funding  
22 to counties or special districts with approved programs  
23 under Section 55 to restore, preserve, enhance, protect,  
24 or maintain wetlands, streams, and upland buffers,  
25 particularly Class I areas or wetlands, waters, and  
26 buffers that provide floodwater storage and flood risk

1 reduction;

2 (2) supplementing other State, local, or private  
3 funding for non-compensatory wetlands and small streams  
4 restoration, enhancement, preservation and maintenance;

5 (3) providing matching funds for wetland and stream  
6 inventories, mapping, watershed planning and wetland  
7 program development grants; and

8 (4) covering staffing, administrative, and enforcement  
9 costs for the Department to implement this Act.

10 Section 65. Review fee. All inquiries to determine whether  
11 or not the proposed activity requires permit authorization by  
12 the Department under this Act will be reviewed by the  
13 Department free of charge. A permit review fee that is to be  
14 set by the Department by rule is required for all permit  
15 applications under this Act. The Department shall establish a  
16 graduated review fee payment schedule depending on the  
17 intensity of required review and the size of the individual  
18 project. Accordingly, the highest review fees will be charged  
19 for individual permits to authorize major projects. The  
20 Department may, by rule, impose a reasonable fee for wetlands  
21 delineation and classification.

22 Section 90. The State Finance Act is amended by adding  
23 Section 5.1030 as follows:

1 (30 ILCS 105/5.1030 new)

2 Sec. 5.1030. The Wetlands Protection Fund.

3 Section 97. Severability. The provisions of this Act are  
4 severable under Section 1.31 of the Statute on Statutes."

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

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Statutes amended in order of appearance

3

New Act

4

30 ILCS 105/5.1030 new