

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 5. The Environmental Protection Act is amended by
5 changing Sections 4 and 7 as follows:

6 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

7 Sec. 4. Environmental Protection Agency; establishment;
8 duties.

9 (a) There is established in the Executive Branch of the
10 State Government an agency to be known as the Environmental
11 Protection Agency. This Agency shall be under the supervision
12 and direction of a Director who shall be appointed by the
13 Governor with the advice and consent of the Senate. The term of
14 office of the Director shall expire on the third Monday of
15 January in odd numbered years, provided that he or she shall
16 hold office until a successor is appointed and has qualified.
17 The Director shall receive an annual salary as set by the
18 Governor from time to time or as set by the Compensation Review
19 Board, whichever is greater. If set by the Governor, the
20 Director's annual salary may not exceed 85% of the Governor's
21 annual salary. The Director, in accord with the Personnel Code,
22 shall employ and direct such personnel, and shall provide for
23 such laboratory and other facilities, as may be necessary to
24 carry out the purposes of this Act. In addition, the Director
25 may by agreement secure such services as he or she may deem
26 necessary from any other department, agency, or unit of the
27 State Government, and may employ and compensate such
28 consultants and technical assistants as may be required.

29 (b) The Agency shall have the duty to collect and
30 disseminate such information, acquire such technical data, and
31 conduct such experiments as may be required to carry out the
32 purposes of this Act, including ascertainment of the quantity

1 and nature of discharges from any contaminant source and data
2 on those sources, and to operate and arrange for the operation
3 of devices for the monitoring of environmental quality.

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

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

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

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

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

28 The Agency's duty to investigate under this Act may include
29 the authority to collect and solicit citizen complaints
30 alleging a violation of the Act, any rule adopted under the
31 Act, a permit granted by the Agency, or a condition of the
32 permit via telephone, website, fax, mail, e-mail, or any other
33 reasonable means. The Agency may accept citizen complaints that
34 are anonymous and unaccompanied by the name and mailing address
35 of the complainant, except that, for complaints alleging a
36 violation arising out of agricultural production, the

1 complainant must provide his or her name and mailing address.
2 The Agency shall keep the name and address of complainants
3 confidential as provided in Section 7 and subject to the
4 penalty provisions of Section 44 of this Act. As used in this
5 paragraph, "agricultural production" means the production for
6 commercial purposes of crops, livestock, and livestock and
7 aquatic products, but not the processing of such crops,
8 livestock, or livestock or aquatic products by persons who are
9 not producing them.

10 (f) The Agency shall appear before the Board in any hearing
11 upon a petition for variance, the denial of a permit, or the
12 validity or effect of a rule or regulation of the Board, and
13 shall have the authority to appear before the Board in any
14 hearing under the Act.

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

30 (h) The Agency shall have authority to require the
31 submission of complete plans and specifications from any
32 applicant for a permit required by this Act or by regulations
33 thereunder, and to require the submission of such reports
34 regarding actual or potential violations of this Act, any rule
35 or regulation adopted under this Act, any permit or term or
36 condition of a permit, or any Board order, as may be necessary

1 for the purposes of this Act.

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

5 (j) The Agency shall have the duty to represent the State
6 of Illinois in any and all matters pertaining to plans,
7 procedures, or negotiations for interstate compacts or other
8 governmental arrangements relating to environmental
9 protection.

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

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

26 (l) The Agency is hereby designated as water pollution
27 agency for the state for all purposes of the Federal Water
28 Pollution Control Act, as amended; as implementing agency for
29 the State for all purposes of the Safe Drinking Water Act,
30 Public Law 93-523, as now or hereafter amended, except Section
31 1425 of that Act; as air pollution agency for the state for all
32 purposes of the Clean Air Act of 1970, Public Law 91-604,
33 approved December 31, 1970, as amended; and as solid waste
34 agency for the state for all purposes of the Solid Waste
35 Disposal Act, Public Law 89-272, approved October 20, 1965, and
36 amended by the Resource Recovery Act of 1970, Public Law

1 91-512, approved October 26, 1970, as amended, and amended by
2 the Resource Conservation and Recovery Act of 1976, (P.L.
3 94-580) approved October 21, 1976, as amended; as noise control
4 agency for the state for all purposes of the Noise Control Act
5 of 1972, Public Law 92-574, approved October 27, 1972, as
6 amended; and as implementing agency for the State for all
7 purposes of the Comprehensive Environmental Response,
8 Compensation, and Liability Act of 1980 (P.L. 96-510), as
9 amended; and otherwise as pollution control agency for the
10 State pursuant to federal laws integrated with the foregoing
11 laws, for financing purposes or otherwise. The Agency is hereby
12 authorized to take all action necessary or appropriate to
13 secure to the State the benefits of such federal Acts, provided
14 that the Agency shall transmit to the United States without
15 change any standards adopted by the Pollution Control Board
16 pursuant to Section 5(c) of this Act. This subsection (l) of
17 Section 4 shall not be construed to bar or prohibit the
18 Environmental Protection Trust Fund Commission from accepting,
19 receiving, and administering on behalf of the State any grants,
20 gifts, loans or other funds for which the Commission is
21 eligible pursuant to the Environmental Protection Trust Fund
22 Act. The Agency is hereby designated as the State agency for
23 all purposes of administering the requirements of Section 313
24 of the federal Emergency Planning and Community Right-to-Know
25 Act of 1986.

26 Any municipality, sanitary district, or other political
27 subdivision, or any Agency of the State or interstate Agency,
28 which makes application for loans or grants under such federal
29 Acts shall notify the Agency of such application; the Agency
30 may participate in proceedings under such federal Acts.

31 (m) The Agency shall have authority, consistent with
32 Section 5(c) and other provisions of this Act, and for purposes
33 of Section 303(e) of the Federal Water Pollution Control Act,
34 as now or hereafter amended, to engage in planning processes
35 and activities and to develop plans in cooperation with units
36 of local government, state agencies and officers, and other

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

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

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

26 (p) Except as provided in Section 17.7, the Agency shall
27 have the duty to analyze samples as required from each public
28 water supply to determine compliance with the contaminant
29 levels specified by the Pollution Control Board. The maximum
30 number of samples which the Agency shall be required to analyze
31 for microbiological quality shall be 6 per month, but the
32 Agency may, at its option, analyze a larger number each month
33 for any supply. Results of sample analyses for additional
34 required bacteriological testing, turbidity, residual chlorine
35 and radionuclides are to be provided to the Agency in
36 accordance with Section 19. Owners of water supplies may enter

1 into agreements with the Agency to provide for reduced Agency
2 participation in sample analyses.

3 (q) The Agency shall have the authority to provide notice
4 to any person who may be liable pursuant to Section 22.2(f) of
5 this Act for a release or a substantial threat of a release of
6 a hazardous substance or pesticide. Such notice shall include
7 the identified response action and an opportunity for such
8 person to perform the response action.

9 (r) The Agency may enter into written delegation agreements
10 with any unit of local government under which it may delegate
11 all or portions of its inspecting, investigating and
12 enforcement functions. Such delegation agreements shall
13 require that work performed thereunder be in accordance with
14 Agency criteria and subject to Agency review. Notwithstanding
15 any other provision of law to the contrary, no unit of local
16 government shall be liable for any injury resulting from the
17 exercise of its authority pursuant to such a delegation
18 agreement unless the injury is proximately caused by the
19 willful and wanton negligence of an agent or employee of the
20 unit of local government, and any policy of insurance coverage
21 issued to a unit of local government may provide for the denial
22 of liability and the nonpayment of claims based upon injuries
23 for which the unit of local government is not liable pursuant
24 to this subsection (r).

25 (s) The Agency shall have authority to take whatever
26 preventive or corrective action is necessary or appropriate,
27 including but not limited to expenditure of monies appropriated
28 from the Build Illinois Bond Fund and the Build Illinois
29 Purposes Fund for removal or remedial action, whenever any
30 hazardous substance or pesticide is released or there is a
31 substantial threat of such a release into the environment. The
32 State, the Director, and any State employee shall be
33 indemnified for any damages or injury arising out of or
34 resulting from any action taken under this subsection. The
35 Director of the Agency is authorized to enter into such
36 contracts and agreements as are necessary to carry out the

1 Agency's duties under this subsection.

2 (t) The Agency shall have authority to distribute grants,
3 subject to appropriation by the General Assembly, for financing
4 and construction of municipal wastewater facilities. With
5 respect to all monies appropriated from the Build Illinois Bond
6 Fund and the Build Illinois Purposes Fund for wastewater
7 facility grants, the Agency shall make distributions in
8 conformity with the rules and regulations established pursuant
9 to the Anti-Pollution Bond Act, as now or hereafter amended.

10 (u) Pursuant to the Illinois Administrative Procedure Act,
11 the Agency shall have the authority to adopt such rules as are
12 necessary or appropriate for the Agency to implement Section
13 31.1 of this Act.

14 (v) (Blank.)

15 (w) Neither the State, nor the Director, nor the Board, nor
16 any State employee shall be liable for any damages or injury
17 arising out of or resulting from any action taken under
18 subsection (s).

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

29 (2) The Agency shall not terminate a grant to a unit of
30 local government for the financing and construction of
31 public water supply facilities unless and until the Agency
32 adopts rules that set forth precise and complete standards,
33 pursuant to Section 5-20 of the Illinois Administrative
34 Procedure Act, for the termination of such grants. The
35 Agency shall not make determinations on whether specific
36 grant conditions are necessary to ensure the integrity of a

1 project or on whether subagreements shall be awarded, with
2 respect to grants for the financing and construction of
3 public water supply facilities, unless and until the Agency
4 adopts rules that set forth precise and complete standards,
5 pursuant to Section 5-20 of the Illinois Administrative
6 Procedure Act, for making such determinations. The Agency
7 shall not issue a stop-work order in relation to such
8 grants unless and until the Agency adopts precise and
9 complete standards, pursuant to Section 5-20 of the
10 Illinois Administrative Procedure Act, for determining
11 whether to issue a stop-work order.

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

17 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

18 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007)

19 Sec. 7. Public inspection; fees.

20 (a) All files, records, and data of the Agency, the Board,
21 and the Department shall be open to reasonable public
22 inspection and may be copied upon payment of reasonable fees to
23 be established where appropriate by the Agency, the Board, or
24 the Department, except for the following:

25 (i) information which constitutes a trade secret;

26 (ii) information privileged against introduction in
27 judicial proceedings;

28 (iii) internal communications of the several agencies;

29 (iv) information concerning secret manufacturing
30 processes or confidential data submitted by any person
31 under this Act; -

32 (v) information concerning the name or address of a
33 citizen complainant who has submitted a complaint to the
34 Agency alleging a violation of the Act, any rule adopted
35 under the Act, a permit granted by the Agency, or a

1 condition of the permit.

2 (b) Notwithstanding subsection (a) above, as to
3 information from or concerning persons subject to NPDES permit
4 requirements:

5 (i) effluent data may under no circumstances be kept
6 confidential; and

7 (ii) the Agency, the Board, and the Department may make
8 available to the public for inspection and copying any
9 required records, reports, information, permits, and
10 permit applications obtained from contaminant sources
11 subject to the provisions of Section 12 (f) of this Act;
12 provided that upon a showing satisfactory to the Agency,
13 the Board or the Department, as the case may be, by any
14 person that such information, or any part thereof (other
15 than effluent data) would, if made public, divulge methods
16 or processes entitled to protection as trade secrets of
17 such person, the Agency, the Board, or the Department, as
18 the case may be, shall treat such information as
19 confidential.

20 (c) Notwithstanding any other provision of this Title or
21 any other law to the contrary, all emission data reported to or
22 otherwise obtained by the Agency, the Board or the Department
23 in connection with any examination, inspection or proceeding
24 under this Act shall be available to the public to the extent
25 required by the federal Clean Air Act, as amended.

26 (d) Notwithstanding subsection (a) above, the quantity and
27 identity of substances being placed or to be placed in
28 landfills or hazardous waste treatment, storage or disposal
29 facilities, and the name of the generator of such substances
30 may under no circumstances be kept confidential.

31 (e) Notwithstanding any other provisions of this Title, or
32 any other law to the contrary, any information accorded
33 confidential treatment may be disclosed or transmitted to other
34 officers, employees or authorized representatives of this
35 State or of the United States concerned with or for the
36 purposes of carrying out this Act or federal environmental

1 statutes and regulations; provided, however, that such
2 information shall be identified as confidential by the Agency,
3 the Board, or the Department, as the case may be. Any
4 confidential information disclosed or transmitted under this
5 provision shall be used for the purposes stated herein.

6 (f) Except as provided in this Act neither the Agency, the
7 Board, nor the Department shall charge any fee for the
8 performance of its respective duties under this Act.

9 (g) All files, records and data of the Agency, the Board
10 and the Department shall be made available to the Department of
11 Public Health pursuant to the Illinois Health and Hazardous
12 Substances Registry Act. Expenses incurred in the copying and
13 transmittal of files, records and data requested pursuant to
14 this subsection (g) shall be the responsibility of the
15 Department of Public Health.

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

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