

AN ACT concerning safety.

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

Section 5. The Illinois Administrative Procedure Act is amended by changing Section 1-5 as follows:

(5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

Sec. 1-5. Applicability.

(a) This Act applies to every agency as defined in this Act. Beginning January 1, 1978, in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. If, however, an agency (or its predecessor in the case of an agency that has been consolidated or reorganized) has existing procedures on July 1, 1977, specifically for contested cases or licensing, those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provisions of this Act. Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, those procedures shall remain in effect.

(b) The provisions of this Act do not apply to (i) preliminary hearings, investigations, or practices where no

final determinations affecting State funding are made by the State Board of Education, (ii) legal opinions issued under Section 2-3.7 of the School Code, (iii) as to State colleges and universities, their disciplinary and grievance proceedings, academic irregularity and capricious grading proceedings, and admission standards and procedures, and (iv) the class specifications for positions and individual position descriptions prepared and maintained under the Personnel Code. Those class specifications shall, however, be made reasonably available to the public for inspection and copying. The provisions of this Act do not apply to hearings under Section 20 of the Uniform Disposition of Unclaimed Property Act.

(c) Section 5-35 of this Act relating to procedures for rulemaking does not apply to the following:

(1) Rules adopted by the Pollution Control Board that, in accordance with Section 7.2 of the Environmental Protection Act, are identical in substance to federal regulations or amendments to those regulations implementing the following: Sections 3001, 3002, 3003, 3004, 3005, and 9003 of the Solid Waste Disposal Act; Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; Sections 307(b), 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal Water Pollution Control Act; and Sections 1412(b), 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking Water Act; and Section 109 of the Clean Air Act.

(2) Rules adopted by the Pollution Control Board that establish or amend standards for the emission of hydrocarbons and carbon monoxide from gasoline powered motor vehicles subject to inspection under the Vehicle Emissions Inspection Law of 2005 or its predecessor laws.

(3) Procedural rules adopted by the Pollution Control Board governing requests for exceptions under Section 14.2 of the Environmental Protection Act.

(4) The Pollution Control Board's grant, pursuant to an adjudicatory determination, of an adjusted standard for persons who can justify an adjustment consistent with subsection (a) of Section 27 of the Environmental Protection Act.

(5) Rules adopted by the Pollution Control Board that are identical in substance to the regulations adopted by the Office of the State Fire Marshal under clause (ii) of paragraph (b) of subsection (3) of Section 2 of the Gasoline Storage Act.

(6) Rules adopted by the Illinois Pollution Control Board under Section 9.14 of the Environmental Protection Act.

(d) Pay rates established under Section 8a of the Personnel Code shall be amended or repealed pursuant to the process set forth in Section 5-50 within 30 days after it becomes necessary to do so due to a conflict between the rates and the terms of a collective bargaining agreement covering the compensation of

an employee subject to that Code.

(e) Section 10-45 of this Act shall not apply to any hearing, proceeding, or investigation conducted under Section 13-515 of the Public Utilities Act.

(f) Article 10 of this Act does not apply to any hearing, proceeding, or investigation conducted by the State Council for the State of Illinois created under Section 3-3-11.05 of the Unified Code of Corrections or by the Interstate Commission for Adult Offender Supervision created under the Interstate Compact for Adult Offender Supervision or by the Interstate Commission for Juveniles created under the Interstate Compact for Juveniles.

(g) This Act is subject to the provisions of Article XXI of the Public Utilities Act. To the extent that any provision of this Act conflicts with the provisions of that Article XXI, the provisions of that Article XXI control.

(Source: P.A. 97-95, eff. 7-12-11.)

Section 10. The Environmental Protection Act is amended by changing Sections 7.2 and 10 as follows:

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

Sec. 7.2. Identical in substance rulemakings.

(a) In the context of a mandate that the Board adopt regulations to secure federal authorization for a program, regulations that are "identical in substance" means State

regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois. After consideration of comments from the USEPA, the Agency, the Attorney General and the public, the Board shall adopt the verbatim text of such USEPA regulations as are necessary and appropriate for authorization of the program. In adopting "identical in substance" regulations, the only changes that may be made by the Board to the federal regulations are those changes that are necessary for compliance with the Illinois Administrative Code, and technical changes that in no way change the scope or meaning of any portion of the regulations, except as follows:

- (1) The Board shall not adopt the equivalent of USEPA rules that are not applicable to persons or facilities in Illinois, that govern the program authorization process, that are appropriate only in USEPA-administered programs, or that govern actions to be taken by USEPA, other federal agencies or other states.
- (2) The Board shall not adopt rules prescribing things which are outside the Board's normal functions, such as rules specifying staffing or funding requirements for programs.
- (3) If a USEPA rule prescribes the contents of a State regulation without setting forth the regulation itself, which would be an integral part of any regulation required

to be adopted as an "identical in substance" regulation as defined in this Section, the Board shall adopt a regulation as prescribed, to the extent possible consistent with other relevant USEPA regulations and existing State law. The Board may not use this subsection to adopt any regulation which is a required rule as that term is defined by Section 28.2 of this Act. To the extent practicable, the Board in its proposed and adopted opinion shall include its rationale for adopting such regulation.

(4) Pursuant to subsection (a) of Section 5-75 of the Illinois Administrative Procedure Act, the Board may incorporate USEPA rules by reference where it is possible to do so without causing confusion to the affected public.

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

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

(7) The Board may correct apparent typographical and

grammatical errors in USEPA rules.

(b) In adopting regulations that are "identical in substance" with specified federal regulations under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, subsection (a) of Section 22.7, or subsection (a) of Section 22.40, subsection (H) of Section 10, or specified federal determinations under subsection (e) of Section 9.1, the Board shall complete its rulemaking proceedings within one year after the adoption of the corresponding federal rule. If the Board consolidates multiple federal rulemakings into a single Board rulemaking, the one-year period shall be calculated from the adoption date of the federal rule first adopted among those consolidated. After adopting an "identical in substance" rule, if the Board determines that an amendment is needed to that rule, the Board shall initiate a rulemaking proceeding to propose such amendment. The amendment shall be adopted within one year of the initiation of the Board's determination.

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

The one-year period may be extended by the Board for an additional period of time if necessary to complete the rulemaking proceeding. In order to extend the one-year period,

the Board must make a finding, based upon the record in the rulemaking proceeding, that the one-year period is insufficient for completion of the rulemaking, and such finding shall specifically state the reasons for the extension. Except as otherwise provided above, the Board must make the finding that an extension of time is necessary prior to the expiration of the initial one-year period, and must also publish a notice of extension in the Illinois Register as expeditiously as practicable following its decision, stating the specific reasons for the Board's decision to extend. The notice of extension need not appear in the Illinois Register prior to the expiration of the initial one year period and shall specify a date certain by which the Board anticipates completion of the rulemaking, except that if a date certain cannot be specified because of a need to delay adoption pending occurrence of an event beyond the Board's control, the notice shall specify the event, explain its circumstances, and contain an estimate of the amount of time needed to complete the rulemaking after the occurrence of the specified event.

(Source: P.A. 87-830; 88-45; 88-496.)

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

Sec. 10. Regulations.

(A) The Board, pursuant to procedures prescribed in Title VII of this Act, may adopt regulations to promote the purposes of this Title. Without limiting the generality of this

authority, such regulations may among other things prescribe:

- (a) (Blank); Ambient air quality standards specifying the maximum permissible short term and long term concentrations of various contaminants in the atmosphere;
- (b) Emission standards specifying the maximum amounts or concentrations of various contaminants that may be discharged into the atmosphere;
- (c) Standards for the issuance of permits for construction, installation, or operation of any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution;
- (d) Standards and conditions regarding the sale, offer, or use of any fuel, vehicle, or other article determined by the Board to constitute an air-pollution hazard;
- (e) Alert and abatement standards relative to air-pollution episodes or emergencies constituting an acute danger to health or to the environment;
- (f) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel, or aircraft that may cause or contribute to air pollution;
- (g) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their sources, the collection of samples and the collection, reporting and retention of data resulting from such

monitoring.

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

- (1) that are required by federal law;
- (2) that are otherwise part of the State's attainment plan and are necessary to attain the national ambient air quality standards; or
- (3) that are necessary to comply with the requirements of the federal Clean Air Act.

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

(D) The Board shall adopt regulations requiring the owner or operator of a gasoline dispensing system that dispenses more than 10,000 gallons of gasoline per month to install and operate a system for the recovery of gasoline vapor emissions arising from the fueling of motor vehicles that meets the

requirements of Section 182 of the federal Clean Air Act (42 USC 7511a). These regulations shall apply only in areas of the State that are classified as moderate, serious, severe or extreme nonattainment areas for ozone pursuant to Section 181 of the federal Clean Air Act (42 USC 7511), but shall not apply in such areas classified as moderate nonattainment areas for ozone if the Administrator of the U.S. Environmental Protection Agency promulgates standards for vehicle-based (onboard) systems for the control of vehicle refueling emissions pursuant to Section 202(a)(6) of the federal Clean Air Act (42 USC 7521(a)(6)) by November 15, 1992.

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

(F) Any person who prior to June 8, 1988, has filed a timely Notice of Intent to Petition for an Adjusted RACT Emissions Limitation and who subsequently timely files a completed petition for an adjusted RACT emissions limitation pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be subject to the procedures contained in Subpart I but shall be excluded by operation of law from 35 Ill. Adm. Code, Part 215, Subparts PP, QQ and RR, including the applicable definitions in

35 Ill. Adm. Code, Part 211. Such persons shall instead be subject to a separate regulation which the Board is hereby authorized to adopt pursuant to the adjusted RACT emissions limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I. In its final action on the petition, the Board shall create a separate rule which establishes Reasonably Available Control Technology (RACT) for such person. The purpose of this procedure is to create separate and independent regulations for purposes of SIP submittal, review, and approval by USEPA.

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

(H) In accordance with subsection (b) of Section 7.2, the Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere; those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act. The Board may consolidate into a single rulemaking under this subsection all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, shall not apply to

identical in substance regulations adopted pursuant to this subsection. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State. Nothing in this subsection shall be construed to limit the right of any person to submit a proposal to the Board, or the authority of the Board to adopt, air quality standards more stringent than the standards promulgated by the Administrator, pursuant to the rulemaking requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act.

(Source: P.A. 95-460, eff. 8-27-07.)

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