



Sen. William R. Haine

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LRB098 10237 JWD 44992 a

1 AMENDMENT TO SENATE BILL 1961

2 AMENDMENT NO. _____. Amend Senate Bill 1961, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Asbestos Occupations Licensure Act.

7 Section 5. Scope and application. This Act applies to the
8 training and licensing of persons and firms (1) to perform
9 asbestos inspection, (2) to perform abatement work, and (3) to
10 serve as asbestos abatement contractors, response action
11 contractors, and asbestos workers under both the Asbestos
12 Abatement Act and the Commercial and Public Building Asbestos
13 Abatement Act.

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

15 "Asbestos" means the asbestiform varieties of chrysotile,

1 amosite, crocidolite, tremolite, anthrophyllite, and
2 actinolite.

3 "Asbestos abatement contractor" means any entity that
4 engages in the removal, enclosure, or encapsulation of asbestos
5 containing materials for any school.

6 "Asbestos inspector" means an individual licensed by the
7 Department to perform inspections for the presence of asbestos
8 containing materials.

9 "Asbestos materials" means materials formed by mixing
10 asbestos fibers with other products, including but not limited
11 to rock wool, plaster, cellulose, clay, vermiculite, perlite
12 and a variety of adhesives, and which contain more than 1%
13 asbestos by weight. Some of these materials may be sprayed on
14 surfaces or applied to surfaces in the form of plaster or a
15 textured paint.

16 "Asbestos professional" means an individual who is
17 licensed by the Department to perform the duties of an
18 inspector, management planner, project designer, project
19 supervisor, project manager, or air sampling professional, as
20 applicable, except project supervisors under the direct employ
21 of a licensed asbestos abatement contractor.

22 "Asbestos supervisor" means an asbestos abatement
23 contractor, foreman, or person designated as the asbestos
24 abatement contractor's representative who is responsible for
25 the onsite supervision of the removal, encapsulation, or
26 enclosure of friable or nonfriable asbestos-containing

1 materials in a commercial or public building.

2 "Asbestos worker" means an individual who cleans, removes,
3 encapsulates, encloses, hauls or disposes of friable asbestos
4 material as defined in this Act.

5 "Board" means the Illinois Pollution Control Board.

6 "Department" means the Department of Public Health.

7 "Director" means the Director of Public Health.

8 "Encapsulation" means the treatment of asbestos containing
9 building materials (ACBM), as defined by Section 15 of the
10 Commercial and Public Building Asbestos Abatement Act, with a
11 material that surrounds or embeds asbestos fibers in an
12 adhesive matrix to prevent the release of fibers, as the
13 encapsulant creates a membrane over the surfaces (bridging
14 encapsulant) or penetrates the material and binds its
15 components together (penetrating encapsulant).

16 "Enclosure" means the construction of airtight walls and
17 ceilings between the asbestos material and the facility
18 environment, or around surfaces coated with asbestos
19 materials, or any other appropriate scientific procedure as
20 determined by the Department which prevents the release of
21 asbestos materials.

22 "Friable", when referring to material in a school building,
23 means that the material, when dry, may be crumbled, pulverized,
24 or reduced to powder by hand pressure, and includes previously
25 nonfriable material after such previously nonfriable material
26 becomes damaged to the extent that, when dry, it may be

1 crumbled, pulverized, or reduced to powder by hand pressure.

2 "Friable material containment" means the encapsulation or
3 enclosure of any friable asbestos material in a facility.

4 "Management planner" means an individual licensed by the
5 Department to prepare management plans.

6 "Nonfriable" means material in a school building which,
7 when dry, may not be crumbled, pulverized, or reduced to powder
8 by hand pressure.

9 "Project designer" means an individual licensed by the
10 Department to design response actions.

11 "Response action" means a method, including removal,
12 encapsulation, enclosure, repair, operations and maintenance,
13 that protects human health and the environment from friable
14 ACM.

15 "Response action contractor" means any entity that engages
16 in response action services for any school.

17 Section 15. Powers and duties of the Department.

18 (a) The Department is empowered to promulgate any rules
19 necessary to ensure proper implementation and administration
20 of this Act.

21 (b) Rules promulgated by the Department shall include rules
22 providing for the training and licensing of persons and firms
23 to perform asbestos inspection and air sampling; to perform
24 abatement work; and to serve as asbestos abatement contractors,
25 management, planners, project designers, project supervisors,

1 project managers and asbestos workers for public and private
2 secondary and elementary schools.

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

5 (1) publish a list of persons and firms licensed
6 pursuant to this Act, except that the Department is not
7 required to publish a list of licensed asbestos workers;
8 and

9 (2) adopt rules for the collection of fees for training
10 course approval; and for licensing of inspectors,
11 management planners, project designers, contractors,
12 supervisors, air sampling professionals, project managers
13 and workers.

14 Section 20. Rulemaking. The provisions of the Illinois
15 Administrative Procedure Act are hereby expressly adopted and
16 shall apply to all administrative rules and procedures of the
17 Department of Public Health under this Act, except that in case
18 of conflict between the Illinois Administrative Procedure Act
19 and this Act the provisions of this Act shall control, and
20 except that Section 5-35 of the Illinois Administrative
21 Procedure Act relating to procedures for rulemaking does not
22 apply to the adoption of any rule required by federal law in
23 connection with which the Department is precluded by law from
24 exercising any discretion.

25 Before initiating any rulemaking under this Section, the

1 Department shall consult with the Asbestos Advisory Council as
2 set forth in subsection (h) of Section 59 of the Environmental
3 Protection Act.

4 Section 25. Administrative review. All final
5 administrative decisions of the Department hereunder shall be
6 subject to judicial review pursuant to the Administrative
7 Review Law and the rules adopted pursuant thereto. The term
8 "administrative decision" is defined as in Section 3-101 of the
9 Code of Civil Procedure.

10 Section 30. Hearings. The Director, after notice and
11 opportunity for hearing to the contractor, applicant, or
12 license holder, may deny, suspend, or revoke a license or
13 expunge such person from the State list in any case in which he
14 or she finds that there has been a substantial failure to
15 comply with the provisions of this Act or the standards and
16 rules established by virtue thereof.

17 Such notice shall be provided by certified mail or by
18 personal service setting forth the particular reasons for the
19 proposed action and fixing a date, not less than 15 days from
20 the date of such mailing or service, at which time the
21 applicant, contractor, or license holder shall be given an
22 opportunity to request a hearing.

23 The hearing shall be conducted by the Director or by an
24 individual designated in writing by the Director as Hearing

1 Officer to conduct the hearing. On the basis of any such
2 hearing, or upon default of the applicant, contractor, or
3 license holder, the Director shall make a determination
4 specifying his or her findings and conclusions. A copy of such
5 determination shall be sent by certified mail or served
6 personally upon the applicant, contractor, or license holder.

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

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

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

23 The Director or Hearing Officer, or any party in an
24 investigation or hearing before the Department, may cause the
25 depositions of witnesses within the State to be taken in the
26 manner prescribed by law for like depositions in civil actions

1 in courts of this State, and to that end compel the attendance
2 of witnesses and the production of books, papers, records, or
3 memoranda.

4 Section 35. Consistency with federal law. Rules issued
5 pursuant to this Act, including those governing the preparation
6 of a list of contractors and the removal of contractors
7 therefrom as provided for in Section 40, shall not be
8 inconsistent with rules and regulations promulgated by the
9 United States Environmental Protection Agency pursuant to the
10 Toxic Substances Control Act, the Clean Air Act, or other
11 applicable federal statutes.

12 Section 40. Asbestos abatement contractors; response
13 action contractors. The Department shall prepare a list in
14 cooperation with appropriate State and federal agencies on an
15 annual basis of asbestos abatement contractors and response
16 action contractors familiar with and capable of complying with
17 all applicable federal and State standards for asbestos
18 containment and removal. Additional asbestos abatement
19 contractors or response action contractors wishing to be placed
20 on this list shall notify the Department. The Department shall
21 evaluate this request based on the training and experience of
22 such a potential asbestos abatement contractor or response
23 action contractor and render a decision. If the Department
24 denies the request, such contractor may appeal such a decision

1 pursuant to the Administrative Review Law. Such list shall be
2 made available to all school districts and, upon request, to
3 other interested parties. In contracting for response action
4 services, schools shall select an asbestos abatement
5 contractor or response action contractor from the Department's
6 list.

7 Section 45. Licensing.

8 (a) No air sampling professional, asbestos abatement
9 contractor, asbestos consultant, asbestos inspector, asbestos
10 professional, asbestos supervisor, asbestos worker, management
11 planner, project designer, project manager, project
12 supervisor, or response action contractor may be employed as a
13 response action contractor unless that individual or entity is
14 licensed by the Department. Those individuals and entities
15 wishing to be licensed shall make application on forms
16 prescribed and furnished by the Department. A license shall
17 expire annually according to a schedule determined by the
18 Department. Applications for renewal of licenses shall be filed
19 with the Department at least 30 days before the expiration
20 date. When a licensure examination is required, the application
21 for licensure shall be submitted to the Department at least 30
22 days prior to the date of the scheduled examination. The
23 Department shall evaluate each application based on its minimum
24 standards for licensure, promulgated as rules, and render a
25 decision. Such standards may include a requirement for the

1 successful completion of a course of training approved by the
2 Department. If the Department denies the application, the
3 applicant may appeal such decision pursuant to the
4 Administrative Review Law.

5 However, the licensing requirements of this Section for
6 asbestos consultants do not apply to: (1) an employee of a
7 local education agency who is that local education agency's
8 designated person; or (2) an employee of a State agency while
9 he or she is engaged in his or her professional duties for that
10 State agency.

11 (b) All licenses issued under the Asbestos Abatement Act or
12 the Commercial and Public Building Asbestos Abatement Act, and
13 in effect on the effective date of this Act, shall remain in
14 effect for the remainder of the period for which they were
15 originally issued, as if they had been issued under this Act.

16 Section 50. Certified industrial hygienists. For purposes
17 of this Act and the rules promulgated thereunder, the
18 Department shall use the list of certified industrial
19 hygienists as prepared by the American Board of Industrial
20 Hygiene.

21 Section 55. Contractor's certificates of financial
22 responsibility. Each asbestos abatement contractor wishing to
23 be placed on the Department's approved list of contractors
24 shall submit to the Department a certificate documenting that

1 the contractor carries liability insurance, self insurance,
2 group insurance, group self insurance, a letter of credit, or
3 bond in an amount of at least:

4 (1) \$500,000 for work performed pursuant to the
5 Asbestos Abatement Act and the rules promulgated
6 thereunder.

7 (2) \$1,000,000 for work performed pursuant to this
8 Commercial and Public Building Asbestos Abatement Act and
9 the rules promulgated thereunder.

10 No contractor may be placed on the approved list in the absence
11 of such a certificate. All contractors presently on the
12 approved list shall submit said certificate within 90 days of
13 the effective date of this Act, or the Department shall remove
14 their names from the approved list.

15 Each contractor shall maintain on file with the Department
16 a current certificate of financial responsibility throughout
17 the entire length of time the contractor's name appears on the
18 Department's list of approved contractors. A contractor shall
19 notify the Department of any change in the status of a
20 certificate which has been filed including expiration,
21 renewal, or alteration of the terms of the certificate.

22 Section 60. Civil penalties. The Department is empowered to
23 assess civil penalties for violations of this Act and the rules
24 promulgated under this Act pursuant to rules for such penalties
25 established by the Department.

1 Section 65. Asbestos Occupations Licensure Fund. All fees
2 and penalties collected by the Department pursuant to this Act,
3 and all interest attributable to those amounts, shall be
4 deposited into the Asbestos Occupations Licensure Fund, which
5 is hereby created as a special fund in the State Treasury.
6 Subject to appropriation, all moneys deposited in the Asbestos
7 Occupations Licensure Fund under this Act shall be available to
8 the Department for its administration of this Act. The Asbestos
9 Occupations Licensure Fund is not subject to sweeps,
10 administrative charges or chargebacks, or any other fiscal or
11 budgetary maneuver that would in any way transfer any moneys
12 from the Asbestos Occupations Licensure Fund to any other Fund
13 of the State or in the State treasury.

14 Section 70. The State Finance Act is amended by adding
15 Section 5.826 as follows:

16 (30 ILCS 105/5.826 new)

17 Sec. 5.826. The Asbestos Occupations Licensure Fund.

18 Section 75. The Asbestos Abatement Act is amended by
19 changing Sections 3, 4, 6, 6a, 6b, 7, 9, 9a, 9b, 11, 12a, 12b,
20 12c, 13, 14, and 16 as follows:

21 (105 ILCS 105/3) (from Ch. 122, par. 1403)

1 Sec. 3. Definitions. As used in this Act:

2 (a) "Asbestos" means the asbestiform varieties of
3 chrysotile, amosite, crocidolite, tremolite, anthrophyllite,
4 and actinolite.

5 (b) "Asbestos materials" means materials formed by mixing
6 asbestos fibers with other products, including but not limited
7 to rock wool, plaster, cellulose, clay, vermiculite, perlite
8 and a variety of adhesives, and which contain more than 1%
9 asbestos by weight. Some of these materials may be sprayed on
10 surfaces or applied to surfaces in the form of plaster or a
11 textured paint.

12 (c) "School" means any school district or public, private
13 or nonpublic day or residential educational institution that
14 provides elementary or secondary education for grade 12 or
15 under.

16 (d) "Local educational agency" means:

17 (1) Any local education agency as defined in Section
18 198 of the Elementary and Secondary Education Act of 1965
19 (20 U.S.C. 3381).

20 (2) The owner of any nonpublic, nonprofit elementary or
21 secondary school building.

22 (3) The governing authority of any school operated
23 under the defense dependents' education system provided
24 for under the Defense Department's Education Act of 1978
25 (20 U.S.C. 921, et seq.).

26 (e) "Response action" means a method, including removal,

1 encapsulation, enclosure, repair, operations and maintenance,
2 that protects human health and the environment from friable
3 ACBM.

4 (f) "Asbestos containing building materials" or ACBM means
5 surfacing asbestos containing material or ACM, thermal system
6 insulation ACM or miscellaneous ACM that is found in or on
7 interior structural members or other parts of a school
8 building.

9 (g) "Friable" when referring to material in a school
10 building means that the material, when dry, may be crumbled,
11 pulverized, or reduced to powder by hand pressure, and includes
12 previously nonfriable materials after such previously
13 nonfriable material becomes damaged to the extent that, when
14 dry, it may be crumbled, pulverized, or reduced to powder by
15 hand pressure.

16 (h) "Asbestos Abatement Contractor" means any entity that
17 engages in the removal, enclosure, or encapsulation of asbestos
18 containing materials for any school.

19 (i) "Response action contractor" means any entity that
20 engages in response action services for any school.

21 (j) "Friable material containment" means the encapsulation
22 or enclosure of any friable asbestos material in a facility.

23 (k) "Enclosure" means the construction of airtight walls
24 and ceilings between the asbestos material and the educational
25 facility environment, or around surfaces coated with asbestos
26 materials, or any other appropriate scientific procedure as

1 determined by the Agency ~~Department~~ which prevents the release
2 of asbestos materials.

3 (l) "Encapsulation" means the treatment of ACBM with a
4 material that surrounds or embeds asbestos fibers in an
5 adhesive matrix to prevent the release of fibers, as the
6 encapsulant creates a membrane over the surfaces (bridging
7 encapsulant or penetrates the material and binds its components
8 together (penetrating encapsulant).

9 (m) "Department" means the Department of Public Health.

10 (n) "Director" means the Director of the Illinois
11 Environmental Protection Agency ~~Public Health~~.

12 (o) "School personnel" means any employee of a school.

13 (p) "Student" means any student enrolled in a school.

14 (q) "School Building" means:

15 (1) Any structure suitable for use as a classroom,
16 including a school facility such as a laboratory, library,
17 school eating facility, or facility used for the
18 preparation of food.

19 (2) Any gymnasium or other facility which is specially
20 designed for athletic or recreational activities for an
21 academic course in physical education.

22 (3) Any other facility used for the instruction or
23 housing of students or for the administration of
24 educational or research programs.

25 (4) Any maintenance, storage, or utility facility,
26 including any hallway essential to the operation of any

1 facility described in this definition of "school building"
2 under items (1), (2), or (3).

3 (5) Any portico or covered exterior hallway or walkway.

4 (6) Any exterior portion of a mechanical system used to
5 condition interior space.

6 (r) "Asbestos worker" means an individual who cleans,
7 removes, encapsulates, encloses, hauls or disposes of friable
8 asbestos material in schools as defined in this Act.

9 (s) "Nonfriable" means material in a school building which,
10 when dry, may not be crumbled, pulverized, or reduced to powder
11 by hand pressure.

12 (t) "Management plan" means a plan developed for a local
13 educational agency for the management of asbestos in its school
14 buildings pursuant to the federal Asbestos Hazard Emergency
15 Response Act of 1986 and the regulations promulgated
16 thereunder.

17 (u) "Management planner" means an individual licensed by
18 the Department to prepare management plans.

19 (v) "Project designer" means an individual licensed by the
20 Department to design response actions for school buildings.

21 (w) "Asbestos inspector" means an individual licensed by
22 the Department to perform inspections of schools for the
23 presence of asbestos containing materials.

24 (x) "Agency" means the Illinois Environmental Protection
25 Agency.

26 (y) "Board" means the Illinois Pollution Control Board.

1 (Source: P.A. 86-416; 86-1475.)

2 (105 ILCS 105/4) (from Ch. 122, par. 1404)

3 Sec. 4. Response action. Schools shall undertake and
4 complete such response action as may be required by the federal
5 Asbestos Hazard Emergency Response Act of 1986, the regulations
6 promulgated thereunder, and the rules promulgated by the Board
7 ~~Department~~ pursuant to the Asbestos Abatement Act. Response
8 actions shall be undertaken and completed within the timeframe
9 required by the federal Asbestos Hazard Emergency Response Act
10 of 1986 and the regulations promulgated thereunder.

11 (Source: P.A. 86-416.)

12 (105 ILCS 105/6) (from Ch. 122, par. 1406)

13 Sec. 6. Powers and duties of the Agency ~~Department~~.

14 (a) In accordance with Title VII of the Environmental
15 Protection Act, and after consultation with the Asbestos
16 Advisory Committee as set forth in subsection (h) of Section 59
17 of the Environmental Protection Act, the Agency may propose,
18 and the Board may adopt, ~~The Department is empowered to~~
19 ~~promulgate~~ any rules necessary to ensure proper implementation
20 and administration of this Act and of the federal Asbestos
21 Hazard Emergency Response Act of 1986, and the regulations
22 promulgated thereunder.

23 (b) Rules adopted under subsection (a) ~~promulgated by the~~
24 ~~Department~~ shall include, but need not be limited to:

1 (1) all rules necessary to achieve compliance with the
2 federal Asbestos Hazard Emergency Response Act of 1986 and
3 the regulations promulgated thereunder;

4 (2) rules relating to the correct and safe performance
5 of asbestos inspection, air sampling, asbestos abatement
6 work, and other related tasks by persons licensed to do so
7 under the Asbestos Occupations Licensure Act; and ~~rules~~
8 ~~providing for the training and licensing of persons and~~
9 ~~firms to perform asbestos inspection and air sampling; to~~
10 ~~perform abatement work; and to serve as asbestos abatement~~
11 ~~contractors, management, planners, project designers,~~
12 ~~project supervisors, project managers and asbestos workers~~
13 ~~for public and private secondary and elementary schools;~~
14 ~~and any necessary rules relating to the correct and safe~~
15 ~~performance of those tasks; and~~

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

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

25 ~~(1) publish a list of persons and firms licensed~~
26 ~~pursuant to this Act, except that the Department shall not~~

1 ~~be required to publish a list of licensed asbestos workers;~~

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

5 ~~(3) adopt rules for the collection of fees for training~~
6 ~~course approval; and for licensing of inspectors,~~
7 ~~management planners, project designers, contractors,~~
8 ~~supervisors, air sampling professionals, project managers~~
9 ~~and workers.~~

10 (Source: P.A. 96-537, eff. 8-14-09; 96-1000, eff. 7-2-10.)

11 (105 ILCS 105/6a) (from Ch. 122, par. 1406a)

12 Sec. 6a. All rulemaking under this Act shall be conducted
13 in accordance with Title VII of the Environmental Protection
14 Act. ~~The provisions of the Illinois Administrative Procedure~~
15 ~~Act are hereby expressly adopted and shall apply to all~~
16 ~~administrative rules and procedures of the Department of Public~~
17 ~~Health under this Act, except that in case of conflict between~~
18 ~~the Illinois Administrative Procedure Act and this Act the~~
19 ~~provisions of this Act shall control, and except that Section~~
20 ~~5-35 of the Illinois Administrative Procedure Act relating to~~
21 ~~procedures for rule making does not apply to the adoption of~~
22 ~~any rule required by federal law in connection with which the~~
23 ~~Department is precluded by law from exercising any discretion.~~

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

1 (105 ILCS 105/6b) (from Ch. 122, par. 1406b)

2 Sec. 6b. All final administrative decisions of the Board
3 ~~Department~~ hereunder shall be subject to judicial review
4 pursuant to the provisions of Title XI of the Environmental
5 Protection Act ~~the "Administrative Review Law", as amended, and~~
6 ~~the rules adopted pursuant thereto. The term "Administrative~~
7 ~~Decision" is defined as in Section 3-101 of the Code of Civil~~
8 ~~Procedure.~~

9 (Source: P.A. 84-951.)

10 (105 ILCS 105/7) (from Ch. 122, par. 1407)

11 Sec. 7. Consistency with federal law. Rules and regulations
12 issued pursuant to this Act, ~~including those governing the~~
13 ~~preparation of a list of contractors and the removal of~~
14 ~~contractors therefrom as provided for in Section 10,~~ shall not
15 be inconsistent with rules and regulations promulgated by the
16 United States Environmental Protection Agency pursuant to the
17 Toxic Substances Control Act, the Clean Air Act or other
18 applicable federal statutes.

19 (Source: P.A. 84-951.)

20 (105 ILCS 105/9) (from Ch. 122, par. 1409)

21 Sec. 9. State Funding. Funding sources for State funding
22 with respect to costs of corrective action shall include
23 appropriations from the General Revenue Fund, proceeds from
24 litigation against manufacturers, distributors and contractors

1 of asbestos products, funds provided under the provisions of
2 the federal Asbestos School Hazard Abatement Act of 1984, or
3 any combination thereof. The Agency ~~Department~~ shall request
4 appropriations from any of these funds based on its review of
5 school funding needs and include such in its annual budget
6 request.

7 (Source: P.A. 84-951.)

8 (105 ILCS 105/9a) (from Ch. 122, par. 1409a)

9 Sec. 9a. Reimbursement for corrective action. The Agency
10 ~~Department~~ shall, from funds appropriated for this purpose,
11 reimburse schools which have undertaken corrective action.
12 Such schools, upon completion of an inspection by the Agency
13 ~~Department~~, shall be eligible for reimbursement only for those
14 projects found to have been conducted in accordance with the
15 provisions of this Act and the rules promulgated thereunder.
16 Schools shall apply for such reimbursement to the Agency
17 ~~Department~~ on forms designed and provided by the Agency
18 ~~Department~~.

19 The amount of reimbursement for which a public school
20 district is eligible shall be calculated by the Agency
21 ~~Department~~ based upon a Grant Index developed by the State
22 Board of Education. This Grant Index shall be based upon the
23 equalized assessed valuation of the school district and other
24 measures of relative wealth to determine the percentage of the
25 total cost of corrective action for which reimbursement shall

1 be authorized. The Grant Index for any school district is equal
2 to one minus the ratio of the district's equalized assessed
3 valuation per pupil in weighted daily average attendance to the
4 equalized assessed valuation per pupil in weighted average
5 daily attendance of the district located at the ninetieth
6 percentile for all districts of the same type. The Grant Index
7 for any school district shall be not less than .50 and no
8 greater than 1.00. The product of the district's Grant Index
9 and the project cost, as determined by the Agency ~~Department~~
10 for approved corrective action, equals the total amount that
11 shall be reimbursed to the school according to the provisions
12 of this Section. All non-public schools shall be eligible for
13 reimbursement in an amount equal to 50% of the cost of
14 corrective action.

15 Out of funds appropriated for such purpose, 20% of the
16 amount of reimbursement to which any school is determined
17 entitled shall be paid in each of 5 successive fiscal years.
18 The Agency ~~Department~~ shall request an annual appropriation in
19 an amount sufficient to cover all expected reimbursements to be
20 paid out in that fiscal year.

21 For purposes of reimbursement under this Section,
22 corrective action means removal, encapsulation or enclosure.
23 Schools reimbursed pursuant to this Section for corrective
24 action shall not be eligible for grants under Section 9b with
25 respect to the corrective action for which they are so
26 reimbursed.

1 (Source: P.A. 84-1245.)

2 (105 ILCS 105/9b) (from Ch. 122, par. 1409b)

3 Sec. 9b. Grants for asbestos abatement work undertaken on
4 or after January 1, 1986. Schools which undertake corrective
5 action on or after January 1, 1986 shall be eligible for grants
6 for asbestos abatement activities conducted in accordance with
7 this Act and the rules promulgated thereunder. Funds shall be
8 provided only to those schools which have been inspected
9 pursuant to this Act. Schools which desire abatement grants
10 shall apply to the Agency ~~Department~~ for such grants on forms
11 designed and provided by the Agency ~~Department~~. The Agency
12 ~~Department~~ shall evaluate applications to establish priorities
13 for funding recognizing the degree of health hazard present and
14 shall categorize school needs using a numerical ranking.

15 In conjunction with the State Board of Education, the
16 Agency ~~Department~~ shall calculate the amount of grant for which
17 a public school district is eligible, based upon a Grant Index
18 developed by the State Board of Education. The Grant Index
19 shall be based upon the equalized assessed valuation of the
20 school district and other measures of relative wealth to
21 determine the percentage of the total cost of corrective action
22 for which grants shall be authorized. The Grant Index for any
23 school district is equal to one minus the ratio of the
24 district's equalized assessed valuation per pupil in weighted
25 daily average attendance to the equalized assessed valuation

1 per pupil in weighted average daily attendance of the district
2 located at the ninetieth percentile for all districts of the
3 same type. The Grant Index for any school district shall be not
4 less than .50 and no greater than 1.00. The product of the
5 district's Grant Index and the project cost, as determined by
6 the Agency ~~Department~~ for approved corrective action, equals
7 the amount that shall be expended on behalf of the school. All
8 non-public schools shall be eligible for grants in an amount
9 equal to 50% of the cost of corrective action.

10 In conjunction with the Capital Development Board, the
11 Agency ~~Department~~ shall issue grants to schools for corrective
12 action. The Capital Development Board shall, in conjunction
13 with the schools, contract with a contractor whose name appears
14 on the Department's list of approved contractors for the
15 corrective action determined necessary according to provisions
16 of this Act and the rules promulgated thereunder. All such
17 contractors shall be prequalified as may be required by The
18 Illinois Purchasing Act. All contracts entered into by the
19 schools and the Capital Development Board shall include a
20 provision that all work to be conducted under that contract
21 shall be undertaken in accordance with this Act and the rules
22 promulgated thereunder. The Capital Development Board shall
23 exercise general supervision over corrective action financed
24 pursuant to the provisions of this Act and the rules
25 promulgated thereunder in schools. The Capital Development
26 Board shall request an annual appropriation in an amount

1 sufficient to cover all expected grants to be awarded in that
2 year. For purposes of reimbursement under this Section,
3 corrective action means removal, encapsulation or enclosure.

4 A school district may levy a tax in accordance with Section
5 17-2.11 of "The School Code" in order to provide local funding
6 for corrective action ordered under this Act. A school may use
7 federal loans or grants to finance the cost of corrective
8 action, but no State funding shall be used to repay any federal
9 loan received by a school for asbestos abatement projects.

10 (Source: P.A. 84-1096.)

11 (105 ILCS 105/11) (from Ch. 122, par. 1411)

12 Sec. 11. Recordkeeping. Each school district shall:

13 (a) Keep a record of each asbestos abatement project that
14 is performed in schools; and

15 (b) Make that record available to the Agency ~~Department~~ at
16 any reasonable time.

17 (Source: P.A. 83-1325.)

18 (105 ILCS 105/12a) (from Ch. 122, par. 1412a)

19 Sec. 12a. Emergency stop work orders. Whenever the Agency
20 ~~Department~~ finds that an emergency exists which requires
21 immediate action to protect the public health, it may, without
22 notice or hearing, issue an order reciting the existence of
23 such an emergency and then require that such action be taken as
24 it may deem necessary to meet the emergency, including but not

1 limited to the issuance of a stop work order and notice to the
2 Department for the immediate removal of a contractor or
3 contractors from the list provided for in Section 10.
4 Notwithstanding any other provision in this Act, such order
5 shall be effective immediately. The State's Attorney and
6 Sheriff of the county in which the school is located shall
7 enforce the order after receiving notice thereof. Any
8 contractor affected by such an order is entitled, upon request,
9 to a hearing as provided for in rules and regulations
10 promulgated pursuant to this Act. When such conditions are
11 abated, in the opinion of the Agency Department, the Agency
12 ~~Department~~ may authorize the reinstatement of the activities
13 and shall provide notice to the Department that it may
14 authorize the inclusion on the list of contractors of those
15 activities and contractors which were the subject of a stop
16 work order.

17 (Source: P.A. 84-951.)

18 (105 ILCS 105/12b) (from Ch. 122, par. 1412b)

19 Sec. 12b. Civil Penalties. The Board ~~Department~~ is
20 empowered to assess civil penalties against a contractor
21 inspector, management planner, project designer, supervisor,
22 worker, project manager, or air sampling professional for
23 violations of this Act and the rules promulgated thereunder,
24 pursuant to rules for such penalties established by the Board
25 ~~Department~~.

1 (Source: P.A. 86-416.)

2 (105 ILCS 105/12c) (from Ch. 122, par. 1412c)

3 Sec. 12c. Under emergency conditions, an employee of a
4 school district may clean or dispose of less than 3 linear feet
5 or 3 square feet of friable or non-friable asbestos containing
6 material in schools without meeting the definition of an
7 "asbestos worker" as defined in this Act, provided the employee
8 has completed the maximum asbestos awareness program provided
9 for in federal law or rules. "Emergency conditions" for the
10 purpose of this Section shall mean:

11 1) the facility is without heat, water, gas, or electric;
12 or

13 2) the facility is unable to keep outside elements such as
14 water from entering the interior of the structure; or

15 3) the dislodging or falling of less than 3 linear feet or
16 3 square feet of asbestos containing materials.

17 The Board ~~Department~~ may further define, by rule, what
18 circumstances constitute an "emergency condition" under this
19 Section. The Department may also set forth, by rule, the
20 training or awareness program a school employee must meet as a
21 prerequisite to conducting of asbestos clean-up or disposal
22 pursuant to this Section.

23 (Source: P.A. 86-647.)

24 (105 ILCS 105/13) (from Ch. 122, par. 1413)

1 Sec. 13. Federal funding. To the extent that federal funds
2 become available for the removal of asbestos from schools and
3 subject to any limitations which may be imposed, such federal
4 funds shall be used in lieu of State financing of corrective
5 actions and for any administrative costs incurred by the Agency
6 ~~Department~~ in the administration of this Act.

7 (Source: P.A. 83-1325.)

8 (105 ILCS 105/14) (from Ch. 122, par. 1414)

9 Sec. 14. Enforcement. Notwithstanding the existence or
10 pursuit of any other remedy, the Director may, in the manner
11 provided by law, in the name of the People of the State and
12 through the Attorney General who shall represent the Director
13 in the proceedings, maintain an action for injunction or other
14 relief or process against any school, the governing body
15 thereof and any other person or unit of local government to
16 enforce and compel compliance with the provisions of this Act,
17 the rules and regulations promulgated thereunder and any order
18 entered for any response action pursuant to this Act and such
19 rules and regulations. Enforcement proceedings under this
20 Section shall be conducted in accordance with Title VIII of the
21 Environmental Protection Act.

22 (Source: P.A. 86-416.)

23 (105 ILCS 105/16) (from Ch. 122, par. 1416)

24 Sec. 16. Illinois School Asbestos Abatement Fund. All fees

1 and penalties collected by the Agency ~~Department~~ pursuant to
2 this Act shall be deposited into the Illinois School Asbestos
3 Abatement Fund which is hereby created in the State Treasury.
4 Subject to appropriation, all monies deposited in the Illinois
5 School Asbestos Abatement Fund under this Act shall be
6 available to the Agency ~~Department~~ for its administration of
7 this Act and of the federal Asbestos Hazard Emergency Response
8 Act of 1986. Subject to appropriation, all moneys deposited in
9 the Illinois School Asbestos Abatement Fund shall be available
10 to the Agency ~~Department of Public Health~~ for administration of
11 the Asbestos Abatement Act and the Commercial and Public
12 Building Asbestos Abatement Act. The Illinois School Asbestos
13 Abatement Fund is not subject to sweeps, administrative charges
14 or chargebacks, or any other fiscal or budgetary maneuver that
15 would in any way transfer any moneys from the Illinois School
16 Asbestos Abatement Fund to any other Fund of the State or in
17 the State treasury.

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

19 (105 ILCS 105/6c rep.)

20 (105 ILCS 105/10 rep.)

21 (105 ILCS 105/10a rep.)

22 (105 ILCS 105/10b rep.)

23 (105 ILCS 105/15a rep.)

24 Section 80. The Asbestos Abatement Act is amended by
25 repealing Sections 6c, 10, 10a, 10b, and 15a.

1 Section 85. The Commercial and Public Building Asbestos
2 Abatement Act is amended by changing Sections 15, 20, 25, 40,
3 55, and 60 as follows:

4 (225 ILCS 207/15)

5 Sec. 15. Definitions. As used in this Act:

6 "Agency" means the Illinois Environmental Protection
7 Agency.

8 "Asbestos abatement contractor" means any entity that
9 provides removal, enclosure, encapsulation, or disposal of
10 asbestos containing materials.

11 "Asbestos containing building materials" or "ACBM" means
12 surfacing asbestos containing materials or ACM, thermal system
13 insulation ACM, or miscellaneous ACM that is found in or on
14 interior structural members or other parts of a building.

15 "Asbestos" means the asbestiform varieties of chrysotile,
16 amosite, crocidolite, tremolite, anthrophyllite, and
17 actinolite.

18 "Asbestos inspector" means an individual who performs
19 inspections of commercial and public buildings for the presence
20 of asbestos containing materials.

21 "Asbestos materials" means any material or product that
22 contains more than 1% asbestos.

23 "Asbestos consultant" means a person offering expert or
24 professional advice as an asbestos professional or designated

1 person.

2 "Asbestos professional" means an individual who is
3 licensed by the Department to perform the duties of an
4 inspector, management planner, project designer, project
5 supervisor, project manager, or air sampling professional, as
6 applicable, except project supervisors under the direct employ
7 of a licensed asbestos abatement contractor.

8 "Asbestos supervisor" means an asbestos abatement
9 contractor, foreman, or person designated as the asbestos
10 abatement contractor's representative who is responsible for
11 the onsite supervision of the removal, encapsulation, or
12 enclosure of friable or nonfriable asbestos-containing
13 materials in a commercial or public building.

14 "Asbestos worker" means an individual who cleans, removes,
15 encapsulates, encloses, hauls, or disposes of friable asbestos
16 material.

17 "Board" means the Illinois Pollution Control Board.

18 "Building/facility owner" is the legal entity, including a
19 lessee, that exercises control over management and record
20 keeping functions relating to a building or facility in which
21 activities covered by this standard take place.

22 "Commercial or public building" means the interior space of
23 any building, except that the term does not include any
24 residential apartment building of fewer than 10 units or
25 detached single family homes. The term includes, but is not
26 limited to: industrial and office buildings, residential

1 apartment buildings and condominiums of 10 or more dwelling
2 units, government-owned buildings, colleges, museums,
3 airports, hospitals, churches, schools, preschools, stores,
4 warehouses, and factories. Interior space includes exterior
5 hallways connecting buildings, porticos, and mechanical
6 systems used to condition interior space.

7 "Department" means the Department of Public Health.

8 "Designated person" means a person designated by the local
9 education agency, as defined by the Asbestos Abatement Act, to
10 ensure that the management plan has been properly implemented.

11 "Director" means the Director of the Illinois
12 Environmental Protection Agency ~~Public Health~~.

13 "Encapsulation" means the treatment of ACBM with a material
14 that surrounds or embeds asbestos fibers in an adhesive matrix
15 that prevents the release of fibers as the encapsulant creates
16 a membrane over the surfaces (bridging encapsulant) or
17 penetrates the material and binds its components together
18 (penetrating encapsulant).

19 "Enclosure" means the construction of airtight walls and
20 ceilings between the asbestos containing material and the
21 building environment, or around surfaces coated with asbestos
22 containing materials, or any other appropriate scientific
23 procedure as determined by the Agency ~~Department~~ that prevents
24 the release of asbestos.

25 "Friable", when referring to material in a commercial or
26 public building, means that the material, when dry, may be

1 crumbled, pulverized, or reduced to powder by hand pressure and
2 includes previously nonfriable materials after such previously
3 nonfriable material becomes damaged to the extent that, when
4 dry, it may be crumbled, pulverized, or reduced to powder by
5 hand pressure.

6 "Inspection" means an activity undertaken in a public or
7 commercial building to determine the presence or location, or
8 to assess the condition of, friable or nonfriable asbestos
9 containing building material (ACBM) or suspected ACBM, whether
10 by visual or physical examination, or by collecting samples of
11 such material.

12 "Nonfriable" means material in a commercial or public
13 building which, when dry, may not be crumbled, pulverized, or
14 reduced to powder by hand pressure.

15 "Person" means any individual, group of individuals,
16 association, trust, partnership, corporation, person doing
17 business under an assumed name, or any other entity.

18 "Project designer" means an individual who designs
19 response actions for commercial or public buildings.

20 "Response action" means a method, including removal,
21 encapsulation, enclosure, repair, operations and maintenance,
22 that protects human health and the environment from friable
23 ACBM.

24 "Response action contractor" means any entity that engages
25 in response action services.

26 "Response action services" means the service of designing

1 and conducting removal, encapsulation, enclosure, repair, or
2 operations and maintenance of friable asbestos containing
3 building materials, inspection of public or commercial
4 buildings, and inspection of asbestos containing materials.
5 The term does not include the design or conducting of response
6 actions that involve removal or possible disturbance of an
7 amount of asbestos containing building material comprising
8 less than 3 square feet or less than 3 lineal feet of other
9 friable asbestos containing building material.

10 (Source: P.A. 93-894, eff. 8-10-04.)

11 (225 ILCS 207/20)

12 Sec. 20. Powers and Duties of the Agency and the Board
13 Department.

14 (a) In accordance with Title VII of the Environmental
15 Protection Act, and after consultation with the Asbestos
16 Advisory Committee as set forth in subsection (h) of Section 59
17 of the Environmental Protection Act, the Agency may propose,
18 and the Pollution Control Board may adopt, ~~The Department is~~
19 ~~empowered to promulgate~~ any rules necessary to ensure proper
20 implementation and administration of this Act, and compliance
21 with the federal Asbestos School Hazard Abatement
22 Reauthorization Act of 1990.

23 (b) Rules adopted by the Board ~~promulgated by the~~
24 ~~Department~~ shall include, but not be limited to, rules relating
25 to the correct and safe performance of response action

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

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

11 ~~(1) Publish a list of response action contractors~~
12 ~~licensed under this Act, except that the Department shall~~
13 ~~not be required to publish a list of licensed asbestos~~
14 ~~workers; and~~

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

18 (d) All rulemaking under this Act shall be conducted in
19 accordance with Title VII of the Environmental Protection Act.
20 ~~The provisions of the Illinois Administrative Procedure Act are~~
21 ~~hereby expressly adopted and shall apply to all administrative~~
22 ~~rules and procedures of the Department of Public Health under~~
23 ~~this Act, except that in case of conflict between the Illinois~~
24 ~~Administrative Procedure Act and this Act the provisions of~~
25 ~~this Act shall control, and except that Section 5-35 of the~~
26 ~~Illinois Administrative Procedure Act relating to procedures~~

1 ~~for rulemaking does not apply to the adoption of any rule~~
2 ~~required by federal law in connection with which the Department~~
3 ~~is precluded by law from exercising any discretion.~~

4 (e) All final administrative decisions of the Board
5 ~~Department~~ under this Act shall be subject to judicial review
6 pursuant to the provisions of Title XI of the Environmental
7 Protection Act ~~the Administrative Review Law and the rules~~
8 ~~adopted under it. The term "administrative decision" has the~~
9 ~~meaning ascribed to it in Section 3-101 of the Code of Civil~~
10 ~~Procedure.~~

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

1 ~~license holder, the Director shall make a determination~~
2 ~~specifying his or her findings and conclusions. A copy of the~~
3 ~~determination shall be sent by certified mail, return receipt~~
4 ~~requested, or served personally upon the applicant,~~
5 ~~contractor, or license holder.~~

6 ~~The procedure governing hearings authorized by this~~
7 ~~Section shall be in accordance with rules promulgated by the~~
8 ~~Department. A full and complete record shall be kept of all~~
9 ~~proceedings, including the notice of hearing, complaint, and~~
10 ~~all other documents in the nature of pleadings, written motions~~
11 ~~filed in the proceedings, and the report and orders of the~~
12 ~~Director and Hearing Officer. All testimony shall be reported~~
13 ~~but need not be transcribed unless the decision is sought to be~~
14 ~~reviewed under the Administrative Review Law. A copy or copies~~
15 ~~of the transcript may be obtained by any interested party on~~
16 ~~payment of the cost of preparing the copy or copies. The~~
17 ~~Director or Hearing Officer shall, upon his or her own motion~~
18 ~~or on the written request of any party to the proceeding, issue~~
19 ~~subpoenas requiring the attendance and the giving of testimony~~
20 ~~by witnesses, and subpoenas duces tecum requiring the~~
21 ~~production of books, papers, records, or memoranda. All~~
22 ~~subpoenas and subpoenas duces tecum issued under this Act may~~
23 ~~be served by any person of legal age. The fees of witnesses for~~
24 ~~attendance and travel shall be the same as the fees of~~
25 ~~witnesses before the courts of this State, such fees to be paid~~
26 ~~when the witness is excused from further attendance. When the~~

1 ~~witness is subpoenaed at the instance of the Director or~~
2 ~~Hearing Officer, such fees shall be paid in the same manner as~~
3 ~~other expenses of the Department, and when the witness is~~
4 ~~subpoenaed at the instance of any other party to any such~~
5 ~~proceeding the Department may require that the cost of service~~
6 ~~of the subpoena or subpoena duces tecum and the fee of the~~
7 ~~witness be borne by the party at whose instance the witness is~~
8 ~~summoned. In such case, the Department in its discretion may~~
9 ~~require a deposit to cover the cost of such service and witness~~
10 ~~fees. A subpoena or subpoena duces tecum so issued as above~~
11 ~~stated shall be served in the same manner as a subpoena issued~~
12 ~~by a circuit court.~~

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

22 ~~The Director or Hearing Officer, or any party in an~~
23 ~~investigation or hearing before the Department, may cause the~~
24 ~~depositions of witnesses within this State to be taken in the~~
25 ~~manner prescribed by law for like depositions in civil actions~~
26 ~~in courts of this State, and, to that end, compel the~~

1 ~~attendance of witnesses and the production of books, papers,~~
2 ~~records, or memoranda.~~

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

4 (225 ILCS 207/25)

5 Sec. 25. Consistency with federal law. Rules issued under
6 this Act, ~~including those governing the preparation of a list~~
7 ~~of response action contractors and the removal of response~~
8 ~~action contractors from the list as provided for in Section 20,~~
9 shall not be inconsistent with rules and regulations
10 promulgated by the United States Environmental Protection
11 Agency under the Toxic Substances Control Act, the Clean Air
12 Act, or other applicable federal statutes.

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

14 (225 ILCS 207/40)

15 Sec. 40. Enforcement. Notwithstanding the existence or
16 pursuit of any other remedy, the Director may, in the manner
17 provided by law and in the name of the People of the State and
18 through the State's Attorney or the Attorney General who shall
19 represent the Director in the proceedings, maintain an action
20 for prosecution, injunction, or other relief or process against
21 any Building/Facility Owner or any other person or unit of
22 local government to enforce and compel compliance with the
23 provisions of this Act, the rules promulgated under it and any
24 order entered for any action under this Act and its rules.

1 Enforcement proceedings under this Section shall be conducted
2 in accordance with Title VIII of the Environmental Protection
3 Act. A person who violates this Act is guilty of a Class A
4 misdemeanor punishable by a fine of \$1,000 for each day the
5 violation exists in addition to other civil penalties or up to
6 6 months imprisonment or both a fine and imprisonment.

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

8 (225 ILCS 207/55)

9 Sec. 55. Civil penalties. The Board ~~Department~~ is empowered
10 to assess civil penalties for violations of this Act and the
11 rules promulgated under this Act pursuant to rules for such
12 penalties established by the Board ~~Department~~.

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

14 (225 ILCS 207/60)

15 Sec. 60. Illinois School Asbestos Abatement Fund. All fees
16 and penalties collected by the Agency ~~Department~~ pursuant to
17 this Act shall be deposited into the Illinois School Asbestos
18 Abatement Fund created by Section 16 of the Asbestos Abatement
19 Act, and shall be available to the Agency ~~Department~~ for the
20 administration of the Asbestos Abatement Act and this Act as
21 ~~provided in that Act.~~

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

23 (225 ILCS 207/30 rep.)

1 (225 ILCS 207/35 rep.)

2 (225 ILCS 207/45 rep.)

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

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

7 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

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

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

1 or unit of the State Government, and may employ and compensate
2 such consultants and technical assistants as may be required.

3 (b) The Agency shall have the duty to collect and
4 disseminate such information, acquire such technical data, and
5 conduct such experiments as may be required to carry out the
6 purposes of this Act, including ascertainment of the quantity
7 and nature of discharges from any contaminant source and data
8 on those sources, and to operate and arrange for the operation
9 of devices for the monitoring of environmental quality.

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

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

17 (1) Inspecting and investigating to ascertain possible
18 violations of this Act, any rule or regulation adopted
19 under this Act, any permit or term or condition of a
20 permit, or any Board order; or

21 (2) In accordance with the provisions of this Act,
22 taking whatever preventive or corrective action, including
23 but not limited to removal or remedial action, that is
24 necessary or appropriate whenever there is a release or a
25 substantial threat of a release of (A) a hazardous
26 substance or pesticide or (B) petroleum from an underground

1 storage tank.

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

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

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

1 required.

2 (h) The Agency shall have authority to require the
3 submission of complete plans and specifications from any
4 applicant for a permit required by this Act or by regulations
5 thereunder, and to require the submission of such reports
6 regarding actual or potential violations of this Act, any rule
7 or regulation adopted under this Act, any permit or term or
8 condition of a permit, or any Board order, as may be necessary
9 for the purposes of this Act.

10 (i) The Agency shall have authority to make recommendations
11 to the Board for the adoption of regulations under Title VII of
12 the Act.

13 (i-5) The Agency shall have authority to make
14 recommendations to the Board for the adoption of regulations
15 under Title VII of the Act to fulfill the purposes of the
16 Asbestos Abatement Act and the Commercial and Public Buildings
17 Asbestos Abatement Act.

18 (j) The Agency shall have the duty to represent the State
19 of Illinois in any and all matters pertaining to plans,
20 procedures, or negotiations for interstate compacts or other
21 governmental arrangements relating to environmental
22 protection.

23 (k) The Agency shall have the authority to accept, receive,
24 and administer on behalf of the State any grants, gifts, loans,
25 indirect cost reimbursements, or other funds made available to
26 the State from any source for purposes of this Act or for air

1 or water pollution control, public water supply, solid waste
2 disposal, noise abatement, or other environmental protection
3 activities, surveys, or programs. Any federal funds received by
4 the Agency pursuant to this subsection shall be deposited in a
5 trust fund with the State Treasurer and held and disbursed by
6 him in accordance with Treasurer as Custodian of Funds Act,
7 provided that such monies shall be used only for the purposes
8 for which they are contributed and any balance remaining shall
9 be returned to the contributor.

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

13 (1) The Agency is hereby designated as water pollution
14 agency for the state for all purposes of the Federal Water
15 Pollution Control Act, as amended; as implementing agency for
16 the State for all purposes of the Safe Drinking Water Act,
17 Public Law 93-523, as now or hereafter amended, except Section
18 1425 of that Act; as air pollution agency for the state for all
19 purposes of the Clean Air Act of 1970, Public Law 91-604,
20 approved December 31, 1970, as amended; and as solid waste
21 agency for the state for all purposes of the Solid Waste
22 Disposal Act, Public Law 89-272, approved October 20, 1965, and
23 amended by the Resource Recovery Act of 1970, Public Law
24 91-512, approved October 26, 1970, as amended, and amended by
25 the Resource Conservation and Recovery Act of 1976, (P.L.
26 94-580) approved October 21, 1976, as amended; as noise control

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

23 Any municipality, sanitary district, or other political
24 subdivision, or any Agency of the State or interstate Agency,
25 which makes application for loans or grants under such federal
26 Acts shall notify the Agency of such application; the Agency

1 may participate in proceedings under such federal Acts.

2 (m) The Agency shall have authority, consistent with
3 Section 5(c) and other provisions of this Act, and for purposes
4 of Section 303(e) of the Federal Water Pollution Control Act,
5 as now or hereafter amended, to engage in planning processes
6 and activities and to develop plans in cooperation with units
7 of local government, state agencies and officers, and other
8 appropriate persons in connection with the jurisdiction or
9 duties of each such unit, agency, officer or person. Public
10 hearings shall be held on the planning process, at which any
11 person shall be permitted to appear and be heard, pursuant to
12 procedural regulations promulgated by the Agency.

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

24 (o) The Agency shall have the authority to issue
25 certificates of competency to persons and laboratories meeting
26 the minimum standards established by the Agency in accordance

1 with Section 4(n) of this Act and to promulgate and enforce
2 regulations relevant to the issuance and use of such
3 certificates. The Agency may enter into formal working
4 agreements with other departments or agencies of state
5 government under which all or portions of this authority may be
6 delegated to the cooperating department or agency.

7 (p) Except as provided in Section 17.7, the Agency shall
8 have the duty to analyze samples as required from each public
9 water supply to determine compliance with the contaminant
10 levels specified by the Pollution Control Board. The maximum
11 number of samples which the Agency shall be required to analyze
12 for microbiological quality shall be 6 per month, but the
13 Agency may, at its option, analyze a larger number each month
14 for any supply. Results of sample analyses for additional
15 required bacteriological testing, turbidity, residual chlorine
16 and radionuclides are to be provided to the Agency in
17 accordance with Section 19. Owners of water supplies may enter
18 into agreements with the Agency to provide for reduced Agency
19 participation in sample analyses.

20 (q) The Agency shall have the authority to provide notice
21 to any person who may be liable pursuant to Section 22.2(f) of
22 this Act for a release or a substantial threat of a release of
23 a hazardous substance or pesticide. Such notice shall include
24 the identified response action and an opportunity for such
25 person to perform the response action.

26 (r) The Agency may enter into written delegation agreements

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

16 (s) The Agency shall have authority to take whatever
17 preventive or corrective action is necessary or appropriate,
18 including but not limited to expenditure of monies appropriated
19 from the Build Illinois Bond Fund and the Build Illinois
20 Purposes Fund for removal or remedial action, whenever any
21 hazardous substance or pesticide is released or there is a
22 substantial threat of such a release into the environment. The
23 State, the Director, and any State employee shall be
24 indemnified for any damages or injury arising out of or
25 resulting from any action taken under this subsection. The
26 Director of the Agency is authorized to enter into such

1 contracts and agreements as are necessary to carry out the
2 Agency's duties under this subsection.

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

12 (u) Pursuant to the Illinois Administrative Procedure Act,
13 the Agency shall have the authority to adopt such rules as are
14 necessary or appropriate for the Agency to implement Section
15 31.1 of this Act.

16 (v) (Blank.)

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

21 (x)(1) The Agency shall have authority to distribute
22 grants, subject to appropriation by the General Assembly,
23 to units of local government for financing and construction
24 of public water supply facilities. With respect to all
25 monies appropriated from the Build Illinois Bond Fund or
26 the Build Illinois Purposes Fund for public water supply

1 grants, such grants shall be made in accordance with rules
2 promulgated by the Agency. Such rules shall include a
3 requirement for a local match of 30% of the total project
4 cost for projects funded through such grants.

5 (2) The Agency shall not terminate a grant to a unit of
6 local government for the financing and construction of
7 public water supply facilities unless and until the Agency
8 adopts rules that set forth precise and complete standards,
9 pursuant to Section 5-20 of the Illinois Administrative
10 Procedure Act, for the termination of such grants. The
11 Agency shall not make determinations on whether specific
12 grant conditions are necessary to ensure the integrity of a
13 project or on whether subagreements shall be awarded, with
14 respect to grants for the financing and construction of
15 public water supply facilities, unless and until the Agency
16 adopts rules that set forth precise and complete standards,
17 pursuant to Section 5-20 of the Illinois Administrative
18 Procedure Act, for making such determinations. The Agency
19 shall not issue a stop-work order in relation to such
20 grants unless and until the Agency adopts precise and
21 complete standards, pursuant to Section 5-20 of the
22 Illinois Administrative Procedure Act, for determining
23 whether to issue a stop-work order.

24 (y) The Agency shall have authority to release any person
25 from further responsibility for preventive or corrective
26 action under this Act following successful completion of

1 preventive or corrective action undertaken by such person upon
2 written request by the person.

3 (z) To the extent permitted by any applicable federal law
4 or regulation, for all work performed for State construction
5 projects which are funded in whole or in part by a capital
6 infrastructure bill enacted by the 96th General Assembly by
7 sums appropriated to the Environmental Protection Agency, at
8 least 50% of the total labor hours must be performed by actual
9 residents of the State of Illinois. For purposes of this
10 subsection, "actual residents of the State of Illinois" means
11 persons domiciled in the State of Illinois. The Department of
12 Labor shall promulgate rules providing for the enforcement of
13 this subsection.

14 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;
15 96-800, eff. 10-30-09; 96-1000, eff. 7-2-10.)

16 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

17 Sec. 5. Pollution Control Board.

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

20 Until July 1, 2003 or when all of the new members to be
21 initially appointed under this amendatory Act of the 93rd
22 General Assembly have been appointed by the Governor, whichever
23 occurs later, the Board shall consist of 7 technically
24 qualified members, no more than 4 of whom may be of the same
25 political party, to be appointed by the Governor with the

1 advice and consent of the Senate.

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

8 Beginning on July 1, 2003 or when all of the new members to
9 be initially appointed under this amendatory Act of the 93rd
10 General Assembly have been appointed by the Governor, whichever
11 occurs later, the Board shall consist of 5 technically
12 qualified members, no more than 3 of whom may be of the same
13 political party, to be appointed by the Governor with the
14 advice and consent of the Senate. Members shall have verifiable
15 technical, academic, or actual experience in the field of
16 pollution control or environmental law and regulation.

17 Of the members initially appointed pursuant to this
18 amendatory Act of the 93rd General Assembly, one shall be
19 appointed for a term ending July 1, 2004, 2 shall be appointed
20 for terms ending July 1, 2005, and 2 shall be appointed for
21 terms ending July 1, 2006. Thereafter, all members shall hold
22 office for 3 years from the first day of July in the year in
23 which they were appointed, except in case of an appointment to
24 fill a vacancy. In case of a vacancy in the office when the
25 Senate is not in session, the Governor may make a temporary
26 appointment until the next meeting of the Senate, when he or

1 she shall nominate some person to fill such office; and any
2 person so nominated, who is confirmed by the Senate, shall hold
3 the office during the remainder of the term.

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

8 Board members shall be paid \$37,000 per year or an amount
9 set by the Compensation Review Board, whichever is greater, and
10 the Chairman shall be paid \$43,000 per year or an amount set by
11 the Compensation Review Board, whichever is greater. Each
12 member shall devote his or her entire time to the duties of the
13 office, and shall hold no other office or position of profit,
14 nor engage in any other business, employment, or vocation. Each
15 member shall be reimbursed for expenses necessarily incurred
16 and shall make a financial disclosure upon appointment.

17 Each Board member may employ one secretary and one
18 assistant, and the Chairman one secretary and 2 assistants. The
19 Board also may employ and compensate hearing officers to
20 preside at hearings under this Act, and such other personnel as
21 may be necessary. Hearing officers shall be attorneys licensed
22 to practice law in Illinois.

23 The Board may have an Executive Director; if so, the
24 Executive Director shall be appointed by the Governor with the
25 advice and consent of the Senate. The salary and duties of the
26 Executive Director shall be fixed by the Board.

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

3 The Board shall hold at least one meeting each month and
4 such additional meetings as may be prescribed by Board rules.
5 In addition, special meetings may be called by the Chairman or
6 by any 2 Board members, upon delivery of 24 hours written
7 notice to the office of each member. All Board meetings shall
8 be open to the public, and public notice of all meetings shall
9 be given at least 24 hours in advance of each meeting. In
10 emergency situations in which a majority of the Board certifies
11 that exigencies of time require the requirements of public
12 notice and of 24 hour written notice to members may be
13 dispensed with, and Board members shall receive such notice as
14 is reasonable under the circumstances.

15 If there is no vacancy on the Board, 4 members of the Board
16 shall constitute a quorum to transact business; otherwise, a
17 majority of the Board shall constitute a quorum to transact
18 business, and no vacancy shall impair the right of the
19 remaining members to exercise all of the powers of the Board.
20 Every action approved by a majority of the members of the Board
21 shall be deemed to be the action of the Board. The Board shall
22 keep a complete and accurate record of all its meetings.

23 (b) The Board shall determine, define and implement the
24 environmental control standards applicable in the State of
25 Illinois and may adopt rules and regulations in accordance with
26 Title VII of this Act.

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

5 (c) The Board shall have authority to act for the State in
6 regard to the adoption of standards for submission to the
7 United States under any federal law respecting environmental
8 protection. Such standards shall be adopted in accordance with
9 Title VII of the Act and upon adoption shall be forwarded to
10 the Environmental Protection Agency for submission to the
11 United States pursuant to subsections (l) and (m) of Section 4
12 of this Act. Nothing in this paragraph shall limit the
13 discretion of the Governor to delegate authority granted to the
14 Governor under any federal law.

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

1 by this Act or any other statute or rule.

2 (e) In connection with any proceeding pursuant to
3 subsection (b) or (d) of this Section, the Board may subpoena
4 and compel the attendance of witnesses and the production of
5 evidence reasonably necessary to resolution of the matter under
6 consideration. The Board shall issue such subpoenas upon the
7 request of any party to a proceeding under subsection (d) of
8 this Section or upon its own motion.

9 (f) The Board may prescribe reasonable fees for permits
10 required pursuant to this Act. Such fees in the aggregate may
11 not exceed the total cost to the Agency for its inspection and
12 permit systems. The Board may not prescribe any permit fees
13 which are different in amount from those established by this
14 Act.

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

16 (415 ILCS 5/28) (from Ch. 111 1/2, par. 1028)

17 Sec. 28. Proposal of regulations; procedure.

18 (a) Any person may present written proposals for the
19 adoption, amendment, or repeal of the Board's regulations, and
20 the Board may make such proposals on its own motion. If the
21 Board finds that any such proposal is supported by an adequate
22 statement of reasons, is accompanied by a petition signed by at
23 least 200 persons, is not plainly devoid of merit and does not
24 deal with a subject on which a hearing has been held within the
25 preceding 6 months, the Board shall schedule a public hearing

1 for consideration of the proposal. If such proposal is made by
2 the Agency or by the Department, the Board shall schedule a
3 public hearing without regard to the above conditions. The
4 Board may hold one or more hearings to consider both the merits
5 and the economics of the proposal. The Board may also in its
6 discretion schedule a public hearing upon any proposal without
7 regard to the above conditions.

8 No substantive regulation shall be adopted, amended, or
9 repealed until after a public hearing within the area of the
10 State concerned. In the case of state-wide regulations hearings
11 shall be held in at least two areas. At least 20 days prior to
12 the scheduled date of the hearing the Board shall give notice
13 of such hearing by public advertisement in a newspaper of
14 general circulation in the area of the state concerned of the
15 date, time, place and purpose of such hearing; give written
16 notice to any person in the area concerned who has in writing
17 requested notice of public hearings; and make available to any
18 person upon request copies of the proposed regulations,
19 together with summaries of the reasons supporting their
20 adoption.

21 Any public hearing relating to the adoption, amendment, or
22 repeal of Board regulations under this subsection shall be held
23 before a qualified hearing officer, who shall be attended by at
24 least one member of the Board, designated by the Chairman. All
25 such hearings shall be open to the public, and reasonable
26 opportunity to be heard with respect to the subject of the

1 hearing shall be afforded to any person. All testimony taken
2 before the Board shall be recorded stenographically. The
3 transcript so recorded, and any written submissions to the
4 Board in relation to such hearings, shall be open to public
5 inspection, and copies thereof shall be made available to any
6 person upon payment of the actual cost of reproducing the
7 original.

8 After such hearing the Board may revise the proposed
9 regulations before adoption in response to suggestions made at
10 the hearing, without conducting a further hearing on the
11 revisions.

12 In addition, the Board may revise the proposed regulations
13 after hearing in response to objections or suggestions made by
14 the Joint Committee on Administrative Rules pursuant to
15 subsection (b) of Section 5-40 and subsection (a) of Section
16 5-110 of the Illinois Administrative Procedure Act, where the
17 Board finds (1) that such objections or suggestions relate to
18 the statutory authority upon which the regulation is based,
19 whether the regulation is in proper form, or whether adequate
20 notice was given, and (2) that the record before the Board is
21 sufficient to support such a change without further hearing.

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

25 No rule or regulation, or amendment or repeal thereof,
26 shall become effective until a certified copy thereof has been

1 filed with the Secretary of State, and thereafter as provided
2 in the Illinois Administrative Procedure Act as amended.

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

5 (b) The Board shall not, on its own motion, propose
6 regulations pursuant to subsection (a) of this Section or
7 Sections 28.2, 28.4 or 28.5 of this Act to implement the
8 provisions required by or related to the Clean Air Act
9 Amendments of 1990, as now or hereafter amended. However,
10 nothing herein shall preclude the Board from, on its own
11 motion:

12 (1) making technical corrections to adopted rules
13 pursuant to Section 100.240 of Title 1 of the Illinois
14 Administrative Code;

15 (2) modifying a proposed rule following receipt of
16 comments, objections, or suggestions without agreement of
17 the proponent after the end of the hearing and comment
18 period;

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

21 (4) initiating rulemaking necessitated by a court
22 order directed to the Board.

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

24 (415 ILCS 5/59 new)

25 Sec. 59. Asbestos Abatement Act; Commercial and Public

1 Buildings Asbestos Abatement Act.

2 (a) On July 1, 2013, all powers, duties, rights, and
3 responsibilities of the Department of Public Health and the
4 Director of Public Health under the Asbestos Abatement Act and
5 the Commercial and Public Buildings Asbestos Abatement Act,
6 other than those related to the licensure of persons and
7 entities to perform the functions regulated by those Acts, are
8 transferred to the Illinois Environmental Protection Agency
9 and the Director of the Illinois Environmental Protection
10 Agency. In the context of any laws or rules needed to implement
11 or enforce the non-licensing related provisions of either the
12 Asbestos Abatement Act or the Commercial and Public Buildings
13 Asbestos Abatement Act, including, but not limited to, Part 855
14 of Title 77 of the Illinois Administrative Code, on and after
15 July 1, 2013, all references to the Department of Public Health
16 shall be construed to mean the Illinois Environmental
17 Protection Agency, and all references to the Director of Public
18 Health shall be construed to mean the Director of the Illinois
19 Environmental Protection Agency.

20 (b) Those employees of the Department of Public Health
21 needed to administer either the Asbestos Abatement Act or the
22 Commercial and Public Buildings Asbestos Abatement Act, other
23 than those employees who perform work related to the licensure
24 of persons and entities to perform the functions regulated by
25 those Acts, shall be transferred to the Illinois Environmental
26 Protection Agency. The status and rights of such employees

1 under the Personnel Code shall not be affected by the transfer.
2 The rights of the employees and the State of Illinois and its
3 agencies under the Personnel Code and applicable collective
4 bargaining agreements or under any pension, retirement, or
5 annuity plan shall not be affected by this amendatory Act of
6 the 98th General Assembly.

7 (c) All books, records, papers, documents, property (real
8 and personal), contracts, causes of action, and pending
9 business pertaining to the powers, duties, rights, and
10 responsibilities transferred by this amendatory Act from the
11 Department of Public Health to the Illinois Environmental
12 Protection Agency, including, but not limited to, material in
13 electronic or magnetic format and necessary computer hardware
14 and software, shall be transferred to the Illinois
15 Environmental Protection Agency.

16 (d) All unexpended appropriations and balances and other
17 funds available for use by the Department of Public Health for
18 the administration of the Asbestos Abatement Act or the
19 Commercial and Public Buildings Asbestos Abatement Act shall be
20 transferred for use by the Illinois Environmental Protection
21 Agency pursuant to the direction of the Director of the
22 Illinois Environmental Protection Agency. Unexpended balances
23 so transferred shall be expended only for the purpose for which
24 the appropriations were originally made.

25 (e) Whenever reports or notices are now required to be made
26 or given or papers or documents furnished or served by any

1 person to or upon the Department of Public Health in connection
2 with any of the powers, duties, rights, and responsibilities
3 transferred by this amendatory Act of the 98th General
4 Assembly, the same shall be made, given, furnished, or served
5 in the same manner to or upon the Illinois Environmental
6 Protection Agency.

7 (f) This amendatory Act of the 98th General Assembly does
8 not affect any act done, ratified, or canceled or any right
9 occurring or established or any action or proceeding had or
10 commenced in an administrative, civil, or criminal cause by the
11 Department of Public Health before this amendatory Act of the
12 98th General Assembly takes effect; such actions or proceedings
13 may be prosecuted and continued by the Illinois Environmental
14 Protection Agency.

15 (g) Any rules of the Department of Public Health in
16 connection with any of the non-licensing related powers,
17 duties, rights, and responsibilities transferred by this
18 amendatory Act of the 98th General Assembly and that are in
19 full force on the effective date of this amendatory Act of the
20 98th General Assembly shall become the rules of the Illinois
21 Pollution Control Board. This amendatory Act of the 98th
22 General Assembly does not affect the legality of any such rules
23 in the Illinois Administrative Code.

24 Any proposed rules filed with the Secretary of State by the
25 Department of Public Health in connection with any of the
26 non-licensing related powers, duties, rights, and

1 responsibilities transferred by this amendatory Act of the 98th
2 General Assembly that are pending in the rulemaking process on
3 the effective date of this amendatory Act of the 98th General
4 Assembly and pertain to the non-licensing related powers,
5 duties, rights, and responsibilities transferred, shall be
6 deemed to have been filed by the Illinois Environmental
7 Protection Agency.

8 As soon as practicable after the effective date of this
9 amendatory Act of the 98th General Assembly, the Illinois
10 Environmental Protection Agency shall review, revise and
11 clarify the rules transferred to it under this amendatory Act
12 of the 98th General Assembly to reflect the reorganization of
13 powers, duties, rights, and responsibilities affected by this
14 amendatory Act of the 98th General Assembly, using the
15 procedures for recodification of rules available under the
16 Illinois Administrative Procedure Act, except that existing
17 title, part, and section numbering for the affected rules may
18 be retained. In so doing, the Illinois Environmental Protection
19 Agency shall ensure that a single set of standards apply to all
20 parties similarly situated.

21 Under no circumstances shall this process, or the
22 re-codification of rules provided for under this subsection
23 (g), allow for the weakening of protection from asbestos
24 exposure or increase the risk to human health or the
25 environment therefrom.

26 (h) Asbestos Advisory Committee.

1 (1) There is created the Asbestos Advisory Committee,
2 composed of the following members appointed by the
3 Governor:

4 (A) one member recommended by the Illinois Chamber
5 of Commerce;

6 (B) one member recommended by the Illinois
7 Association of Realtors;

8 (C) one member recommended by the Illinois
9 Municipal League;

10 (D) one member recommended by the Illinois
11 Statewide School Management Alliance;

12 (E) one member recommended by the Illinois
13 Specialty and Mechanical Contractors Association;

14 (F) one member recommended by the Chicago Local
15 Section of the American Industrial Hygiene
16 Association;

17 (G) one member recommended by the Illinois
18 Environmental Contractors Association;

19 (H) one member recommended by the American
20 Federation of Labor and Congress of Industrial
21 Organizations (AFL-CIO);

22 (I) one member recommended by the Illinois Chapter
23 of the American Institute of Architects;

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

26 (K) one member employed by an Illinois-based

1 business providing Illinois-approved asbestos training
2 courses;

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

5 (M) one member recommended by the Illinois Pipe
6 Trades Association; and

7 (N) one member recommended by the Laborers
8 International Union of North America.

9 Administrative support shall be provided to the
10 Committee by the Environmental Protection Agency.

11 (2) The members of the Committee shall be appointed for
12 terms of 4 years, and may be reappointed; appointments to
13 fill vacancies shall be for the balance of the current
14 term. Members shall serve without compensation, but may be
15 reimbursed for actual expenses from funds appropriated for
16 that purpose. Members shall elect annually from their
17 number a chairperson and such other officers as they may
18 deem necessary. The Committee shall meet at least annually
19 and at the call of the chairperson.

20 (3) The Committee shall:

21 (A) review, evaluate, and make recommendations to
22 the Director of the Environmental Protection Agency
23 regarding laws, rules, and procedures related to
24 asbestos remediation;

25 (B) review, evaluate, and make recommendations to
26 the Director of Public Health regarding the training

1 and licensing of persons and entities to engage in
2 asbestos remediation;

3 (C) make recommendations to the Director of the
4 Environmental Protection Agency relating to the
5 efforts to implement this Section, together with the
6 changes in this amendatory Act of the 98th General
7 Assembly to the Asbestos Abatement Act and the
8 Commercial and Public Buildings Act; and

9 (D) make recommendations to the Director of Public
10 Health relating to the efforts to implement this
11 Section and the Asbestos Occupations Licensure Act,
12 together with the changes in this amendatory Act of the
13 98th General Assembly to the Asbestos Abatement Act and
14 the Commercial and Public Buildings Act.

15 (i) On and after the effective date of this amendatory Act
16 of the 98th General Assembly, except for those functions
17 expressly provided for in the Asbestos Occupations Licensure
18 Act, all rulemaking by the Agency in carrying out its
19 responsibilities under the Asbestos Abatement Act and the
20 Commercial and Public Buildings Act shall be done by the
21 Pollution Control Board in accordance with Title VII of this
22 Act.

23 Section 99. Effective date. This Act takes effect July 1,
24 2013."