

Management Policies and Authorities

General Requirements

Existing regulatory authorities, programs, and case law meets federal requirements for program approval. Thus, state land and water use planning and regulations, described as “control technique B” at subsection 306(d)(11)(B) of the CZMA, will be the means by which Illinois will enforce its coastal management policies. The ICMP program also will make use of “technique A” to regulate flooding, erosion and sedimentation as the State of Illinois delegate authority to local or regional entities in this area. This is discussed in greater detail on pages 111-113.

The Governor designated IDNR as the lead agency administering the ICMP and coordinating with other state agencies to ensure program compliance. IDNR will lead a network consisting of other state agencies, which manage land and water uses to protect our coastal resources.

Program regulations require that the ICMP include a definition of what shall constitute “Uses Subject To Management” within the coastal zone which have a direct and significant impact on the coastal waters [15 CFR 923.11(a)1]. To fulfill this requirement, the following definition has been established:

“Uses subject to management within the coastal boundary that have a direct and significant impact on coastal resources, have obtained all required federal and state permits, and can demonstrate compliance with all federal and state regulatory programs.”

These uses are separate and distinct from “uses of a regional benefit” which are those uses that generally serve more than one community, such as an energy facility, or public park. Existing authorities and case law ensure that local land and water use regulations do not unreasonably exclude uses of regional benefit.

ICMP Land and Water Use Authorities

The ICMP provides for the management of land and water uses having a direct and significant impact on coastal waters. Identifying the land and water use authorities appropriate for coastal management purposes require identifying current land uses and demand for natural and man-made resources within the boundary. It also requires an analysis of projected changes in land use, and increases in demand, respectful of the geographic and political nature of our coastal boundary. It considers the individual and cumulative impacts of current and projected uses on Lake Michigan. The following analysis establishes land and water uses that potentially have an impact on Lake Michigan. State laws, regulations, and programs pertinent to these land and water uses are identified. Authorities which administer these state laws, regulations, and programs are identified by state agency and listed. These authorities are “networked” and are responsible for ensuring ICMP conformance.

- **Geographic and Political Considerations:** The ICMP inland boundary encompasses about 110 square miles. It is highly urbanized and located within Cook and Lake Counties with a population over 6 million people. The boundary is a jigsaw connection of 15 coastal municipalities, beginning with Winthrop Harbor at the Wisconsin border, to the City of Chicago at the Indiana border. Inclusion of the inland waterway corridors adds portions of eight additional municipalities. This is significant because the majority of the ICMP inland boundary lies within a municipality and is either mostly urbanized, sanctioned as park or recreational areas, or was once industrialized and is since left to redevelopment.

By 2030, the population of Cook and Lake Counties is projected to increase to over 6.8 million people. The six-county northeastern Illinois region is forecasted at a population over 10 million by 2030, a 20 percent increase. This increase in population will place additional demands on our coastal resources and elevate their value. Land use decision-making, and planning to achieve the highest, or best land use, will involve assessments of needs for public recreation, parks, trails, and open areas.

- **Water Dependency Considerations:** Water is the common thread of the coastal area, and its protection as a resource is the key management component. The engineered waterways, water control structures, shoreline fills, and revetments have completely transfigured the hydrology of the area into a managed hydraulic network.

With population densities exceeding 20,000 people per square mile in several coastal areas, individual impacts add up quickly. Common practices of fertilizing lawns, plastic bottle use, boat cleaning, walking of pets, and washing cars have cumulative impacts on our waters as do the oils and exhaust deposits associated with transportation. Ongoing programs address non-point source pollution, with efforts and incentives to address direct runoff from impervious pavements.

State regulations and programs continue to evolve and change in efforts to improve water quality, reduce flooding, and provide a safe water supply. Water quality in the Chicago area waterways has improved dramatically, and completion of the Tunnel and Research Project (TARP) to control stormwater will likely mean the end to stormwater/effluent discharges entering into Lake Michigan.

New issues and concerns continually emerge creating additional challenges to address. Issues such as hypoxia, invasive species, habitat destruction, and climate change are of global concern and parallel our regional concerns of nutrient loading on streams and Lake Michigan, the threat of Asian carp entering the Great Lakes, and invasive plants taking over our natural areas.

Land uses that affect quality or quantity of water will be key areas of ICMP attention. Regulations and programs pertaining to discharges, flood control, construction in floodways and public waters, non-point source pollution, and water supply are identified.

- **Urban Development Considerations:** Few areas within the inland coastal boundary remain undisturbed. Agricultural land use has been mostly lost to urban development. High land values within the coastal boundary drive investment decisions on land use and development. New construction is often “redevelopment” with decisions involving rebuilding, restoring, demolition, or salvage value. Development issues in abandoned industrial sites involve analyses of environmental liabilities and risks in disturbing areas. Abandoned industrial sites and brownfields are often considered as viable sites for recreation or parkland use. Several sites have been capped with soil and/or parking lots to allow for best use of such sites. These are mostly government driven ventures serving a public need.

Since almost all inland coastal boundary is located within a municipality, land use decisions are constrained by local and county zoning ordinances. All communities have planning and economic development staff. Many have planning commissions and neighborhood planning committees with common missions and goals to redevelop distressed property, revitalize neighborhoods, provide job opportunities, and generate tax revenue to support bringing amenities to the neighborhoods.

In general, neighborhoods and citizens actively participate in the revitalization and redevelopment plans for their community. Most communities have developed guiding principles that identify constraints and practical needs in land use considerations for future development. Some have integrated urban design considerations reflecting both the state and national interests. Many community plans include measures addressing mass transportation and thoroughfare routes, pedestrian and bicycling needs, parking, and preservation of historic districts and community aesthetics.

Each of the coastal communities possesses a unique character and history. Development plans often include measures to sustain the architectural and historical vitality of neighborhoods by aiding in the restoration, rehabilitation, and conservation of historic buildings and preservation districts. Several municipal development plans necessarily include zoning designations that balance needs. For example, planning guidelines may be specified which allow tall buildings for high-density business/residential development that keep intact the neighborhood character as much as possible.

Summary of Considerations

The ICMP inland boundary area is highly urbanized and densely populated. Increases in population within the boundary and northeastern Illinois, will challenge the achievement of a proper balance of economical growth, employment, preservation of historic features and natural areas unique to the area, and increasing public recreational facilities, parks, and open space.

Coastal communities are vibrant, well informed, and understand the needs of their community and the value of their resources. Many communities have developed comprehensive redevelopment plans, identifying vision statements, guiding principles and land use considerations. While the ICMP will utilize

state regulations and programs to meet federal regulations for management purposes, the IDNR recognizes the value and asset of working with the coastal communities in meeting common objectives.

Water quality and quantity issues transcend political boundaries with impacts affecting all coastal communities. The identification of state authorities and programs that address land or water use actions, which have a significant impact or effect on water quantity or quality, will be a key management issue for the ICMP.

The ICMP will coordinate urban land uses within the boundary. It will assist communities in targeted and appropriate way that maximizes the best use of coastal resources.

Management Authorities by Category

The ICMP developed a clear set of criteria to identify “Uses subject to management”:

- Located in the Coastal Zone boundary.
- Has a detrimental environmental impact upon any coastal use or resource within the coastal zone boundary.
- Creates adverse effects on the quality or quantity of natural, economic, social, or historical coastal resources.
- Disrupts access to a public coastal resource.

Corresponding resource categories have been established to provide uses subject to management:

Category 1: Public Waters, Navigation and the Public Interest

Category 2: Erosion and Flooding

Category 3: Water Quality and Water Supply

Category 4: Habitats, Wetlands, and Wildlife

Category 5: Historic, Archaeological and Cultural Resources

Category 6: Recreation and Public Access

Category 7: Economic Development

Category 8: Energy Facilities and Air Quality (Addressed in Chapter 10)

The state meeting the management criteria required for ICMP approval follow in this chapter, and in chapter 10, which describes the state’s energy facility planning process. They reference Acts by statute and administrative rules as appropriate. There are also some references to state programs, which are not regulatory, but provide an important management aspect , for example economic incentives. The information referenced in this chapter was obtained from the Illinois General Assembly website at www.ilga.gov.or state agency websites.

The following are abbreviations commonly used in this chapter:

- ILCS Illinois Compiled Statutes [reference enclosed in brackets for ease of identification]
- IAC Illinois Administrative Code (reference enclosed in parenthesis)
- IDNR Illinois Department of Natural Resources
- IEPA Illinois Environmental Protection Agency
- IPCB Illinois Pollution Control Board
- IDOA Illinois Department of Agriculture
- IHPA Illinois Historic Preservation Agency
- INPC Illinois Nature Preserves Commission
- DCEO Illinois Department of Commerce and Economic Opportunity

Category 1: Public Waters, Navigation and the Public Interest

Uses subject to management:

- Any construction in Lake Michigan
- Diversion or withdrawal of water from Lake Michigan for any purpose
- Activities affecting natural areas, nature preserves, terrestrial or aquatic wildlife habitat and areas of historical significance
- Development of public parks and resources

Public Trust Doctrine Principles and Applicable Court Decisions

The **Public Trust Doctrine** is the principle of federal law that preserves certain resource for public use. Public trust waters are the state’s navigable waters and public trust lands are the lands beneath those navigable waters, up to the ordinary high water mark. The Supreme Court has broadened the definition of public trust waters to include all waters subject to the ebb and flow of the tide, regardless of navigability. *Phillips Petroleum Co. v. Mississippi*, 484 U.S. 469 (1988). In some instances, states may override common law with legislation, establishing different boundaries public and private land.

States hold the title to submerged lands under navigable waterways. *Martin v. Waddell*, 41 U.S. 367 (1842). In *Illinois Central Railroad Co. v. Illinois*, the U.S. Supreme Court described a state’s title in public trust lands as “a title held in trust for the people of the State that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing therein freed from the obstruction or

interference of private parties.” 146 U.S. 387, 452 (1892). The public’s right of access for fishing, fowling, and navigation overrides the private property owner’s rights in the public trust lands; however, the public’s rights are subservient to the private owner’s right to build docks, among other activities.

States may convey public trust lands only in limited circumstances. The United States Supreme Court, in *Illinois Central Railroad Co. v. Illinois*, held that a “State can no more abdicate its trust over property in which the whole people are interested, like navigable waters and soils under them, so as to leave them entirely under the use and control of private parties, except for the improvement of the navigation and use of the waters, or when parcels can be disposed of without impairment of the public interest in what remains, than it can abdicate its police powers in the administration of government and the preservation of the peace.” *Illinois Central*, 146 U.S. at 452-54.

In *People ex rel. Scott v. Chicago Park District*, the Illinois Supreme Court recognized that the state may grant land to a private party only when it would further a public purpose. 66 Ill. 2d 65, 81 (Ill. 1976). The courts should be critical of attempts by the state to surrender valuable public resources to a private entity. *Lake Michigan Federation v. US Army Corps of Engineers*, 742 F. Supp. 441 (Ill. 1990). Such attempts by the state should be invalidated under the public trust doctrine. *Id.* The fact that the university planned to provide some unrestricted public access did not change the fact that the legislature was transferring submerged lands under Lake Michigan to a private university, thus violating the public trust doctrine. *Id.*

The “riparian rights” of a shore owner are the rights of accretion and right of access to the water from the land. *Bowes v. City of Chicago*, 120 N.E. 2d 15 (Ill. 1954). Riparian right of access to a body of water depends on whether the owner’s property touches the water, thereby enabling access to water to be gained without going over property of others and not depend upon ownership of or title to submerged lands. *Bouris v. Largent*, 236 N.E. 2d 15. Riparian right of access to a body of water is not affected by description of owner’s property unrelated to the body of water since it is only necessary that the description of the property include or encompass the shoreline. *Bouris v. Largent*, 236 N.E. 2d 15.

In Illinois, waters subject to the foregoing public trust doctrine principles and court decisions, specifically including Lake Michigan, are considered “Public Waters” and are listed in the Illinois Department of Natural Resources’ Regulation of Public Waters administrative rule [17 Ill.Admin.Code 3704, Appendix A] promulgated pursuant to the Illinois **Rivers, Lakes and Streams Act** [615 ILCS 5]. As federal law, all State of Illinois actions regarding such Public Waters, again specifically including Lake Michigan, must comply with the Public Trust doctrine and the caselaw applying same. This specifically would include State of Illinois actions regarding the Coastal Management program. The State’s opinion is that the Coastal Management Program is consistent with the Public Trust doctrine and the intent of the State is to implement the Coastal Management Program consistent with the Public Trust doctrine.

State Statutes and Rules

Under Section 18 of the **Rivers, Lakes and Streams Act** [615 ILCS 5], *“it is unlawful to make any fill or deposit or any refuse matter of any kind, or build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, causeway, harbor, or mooring facilities for watercraft, or any other structure or work of any kind whatsoever in any of the public bodies of water within the state, without first submitting the plans, profiles, and specifications therefore, and such other data and information as may be required to the IDNR and receiving a permit from the IDNR. No permit shall be issued authorizing any deposit or any refuse matter of any kind in Lake Michigan unless the IEPA makes a final determination pursuant to Section 39 of the Environmental Protection Act...”*

“The building of any causeway, harbor, or mooring facilities for watercraft in Lake Michigan shall be confined to those areas recommended by the IDNR and authorized by the General Assembly and approved by the Governor and shall be in aid of and not an interference with the public interest or navigation. Any structure, fill, or deposit erected or made in any of the public bodies of water of this state is a purpresture and may be abated as such at the expense of the person, corporation, or municipality...”

The terms public waters or public bodies of water mean all open public streams and lakes capable of being navigated by water craft for commercial uses and purposes, and all lakes, rivers, and streams which in their natural condition were capable of being improved and made navigable, or that are connected with or discharged their waters into navigable lakes or rivers within, or upon the borders of the state.

“The IDNR may grant a permit to a non-riparian owner, to use the water from any of the public bodies of water for industrial manufacturing or public utility purposes, and to construct the necessary intakes, structures, tunnels, and conduits in, under, or on the beds of such bodies of water, provided such use shall not interfere with navigation. Such permit shall be for a definite period of years not exceeding 40 years.”

Where a permit is sought, the IDNR shall require as condition precedent to the issuance of such permit, a signed statement approving such action by all riparian owners whose access to public waters will be directly affected by such structure, fill, or deposit. No such permit shall be issued without the approval of the governor and without a public hearing. Whenever a permit to fill or deposit in a slip is issued, all work done pursuant to the permit is by authorization and under the direction of the IDNR.

“Wherever the terms public waters or public bodies of water are used in this Act, they mean all open public streams and lakes capable of being navigated by water craft for commercial uses and purposes, and all lakes, rivers, and streams which in their natural condition were capable of being improved and made navigable, or that are connected with or discharged their waters into navigable lakes or rivers within, or upon the borders of the state.... Nothing herein contained applies to the location of any harbor under the jurisdiction and control of any city or village of less than 500,000 population.”

“The title to the bed of Lake Michigan and all other meandered lakes in Illinois is held in trust for the benefit of the people of the state. The IDNR is designated as the trustee authorized to exercise administrative jurisdiction and control thereover in the execution of the powers and duties under this Act. It shall be the duty of the IDNR, to carefully examine the shore lines of Lake Michigan, all other meandered lakes in Illinois and the Chicago River each year for the purpose of seeing that encroachments are not made upon or other unauthorized uses made of these bodies of water, and for the purpose of preventing any land being made along the said Chicago River, Lake Michigan or meandered lakes in such manner as might become an encroachment thereon.” **Rivers Lakes and Streams Act** [615 ILCS 5/24]

The conversion of public waters to private land by filling is prohibited. Fill material may be placed in public waters only for bank, shore or bluff protection; beach nourishment; establishing a uniform shoreline; spur dikes, wing dams, and similar structures; dams; projects of an emergency nature; or projects authorized by the General Assembly. No activity, which would result in an obstruction to, or interference with, the navigability of any public body of water, will be permitted. No activity which would result in bank or shoreline instability on other properties will be permitted. (See *Regulation of Public Waters*, Sections 17 IAC 3704.70 and 17 IAC 3704.90)

The **Navigable Waters Obstruction Act** [615 ILCS 20] states *“it is unlawful to tie up or anchor vessels or other water craft in public or navigable waters of the state in such a manner as to prevent or obstruct in any manner, between the shore lines thereof, the passage of any vessels or craft; or to voluntarily or carelessly sink, or permit or cause to be sunk, vessels or other water craft in such waters Whenever a vessel, raft, or other water craft is wrecked and sunk in any such waters, accidentally or otherwise, it is the duty of the owner of such sunken craft to immediately mark it with a buoy or beacon during the day and a lighted lantern at night... and to commence its immediate removal. Failure of an owner to remove any such sunken craft shall be considered as abandonment of such craft, and subject to removal by the state.”* This Act provides the IDNR authority to remove obstructions which exist longer than 30 days

Under the **Shore Lands for Park Use Act** [65 ILCS 105], a city or village owning lands bordering public waters and riparian rights may grant, convey or release any of such lands or rights to any park entity for park purposes of submerged lands under the public waters adjacent to the lands controlled by such city or village; however, that no such park entity may grant, convey, lease or release any lands so acquired or the riparian rights appurtenant thereto to any private person or corporation.

Category 2: Erosion and Flooding

Uses subject to management:

- Any construction in Lake Michigan including erosion and flood control effort
- Management of public water supplies
- Activities that cause degradation or decline in sustainability of groundwater supplies

- Activities affecting natural areas, nature preserves, terrestrial or aquatic habitat and areas of historical significance
- Erosion

The **Lake Michigan Shore Line Act** [615 ILCS 55] assigns to the IDNR Office of Water Resources (OWR) the responsibility to *“cause investigations, surveys and studies to be made in cooperation with appropriate federal, state and local agencies with the view to devising effective means or methods of preventing erosion of the shore of Lake Michigan by waves, currents, structures or other elemental and artificial processes, and of preventing or minimizing in the immediate future damage to homes and other buildings and danger to human life resulting from such erosion.”*

As funds are made available for expenditure, the OWR will prepare a report summarizing the results of investigations, studies and surveys and any recommendations to prevent and minimize damage to property or persons.

Under the **Rivers, Lakes, and Streams Act** [615 ILCS 5], *“if deemed necessary in the public interest, the IDNR may for the purposes of establishing uniform shore lines upon Lake Michigan or other streams or lakes, permit fills of rock, earth or sand to be placed inside a bulkhead, wall or breakwater so constructed as not to permit the escape of such materials into Lake Michigan or any such lake, river, or stream.... The IDNR may also permit the placing of unconfined fills or deposits of clear sand, rock or other material approved by the IDNR in or along the shores of Lake Michigan ... for the purpose of replacing or augmenting the natural material in the littoral currents, for creating new beaches or for replenishing existing beaches, for the protection of the shore against erosion.... The IDNR may permit the deposit of dredged material in Lake Michigan only where the IEPA makes a final determination that the dredging or deposit will not cause a violation of the Environmental Protection Act or IPCB regulations.”*

The **Soil and Water Conservation Districts Act** [70 ILCS 405] declares as state policy to strengthen and extend the present erosion and sediment control activities and programs for both rural and urban lands, and to establish and implement, through the IDOA and soil and water conservation districts in cooperation with units of local government ... a statewide comprehensive and coordinated erosion and sediment control program to conserve and protect land, water, air and other resources.

The state enacted the **Watershed Improvement Act** [505 ILCS 140] as a means of offering a sound approach to flood prevention and proper management for surface water resources and for the maximum development of surface water storage for municipal, industrial, agricultural and recreational uses; to reduce the siltation of streams and lakes; and help to maintain stable normal water levels in our streams for navigation and other uses.

- Flooding

Under the **Counties Code** [55 ILCS 5], counties are authorized to adopt and enforce floodplain regulations consistent with Federal Emergency Management Agency (FEMA) regulations implementing the National Flood Insurance Act of 1968. These regulations apply to all buildings, structures, construction, excavation, and filling in the floodplain in order to prevent damaging floods and to preserve the free flow of streams. The IDNR shall prepare manuals and model ordinances and advise counties on achieving floodplain regulation purposes without unnecessarily interfering with land uses. The purpose of Section 55 ILCS 5/5-1062 is to allow management and mitigation of the effects of urbanization on stormwater drainage in metropolitan counties located in the area served by the Northeastern Illinois Planning Commission (now included in the Chicago Metropolitan Area of Planning).

This does not apply to any county with a population in excess of 1,500,000, which excludes Cook County. Stormwater management in Cook County shall be conducted as provided in Section 7h of the Metropolitan Water Reclamation District Act. Stormwater management in Lake County has been delegated to the Lake County Stormwater Management Commission.

The Lake County Watershed Development Ordinance was implemented in 1992 and included minimum standards for development in and around floodplains, detention, water quality and natural resources. The floodplain management rules and regulations adopted by Lake County meet the minimum standards set forth by the IDNR Office of Water Resources and the requirements of FEMA for participation in the National Flood Insurance Program.

Under the **Rivers, Lakes and Streams Act** [615 ILCS 5], the IDNR is charged with defining floodplains within the state on a township basis and issuing permits for any construction within such floodplains. The IDNR must consider planning and zoning requirements of regional agencies by allowing for a 30-day comment period regarding any proposed floodplain area. The IDNR is charged with the planning, development and evaluation of the most economic combination of retention storage, channel improvement and floodplain preservation in defining and establishing floodplain areas. The IDNR is charged with defining the 100-year floodway within Lake and Cook counties (except for the City of Chicago). No person may engage in any new construction within the 100-year floodway as designated by the IDNR in such metropolitan counties, unless such construction relates to an appropriate use of the floodway. No unit of local government, including home rule units may issue any building permit or other apparent authorization for any prohibited new construction within the 100-year floodway.

The rules governing construction and filling in the regulatory floodway of rivers, lakes and streams in northeastern Illinois (excluding Chicago) are covered in 17 IAC Part 3708. Regulatory Floodway is defined as *“the channel and that portion of the floodplain adjacent to a stream or watercourse which is needed to store and convey the anticipated future 100-year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10% increase in velocities.”* IDNR delegates to municipalities within incorporated areas and to counties within unincorporated areas IDNR's authority to issue permits for non-governmental

activities, upon determination that the municipality or county is participating in the regular phase of the National Flood Insurance Program, has enacted an ordinance that adopts requirements at least as restrictive as this Part; and the municipality or county has enacted an ordinance which requires that all proposed regulatory floodway projects are reviewed under the supervision of a registered professional engineer.

The **Flood Control Act of 1945** [615 ILCS 15] recognized that the unregulated flow of the rivers and waters constitutes a menace to the general welfare of the people of the state, resulting in periods of destructive floods and periods of inadequate low water flows wherein the public water supplies are dangerously reduced, facilities for public recreation are rendered inadequate, and the propagation and conservation of wild life is adversely affected. It is therefore stated that regulation of the flood and low water flows of the rivers and waters of Illinois is a proper activity of the state, and that the state should improve or participate in the improvement of the rivers and waters, including their watersheds, for the purpose of regulating the flood and low water flows and the development and utilization of water, waterways and water resources if the benefits are in excess of the estimated costs. The IDNR is authorized to make examinations and surveys, prepare plans and estimates for, and to construct, reconstruct, control, maintain, and operate, or supervise the construction, reconstruction, control, maintenance and operation of all works for the control of floods, the improvement of upland and bottom land drainage and the conservation of low water flows in the rivers and waters of Illinois, including the watersheds thereof, either independently or in cooperation with federal and state agencies, units of local government and school districts.

- **Flood Control in the Coastal Zone**

Stormwater management and flood control within the Illinois Coastal Zone is divided geographically between the City of Chicago, The Metropolitan Water Reclamation District, and the Lake County Stormwater Management Commission.

The City of Chicago Department of Water management has responsibility for stormwater management with the city limits per agreement with the MWRD.

Authority for this is contained in P.A. 93-1049, eff. 11-17-04 which amends the **Metropolitan Water Reclamation District Act**. (70 ILCS 2605/7h new)

This Section does not affect the power or duty of any unit of local government to take actions relating to flooding or stormwater, so long as those actions conform with this Section and the plans, rules, and ordinances adopted by the District under this Section.

A home rule unit located in whole or in part in Cook County (other than a municipality with a population over 1,000,000) may not regulate stormwater management or planning in Cook County in a manner inconsistent with this Section or the plans, rules, and ordinances adopted by the District under this Section; provided, within a municipality with a population over 1,000,000, the stormwater

management planning program of Cook County shall be conducted by that municipality or, to the extent provided in an intergovernmental agreement between the municipality and the District, by the District pursuant to this Section; provided further that the power granted to such municipality shall not be inconsistent with existing powers of the District. Pursuant to paragraph (i) of Section 6 of Article VII of the Illinois Constitution, this Section specifically denies and limits the exercise of any power that is inconsistent with this Section by a home rule unit that is a county with a population of 1,500,000 or more or is located, in whole or in part, within such a county, other than a municipality with a population over 1,000,000.

The Metropolitan Water Reclamation District of Greater Chicago has responsibility for stormwater management in Cook County.

This authority is contained in the **Metropolitan Water Reclamation District Act**.(70 ILCS 2605/7hnew)

Stormwater management in Cook County shall be under the general supervision of the Metropolitan Water Reclamation District of Greater Chicago. The District has the authority to plan, manage, implement, and finance activities relating to stormwater management in Cook County. The authority of the District with respect to stormwater management extends throughout Cook County and is not limited to the area otherwise within the territory and jurisdiction of the District under this Act

The Lake County Stormwater Management Commission has responsibility for stormwater management in Lake County. This authority is contained in 55ILCS 5/5-1062 (55 ILCS 5/5-1062) (from ch. 34, par. 5-1062)

The purpose of this Section is to allow management and mitigation of the effects of urbanization on stormwater drainage in metropolitan counties located in the area served by the Northeastern Illinois Planning Commission, and references to "county" in this Section shall apply only to those counties. This Section shall not apply to any county with a population in excess of 1,500,000, except as provided in subsection (c). The purpose of this Section shall be achieved by:

- (1) consolidating the existing stormwater management framework into a united, countywide structure;*
- (2) setting minimum standards for floodplain and stormwater management; and*
- (3) preparing a countywide plan for the management of stormwater runoff, including the management of natural and man-made drainageways. The countywide plan may incorporate watershed plans.*

Category 3: Water Quality and Water Supply

Uses subject to management:

- Any construction in Lake Michigan including erosion and flood control effort
- The diversion or withdrawal of water from Lake Michigan for any purpose

- Management of Public Water supplies
- Activities that cause degradation or decline in sustainability of groundwater supplies
- Activities affecting natural areas, nature preserves, terrestrial or aquatic habitat and areas of historical significance
- Agency Cooperation

Section 5/14a of the **Rivers, Lakes and Streams Act** identifies the close level of cooperation between the IEPA, the IPCB and IDNR in the preservation, utilization, and protection of Lake Michigan waters from pollution. Section 5/14a reads, *“It is the express intention of this legislation that close cooperation shall exist between the Pollution Control Board, the Environmental Protection Agency, and the Department of Natural Resources and that every resource of state government shall be applied to the proper preservation and utilization of the waters of Lake Michigan.*

The Environmental Protection Agency shall work in close cooperation with the City of Chicago and other affected units of government to: (1) terminate discharge of pollutorial waste materials to Lake Michigan from vessels in both intra-state and inter-state navigation, and (2) abate domestic, industrial, and other pollution to assure that Lake Michigan beaches in Illinois are suitable for full body contact sports, meeting criteria of the Pollution Control Board.

The Environmental Protection Agency shall regularly conduct water quality and lakebed surveys to evaluate the ecology and the quality of water in Lake Michigan. Results of such surveys shall be made available, without charge, to all interested persons and agencies. It shall be the responsibility of the Director of the Environmental Protection Agency to report annually or at such other times as the Governor shall direct; such report shall provide hydrologic, biologic, and chemical data together with recommendations to the Governor and members of the General Assembly....

...In meeting the requirements of this Act, the Pollution Control Board, Environmental Protection Agency and Department of Natural Resources are authorized to be in direct contact with individuals, municipalities, public and private corporations and other organizations which are or may be contributing to the discharge of pollution to Lake Michigan.”

- Water Quality Statutes and Administrative Rules

Title III of the Environmental Protection Act [415 ILCS 5] “Water Pollution,” states National Pollutant Discharge Elimination System to regulate the discharge of contaminants to U.S. waters under the Federal Water Pollution Control Act and the underground injection control program (UIC) regulates the underground injection of contaminants under the federal Safe Water Drinking Act. Section 415 ILCS 5/12 lists prohibited actions and general permit compliance conditions. The IPCB, pursuant to procedures prescribed in Title VII (Regulations), may adopt regulations to promote the purposes and provisions of the Title III. [415 ILCS 5/13]

Part 352 “*Procedures for Determining Water Quality Based Permit Limitations for NPDES Dischargers to the Lake Michigan Basin*” contains IEPA rules for the application of the IPCB rules (for the Lake Michigan Basin at 35 IAC 302. Subparts A and E) of the NPDES permit program regulates discharges to the Lake Michigan Basin. Subpart E under Part 302 “Water Quality Standards” contains Sections 302.501 through 302.595. These sections cover “Lake Michigan Water Quality Standards.” These rules are required pursuant to Final Guidance for the Great Lakes System, 60 FR 15366 adopted on March 23, 1995 by USEPA to implement Section 118(c)(2) of the Clean Water Act (33 USC 1268) as amended by the Great Lakes Critical Programs Act of 1990 (P. L. 101-596, 104 Stat. 3000). This guidance identifies minimum water quality standards, antidegradation policies and implementation procedures states must establish for the Great Lakes System to protect human health, aquatic life and wildlife.

Under the ***Rivers, Lakes and Streams Act [615 ILCS 5/18]***, “no permit shall be issued or renewed authorizing any fill or deposit of rock, earth, sand, or other material, or any refuse matter of any kind or description in Lake Michigan unless the IEPA makes a final determination, that the proposed dredging or deposit of material will not cause a violation of the Environmental Protection Act or IPCB regulations.” Authorization of the discharge or other disposition of materials of any kind into Lake Michigan requires a joint permit from IDNR and IEPA.

The United States and Canada entered into the Great Lakes Water Quality Agreement of 1978 (amended by protocol November 18, 1987). Under that agreement, the U.S. and Canada are required to identify “Areas of Concern” (AOC) that fail to meet objectives of the Agreement and that have, or are likely to cause, impairment of beneficial use or failure of the area to support aquatic life. Waukegan Harbor in Illinois was designated an AOC in 1981. Beneficial use impairments at Waukegan Harbor were identified as restrictions on fish consumption, degradation of benthos, restrictions on dredging activities, degradation of phytoplankton and zooplankton populations, and loss of fish and wildlife habitat. The IEPA is prohibited from issuing a permit to develop, construct, or operate within one mile of any portion of Lake Michigan that has been designated an area of concern under the Great Lakes Water Quality Agreement, unless the applicant submits to the Agency proof that the site or facility has received local siting approval....[415 ILCS 5/9.11]

In 1987, Section 319 was added to the ***Clean Water Act (CWA)*** to provide a framework for funding state and local efforts to address pollutants from nonpoint sources (NPS) not addressed by the NPDES program. Section 319 allows states to receive federal funds from USEPA that enable them to work with local governments to develop control strategies. To obtain funding, states are required to submit NPS Assessment Reports identifying state waters that, without additional control of NPS pollution, could not reasonably be expected to attain or maintain applicable water quality standards or requirements of the CWA. States are also required to prepare and submit for USEPA approval a statewide NPS Management Program for controlling nonpoint source water pollution to navigable waters, and must identify specific Best Management Practices (BMPs) and measures the state will implement within three years after program approval. NPS Programs funded under Section 319 include both regulatory and nonregulatory state and local approaches.

The **Illinois Groundwater Protection Act** [415 ILCS 55] states that because a large portion of residents rely on groundwater for consumption and commercial use, the water must be protected from contamination, and it is state policy to restore, protect, and enhance groundwater. Consistent with this policy, groundwater resources must be utilized for beneficial purposes and waste and degradation be prevented. The Act established an Interagency Coordinating Committee on Groundwater (ICCG) to review and coordinate the state's policy on groundwater protection; review and evaluate state laws, regulations, and procedures relating to groundwater protection; and to make recommendations for better coordination among state programs; procedures for response to groundwater contamination; research needs, and data collection. The Act established a Groundwater Advisory Council charged with similar duties as the ICCG.

- Water Supply

Title IV of the **Environmental Protection Act** [415 ILCS 5] contain state statutes that address “Public Water Supplies.” Title IV provides IEPA with authority to propose groundwater regulations to the IPCB, prescribing standards and requirements for activities related to landfilling, storage of special waste, storage and related handling of pesticides and fertilizers for commercial application or distribution, and storage and handling of road oils, and de-icing agents at a central location. The IPCB may adopt regulations governing the location, design, construction, and continuous operation and maintenance of public water supply installations, changes or additions that may affect continuous sanitary quality, mineral quality, or adequacy of public water supply, pursuant to Title VII of the Environmental Protection Act.

IEPA established a regional groundwater protection-planning program in cooperation with IDNR, and designated priority groundwater protection planning regions taking into account the location of recharge areas identified and mapped by IDNR. IEPA established a regional planning committee for each priority groundwater protection planning region which is responsible for identification of and advocacy for region-specific groundwater protection matters along with other requirements regarding monitoring and progress reports regarding implementation of groundwater protection, maintaining a registry of instances where IEPA issued an advisory of groundwater contamination hazards within the region, and facilitating informational and educational activities relating to groundwater protection. IEPA provides supporting services to the regional planning committee.

Title 35 of the IAC, Parts 601 through 680, contain IPCB rules pursuant to the Environmental Protection Act and the Safe Drinking Water Act, for owners and official custodians of a public water supply to provide continuous operation and maintenance of public water supply facilities so water is safe in quality, cleanliness, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

The **Water Use Act of 1983** [525ILCS 45] declares it public policy, and in the public interest, to better manage and conserve water, to establish a mechanism for restricting withdrawals of groundwater in

emergencies, and provide for public notice of planned substantial water withdrawals from new points before water is withdrawn.

Under the **Level of Lake Michigan Act** [615 ILCS 50], IDNR controls and regulates diversion of Lake Michigan water and apportionment of water diverted from the Lake Michigan watershed. All diversions of Lake Michigan water require a valid allocation permit from IDNR. IDNR cannot allocate water for use outside the state or any other Great Lake state without approval of other Great Lakes states and the International Joint Commission (IJC). IDNR cooperates with the IJC, federal agencies, and state and local agencies, for regulation and maintenance of the levels and use of the waters of Lake Michigan and the other Great Lakes. The "International Joint Commission" is the permanent unitary body established under the Boundary Waters Treaty of 1909 between the United States and Canada to help prevent and settle disputes regarding the use of boundary waters.

"The IDNR shall make all necessary surveys, collect all necessary data and cooperate and enter into agreements with any and all agencies of the United States, the IJC, the Canadian provinces of Ontario and Quebec, other States, municipal corporations, regional organizations, public or private corporations... for the formulation of plans and construction of all projects for the regulation and maintenance of the levels of Lake Michigan and for the extraction and utilization of waters taken from Lake Michigan and other resources located in the counties of Cook, DuPage, Kane, Lake, McHenry, and Will."

"The IDNR shall devise and develop a continuing program for the apportionment of water to be diverted from Lake Michigan among regional organizations, municipalities, political subdivisions, agencies or instrumentalities for domestic purposes (includes all public water supply pumpage and water supplied to commercial and industrial establishments) or for direct diversion into the Sanitary and Ship Canal to maintain such canal in a reasonably satisfactory sanitary condition; provided, however, that in developing the continuing program and in making allocations, the amount used for discretionary dilution for water quality purposes in the Sanitary and Ship Canal shall not exceed an annual average of 320 cubic feet per second. The IDNR shall give priority to allocations for domestic purposes in making allocations to new users of Lake Michigan water, and shall to the extent practicable make any allocations to new users of Lake Michigan water with the goal of reducing withdrawals from the Cambrian -Ordovician aquifer."

The **Illinois Water Well Construction Code** [415 ILCS 30] states the Illinois Department of Public Health (IDPH) has general supervision and authority over the location, construction, and modification of water wells, closed loop wells, and monitoring wells, and issuing permits for the construction or change in depth of any water well, other than community public water systems and monitoring wells. The **Illinois Water Well Pump Installation Code** [415 ILCS 35] authorizes the IDPH adopt and amend rules and regulations necessary to effectuate policy which provides criteria for the proper installation of water well pumps and equipment.

Category 4: Habitats, Wetlands, and Wildlife

Uses subject to management:

- Any construction in Lake Michigan or public waters of Illinois including flood control and floodplain controls.
- Activities that cause the degradation or decline in sustainability of groundwater supplies.
- Activities affecting natural areas, nature preserves, terrestrial or aquatic wildlife habitat, and areas of historical significance.
- Harvesting Fish for commerce or sport, taking of wild game.
- Development of public parks and recreational resources.

The Illinois Legislature passed the ***Interagency Wetlands Policy Act of 1989*** (IWPA) [20 ILCS 830] in recognition of the significant loss in wetlands and the corresponding loss in functional values they provide; such as reducing flooding and shoreline erosion, improving water quality, providing groundwater recharge, and providing critical habitat for many threatened and endangered plants and animals. IWPA directs state agencies to preserve, enhance, and create wetlands where possible, and avoid adverse impacts from state and state pass-through funded activities, such as construction, land management, or technical assistance. A state goal is no overall net loss of existing wetland acres, or their functional value due to state supported activities. State agencies preserve, enhance, and create wetlands where necessary to increase the quality and quantity of the state's wetland resource base through the State Wetland Mitigation Policy and Agency Action Plans.

IEPA regulates activities resulting in a discharge of any pollutant into a wetland. This authority is limited, however, to only those activities requiring a federal permit or license. Section 401 of the CWA requires all permits or licenses issued by the federal government for activities affecting waters of the United States be certified by the state in which the discharge is to occur, and that the activity complies with water quality standards of that state. These water quality standards must be equal to, or more stringent, than those established in Section 303 of the CWA. IEPA is the state agency that sets water quality standards in Illinois and has authority to certify federal permits and licenses.

If an activity is going to result in the discharge of a dredge or fill material into a wetland, or any other water of the US, Section 401 authority applies in review of individual (404) permit applications.

IWPA created an Interagency Wetlands Committee (IWC), lead by IDNR, is responsible for developing rules and regulations, guidelines for developing individual Agency Action Plans, technical procedures for consistent wetland identification, research and educational materials.

IWPA mandates review for *“any construction, land management or other activity performed by, or for which financial assistance is administered or provided by, a State agency that will result in an*

adverse impact to a wetland.” Agency activities requiring review include, but are not limited to the alteration of a wetland, discharge of dredged or fill material into a wetland, disturbance of the water table, destruction of plant life, and the transfer of state wetlands to any entity other than another state agency. State agency activities falling within the above categories may not be undertaken until completion of a wetlands review by IDNR, and a wetlands compensation plan has been approved, for any unavoidable adverse wetlands impacts. (17 IAC 1090.20, 1090.50)

Each state agency on the IWC must prepare an Agency Action Plan, which is the agency’s procedural plan for IWPA implementation. If, after reviewing the proposed activity, the agency determines that no feasible alternative exists, and adverse wetland impacts are unavoidable, such impacts must be mitigated through a Wetland Compensation Plan approved by DNR.

The ***Illinois Natural Areas Preservation Act*** [525 ILCS 30] states it is *“the public policy of the state to secure for the people of present and future generations the benefits of an enduring resource of natural areas, including the elements of natural diversity present in the state, by establishing a system of nature preserves, protecting nature preserves and gathering and disseminating information regarding them, providing for appropriate use of nature preserves that will not damage them, establishing and maintaining a register of natural areas and buffer areas, providing certain forms of protection and control of registered natural areas and registered buffer areas and otherwise encouraging and assisting in the preservation of natural areas and features.”*

The Act created the Illinois Nature Preserves Commission (INPC). INPC adopts policies and rules and meets at least annually. Powers and duties of the INPC include: maintaining inventories and records of nature preserves and other natural areas along with their features, approving the dedication of nature preserves; preparation of master plans for protection, management and use; promoting protection of natural areas not dedicated as nature preserves; adopting policies and promulgating rules related to development and maintenance of the nature preserves system; selection, acquisition, dedication, registration, and protection of registered areas; and protection of habitat, geological, and archaeological sites.

IDNR has power and duty to dedicate land held by IDNR as nature preserves, to cooperate and provide assistance to the INPC, to review and approve rules promulgated by INPC and to enforce rules pertaining to public use of nature preserves. IDNR also has the power to acquire by gift, legacy, purchase, transfer, grant, agreement, dedication or condemnation... the fee simple title to real property or any lesser estates, interests or rights therein... and to register natural areas and buffer areas.

The Act establishes a state system of nature preserves held in trust for the benefit of the people. A natural area becomes a nature preserve upon its dedication by the owner of the land, or of an interest or a right therein, with the approval of the INPC and the Governor. Land may be dedicated as a buffer area, with the same status and protection of a nature preserve. An owner of a nature preserve retains custody of the land and may assign, lease or convey an interest or ownership, or

contract for custody, maintenance or operation of, subject to the instrument of dedication, policies of the INPC, rules, the plan, and this Act.

Each nature preserve has a custodian, which is either the owner of the land or a designated individual or agency that administers, manages, and protects the nature preserve in accordance with the instrument of dedication, rules, and the master plan or management schedule. (17 IAC 4000.130) A master plan must be developed for each nature preserve or registered area. The master plan must address preservation, protection, management, development, and use of the nature preserve; identify the nature preserve owner, and location and description of the nature preserve, and conditions of custody and access. The master plan must also identify the presence and location of high quality natural communities, threatened or endangered species, and other significant or notable natural features.

All state and local government agencies must evaluate, through consultation with IDNR, whether actions are authorized, funded, or carried out by the agency are likely to result in the destruction or adverse modification of any natural area registered under the Act or identified in the Illinois Natural Areas Inventory. If the agency determines the action will have an adverse impact, the agency must study the action to determine possible methods of eliminating or mitigating adverse impact and attempt to mitigate or eliminate it.

The **Illinois Natural Heritage Fund Act** [30 ILCS 150] provides IDNR with funding to support activities and programs *“to preserve, protect and manage for future generations natural heritage lands held in the public trust.”* Natural heritage lands are *“lands and waters dedicated as Nature Preserves in accordance with the Illinois Natural Areas Preservation Act and other lands and waters representing outstanding examples of native ecological communities or providing habitat for endangered or threatened species and so categorized by the IDNR in the Illinois Natural Areas Inventory or the Illinois Natural Heritage Database maintained by the IDNR...”* The Natural Heritage Fund is used exclusively by IDNR for preservation and maintenance of natural heritage lands held in public trust.

The **Habitat Endowment Act** [525 ILCS 25] provides a “stable and supplemental source of money to support activities and programs undertaken by the IDNR or other managers of land to preserve, protect, acquire, and manage habitat. Habitat quality is measured by such parameters as type, native diversity, size, structure, scarcity, and location.” Such habitats include wetlands, woodlands, grasslands, and agricultural lands that support populations of wildlife at any stage of their life cycle. The Act establishes the Illinois Habitat Fund and the Illinois Habitat Endowment Trust Fund. The Illinois Habitat Fund is used exclusively by IDNR for the preservation and maintenance of high quality habitat lands and is financed through transfers of investment income earned by the Illinois Habitat Endowment Trust Fund, deposits of fees from the sale of State Habitat Stamps, artwork as provided for in the Wildlife Code, and revenue derived from the sale of Sportsmen Series license plates. The Illinois Habitat Endowment Trust Fund is financed by a combination of private donations, and transfers or deposits from the Park and Conservation Fund. IDNR shall not use eminent domain

proceedings to acquire property unless the landowner agrees to submit to eminent domain proceedings.

The ***Ecosystems Program of Conservation 2000*** ("Ecosystems Program") was developed by IDNR to establish and protect a system of representative, functioning ecosystems in both public and private ownership. The mission of the Ecosystems Program is to monitor, maintain, enhance and restore the biodiversity and ecological conditions of Illinois' landscapes through local partnerships. The Ecosystems Program provides technical, policy, administrative and financial assistance to Ecosystem Partnerships that are watershed or ecosystem based coalitions of individuals and organizations cooperating to improve the natural resource base of watersheds, while promoting compatible and sustainable economic activity. Adoption of bylaws is the foundation upon which each Ecosystem Partnership is built. IDNR ensures Ecosystem Partnerships execute their responsibilities through an open and democratic process that provides an opportunity for broad participation, and encourages non-profit status be legally recognized. [17 IAC 1523.10] Within the ICMP boundary, there are currently three active ecosystem partnerships.

Under the ***State Forest Act*** [525 ILCS 40], IDNR *"shall have control, supervision and management of all state forests. State forests shall include only such lands as are decided by the IDNR to be more valuable for the growing of forests than for other purposes, and shall have for their purpose the production of forest products, the protection of watersheds that are subject to serious erosion, the maintenance of purity of springs and streams and to afford recreation places."* IDNR may purchase, lease, receive by donation or legacy, or take options on tracts of land suitable for state forests. IDNR has authority to designate portions of state forests as wildlife or fish sanctuaries.

IDNR is responsible for implementing the ***Fish and Aquatic Life Code*** (Code) [515 ILCS 5]. The Code applies to *"aquatic life or parts of aquatic life (i) in or from any of the lakes, rivers, creeks, sloughs, bayous, or other waters or watercourses or lands wholly within the boundaries of the State of Illinois or over which the State of Illinois has concurrent jurisdiction with any other State or (ii) which may be brought into the State of Illinois..."* *"IDNR takes all measures necessary to conserve, distribute, introduce, and restore aquatic life... ,and bring or cause to be brought actions and proceedings to enforce this Code, and to recover any and all fines and penalties provided for."*

Authorized IDNR employees may enter all lands and waters to enforce the Code. They may *"examine all buildings, private or public clubs (except dwellings), fish markets, cold storage houses, locker plants, camps, vessels, cars (except sealed railroad cars or other common carriers), conveyances, vehicles, water craft, or any other means of transportation or shipping, tents, game bags, game coats, or other receptacles and to open and examine any box, barrel, package, or other receptacle in the possession of a common carrier, that they have reason to believe contains aquatic life or any part of aquatic life taken, bought, sold or bartered, shipped, or had in possession contrary to this Code, including administrative rules, or that the receptacle containing the aquatic life is falsely labeled."*

“IDNR may establish and enforce daily limits and seasons for fisheries. Commercial fishermen must obtain a license to fish from the IDNR. Any person found illegally using fishing devices or taking, transporting, holding or conveying any aquatic life contrary to the Code is subject to seizure of the item(s) by the IDNR. It is unlawful to set, drift, or drag any net or seine except a minnow seine in Lake Michigan within 1,000 yards of any pier or pillar or of the low water mark on the shore line.”

Aquaculture, transportation, stocking, importation, and/or possession of aquatic life is regulated by IDNR. (17 IAC 870.10-80) It is unlawful *“to release any aquatic life into the wild in this State without first securing permission of the IDNR to do so, except that the owner of a body of water may release aquatic life indigenous to the State of Illinois into waters wholly upon his or her property”* or *“to possess, transport, or release any live specimen or viable gametes of any species listed as injurious by administrative rule, unless authorized by that rule.”* IDNR prohibits injurious species, as listed in 17 IAC 805.20, from being *“possessed, propagated, bought, sold, bartered, or offered to be bought, sold, bartered, transported, traded, transferred or loaned to any other person or institution unless a permit is first obtained.”* All waters subject to jurisdiction of the state, including boundary waters, are considered aquatic preserves in which the aquatic life may only lawfully be taken by sport fishing.

IDNR regulates management of aquatic plants in Illinois public waters of Lake Michigan to protect residents using public waters, and endangered species of plants and animals from being exposed to harmful aquatic herbicides. These waters include *“all the open waters of Lake Michigan from the Wisconsin state line south to the Indiana state line and from the Michigan state line west to the Illinois shore, all harbors of the body of water that are or were navigable and are open or dedicated to public use, and the navigation channels connecting these harbors to Lake Michigan.”* (17 IAC 897)

Under the **Wildlife Code** [520 ILCS 5], IDNR is authorized to manage and regulate the taking of all wildlife for the purposes of providing public recreation and controlling wildlife populations. IDNR manages wildlife through a Natural Resources Advisory Board and implementation of seasons and limits. In managing wildlife, IDNR may establish and maintain refuges or public hunting areas on lands and waters owned by the state or federal government, and declare such by administrative rule. Further, it is unlawful to take any species of wildlife from a refuge. IDNR is authorized to use the power of eminent domain to create a refuge. Conservation, distribution, introduction and restoration of birds and mammals are the responsibility of IDNR. IDNR brings or causes actions and proceedings to enforce provisions of the Act, and to recover all fines and penalties.

Under the **Illinois Endangered Species Protection Act** [520 ILCS 10], *“it is unlawful for any person to possess, take, transport, sell, offer for sale, give or otherwise dispose of any animal or the product thereof of any animal species which occurs on the Illinois List; to deliver, receive, carry, transport or ship in interstate or foreign commerce plants listed as endangered by the federal government without a permit therefor issued by the IDNR as provided in Section 4 of this Act; to take plants on the Illinois List without the express written permission of the landowner; or to sell or offer for sale plants or plant products of endangered species on the Illinois List.”*

“The Endangered Species Protection Board is created whose duties include listing, delisting, or change of listing status of species for the Illinois List, in consultation with and written approval by the IDNR, in accordance with the Illinois Administrative Procedure Act, on rules for listing and delisting species of animals or plants as endangered or threatened species of animals or plants, or changing their status. The Board shall advise the IDNR on methods of assistance, protection, conservation and management of endangered and threatened species and their habitats, and on related matters. Any species or subspecies of animal or plant designated as endangered or threatened under the Endangered Species Act of 1973 (P.L. 93-205) shall be automatically listed as an endangered or threatened species and placed on the Illinois List without notice or public hearing.” IDNR may authorize, under prescribed terms and conditions, any taking if that taking is incidental to the carrying out of an otherwise lawful activity. No taking shall be authorized by IDNR unless the applicant submits to IDNR a conservation plan which includes a description of the impact, steps taken to minimize and mitigate that impact...and an implementing agreement that describes the obligations and responsibilities of all the parties that will be involved in the taking as authorized by the permit.

“It is the public policy of all agencies of state and local governments to utilize their authorities in furtherance of the purposes of this Act by evaluating through a consultation process with the IDNR whether actions authorized, funded, or carried out by them are likely to jeopardize the continued existence of Illinois listed endangered and threatened species or are likely to result in the destruction or adverse modification of the designated essential habitat of such species ...”

Under the **Wildlife Restoration Cooperation Act** [520 ILCS 15], *“the state assented to the provisions of the act of Congress entitled An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes, approved September 2, 1937 (Public No. 415, 75th Congress). The IDNR is authorized and directed to perform such acts as may be necessary for the conduct and establishment of cooperative wildlife-restoration projects as defined in said Act of Congress.”*

Category 5: Historic, Archaeological and Cultural Resources

Uses subject to management:

- Activities that affect natural areas, nature preserves, terrestrial or aquatic wildlife habitat, and areas of historical significance.

The **Illinois Historic Preservation Act** [20 ILCS 3410] requires the Illinois Historic Preservation Agency (IHPA) to establish and maintain an Illinois Register of Historic Places. Historic places are designated by the Director of IHPA upon recommendation of Illinois Historic Sites Advisory Council. The Council also has the power to recommend nominations to the National Register of Historic Places, removal of places from the National Register and the Illinois Register, establish guidelines determining the

eligibility for listing and removing places on the Illinois Register of Historic Places, and advise IHPA on matters pertaining to historic preservation.

A place may be listed on the Illinois Register of Historic Places if it has “special historical, architectural, archeological, cultural, or artistic interest or value;” meets the IHPA definition of “place”; and satisfies the criteria listed in Section 6 of the IHPA which states that historic places shall be limited to those:

that are associated with events or the lives of persons that have made a significant contribution to the broad patterns of our history; or that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or that exemplify elements of our cultural, economic, social or historic heritage; or that have yielded, or are likely to yield, information important in prehistory or history. It is unlawful for any person to collect or take IHPA-controlled artifacts or “mutilate, destroy, deface, or excavate any IHPA-controlled archaeological site except as provided by written permit” issued by the IHPA. (17 IAC 4160.90)

It is unlawful to “demolish, cause to be demolished, or permit or order the demolition of any Critical Historic Feature of a Registered Illinois Historic Place unless the Director has issued a Certificate of Compliance for the proposed action.” Critical historic features are “those physical and environmental components which taken singly or together make a place eligible for designation as a Registered Illinois Historic Place.” State agencies must not expend public funds on projects “which will have an adverse economic or environmental impact” on a registered historic place unless the Director determines that “(1) the project is necessary to provide an important public service or benefit, (2) the project cannot be carried out practically so as to avoid the adverse effect and (3) the adverse effect is minimized to the maximum extent feasible.”

The **Archaeological and Paleontological Resources Protection Act** [20 ILCS 3435], provides the state “the exclusive right and privilege of regulating, exploring, excavating or surveying, through the IHPA, all archaeological and paleontological resources found upon or within any public lands.”

Archaeological resources include “any significant material remains or localities of past human life or activities on public land, including but not limited to artifacts, historic and prehistoric human skeletal remains, mounds, earthworks, shipwrecks, forts, village sites or mines.” The Act prohibits exploration, excavation, or collection of an archaeological or paleontological resource without a permit from IHPA. It is also unlawful to knowingly disturb a protected resource, or offer for sale or exchange any object collected or excavated in violation of the Act. Archaeologists and paleontologists wishing to conduct permitted activities must meet minimum standards of education and experience.

The **Local Legacy Act** [20 ILCS 3988] provides technical assistance and funding in the form of grants, to encourage partnerships between counties and municipalities, for the creation of an inventory of

their natural areas, farmland, and cultural assets and to develop a Resource Protection Plan for protecting those areas. *“It is the purpose of this Act to promote voluntary county-municipal partnerships by the year 2020, which will inventory resources, develop Resource Protection Plans, and implement their respective plans.”* The Act created the Local Legacy Program to provide grants to counties and municipalities to inventory their natural areas, farmland, and cultural resources and develop Resource Protection Plans.

Category 6: Recreation and Public Access

Uses subject to management:

- Any construction in Lake Michigan or the public waters of Illinois including mooring facilities for watercraft including marinas, harbors and ports
- Activities that cause the degradation or decline in sustainability of groundwater supplies
- Activities affecting natural areas, nature preserves, terrestrial or aquatic habitat, and areas of historical significance
- Development of public parks and recreational resources

Under the **Open Space Lands Acquisition and Development Act (OSLAD)** [525 ILCS 35], IDNR *“shall make grants to local governments as financial assistance, on a reimbursement basis, for the capital development and improvement of park, recreation or conservation areas, marinas and shorelines, including planning and engineering costs, and for the acquisition of open space lands, including acquisition of easements... if the IDNR determines that such property interests are sufficient to carry out the purposes of this Act. The IDNR shall give priority to projects which will provide the greatest benefit to the residents of areas which have the highest concentration of population, which are based upon criteria which reflect outdoor recreation priorities as identified in the Statewide Comprehensive Outdoor Recreation Plan (SCORP), or which are located in flood plain areas.”*

The Act creates the Open Space Lands Acquisition and Development Fund to make OSLAD grants. It also creates the Natural Areas Acquisition Fund *“used for the acquisition, preservation and stewardship of natural areas, including habitats for endangered and threatened species, high quality natural communities, wetlands, and other areas with unique or unusual natural heritage qualities.”*

IDNR priorities include natural area and wetland preservation, protection of endangered/threatened species and critical habitat resources, conservation education, creation of greenways and long distance trail corridors, water-based recreation, recreation for disadvantaged populations, and adaptive re-use/redevelopment of urban lands, including brownfields. Determination of local need is based on existing supply of recreation facilities per capita and existing supply and distribution of open space and park land acreage (measured in acres/capita), in comparison to statewide mediums. (17 IAC 3025.60)

The **Illinois Open Land Trust Act** [525 ILCS 33] provides acquisition of *“natural areas, wetlands, forests, prairies, open spaces, and greenways provide critical habitat for fish and wildlife and are in*

need of protection.” Acquiring such lands for the conservation of natural resources and public recreation promote the public health, prosperity, and general welfare and are proper responsibilities of state government and non-profit organizations for conservation and recreational purposes to prevent disappearance of crucial lands.

IDNR “shall develop and administer the Illinois Open Land Trust Program to acquire real property, or conservation easements for natural areas, from willing sellers for conservation and recreation purposes. The land shall be chosen because it will preserve and enhance Illinois' natural environment, create a system of open spaces and natural lands, and improve the quality of life and provide recreation opportunities... The IDNR may make grants to units of local government as financial assistance for the acquisition of open space and natural lands if the IDNR determines that the property interests are sufficient to carry out the purposes of this Act... The IDNR may establish an Open Lands Loan Program to assist local government in the purchase of property to protect open spaces and lands with significant natural resource attributes.”

Under the **Outdoor Recreation Resources Act** [20 ILCS 860], state agencies are authorized to participate in *“federal assistance programs for outdoor recreation resources and historically significant properties of the state... The IDNR, with the DCEO, is authorized to have prepared and keep up-to-date comprehensive plans for the development of the outdoor recreation resources and for the preservation of the historically significant properties... The IDNR and the IHPA are respectively authorized to survey, design, develop, operate, and maintain outdoor recreation areas and facilities (IDNR) and historically significant properties and interests (IHPA), and to acquire land, waters, structures, and interests in land, waters and structures for such areas and facilities. The IDNR and the IHPA may enter into contracts and agreements with the United States or any agency thereof ...in accordance with their authorization.”*

The **Illinois Conservation Enhancement Act** [505 ILCS 35] establishes the Reinvest in Illinois Natural Resources Fund to fund the Save Illinois Topsoil and Natural Resource Enhancement Programs. Approved expenditures from the fund include soil and water conservation practices, to improve water quality, reduce soil erosion and crop surpluses; enhance habitat on public and private lands; and acquisition and development of public access sites as well as recreation easements for lakes, streams and rivers for fish and wildlife oriented recreation.

The **Shore Lands for Park Use Act** [65 ILCS 105] allows a city, town or village owning lands bordering public waters and riparian rights to grant, convey or release any lands or rights to any park entity for park purposes of submerged lands under the public waters adjacent to the lands controlled by such city, town or village; however, that no such park entity may grant, convey, lease or release any lands so acquired or the riparian rights appurtenant thereto to any private person or corporation.

The **Recreational Trails of Illinois Act** [20 ILCS 862] provides establishment and maintenance of recreational trails by the state, important for promotion of recreation and conservation, that the federal government emphasized by enacting the Symms National Recreational Trails Act of 1991.

Illinois adopted a comprehensive recreational trails Act for the establishment and maintenance of recreational trails. The Off-Highway Vehicle Trails Fund was created and is used by IDNR for grants for construction and maintenance of off-highway vehicle recreational trails, trailside facilities, acquisition of property from willing sellers.

Category 7: Economic Development

Uses subject to management:

- Any construction in Lake Michigan or the public waters of Illinois including mooring facilities for watercraft including marinas, harbors and ports and constructing sewer and water facilities
- The Diversion or withdrawal of water from Lake Michigan for any purpose
- Management of Public Water Supplies
- Activities that cause the degradation or decline in sustainability of groundwater supplies
- Activities affecting natural areas, nature preserves, terrestrial or aquatic habitat, and areas of historical significance
- Laying out, altering, or discontinuing highways
- Emitting air pollutants from point sources
- Development of public parks and recreational resources
- Redevelopment of brownfields

The power of eminent domain allows state and federal agencies to take private property for public purposes. In Supreme Court decision, *Kelo v. City of New London*, the Court broadened the definition of “public purpose,” allows for the expansion of eminent domain. 545 U.S. 469 (U.S. 2005) In response, Illinois enacted a new law placing greater restrictions on state and local governments attempting to take private property. The ***Eminent Domain Act*** [735 ILCS 30], which went into effect January 1, 2007, requires that an authority attempting to acquire property under “*eminent domain for public ownership and control, then the condemning authority must prove that the acquisition of the property is necessary for a public purpose, and the acquired property will be owned and controlled by the condemning authority or another governmental entity.*” Taking private property for private ownership or control in certain instances, requires a showing of clear and convincing evidence that the taking is primarily for the benefit, use, or enjoyment of the public and necessary for a public purpose. However, all eminent domain statutes are required to be strictly construed to protect the property rights of landowners. *Town of Libertyville v. Bank of Waukegan*, 152 Ill. App. 3d 1066 (Ill. App. Ct. 1987)

The Act includes a list of the ILCS Sections that include express grants of the power to acquire property by condemnation or eminent domain. This list includes express grants for conservation and habitat protection (ILCS Chapters 505 525). Such provisions include but are not limited to the Fish and Aquatic Code, the Wildlife Code, the Habitat Endowment Act, the Illinois Natural Areas Preservation Act, and the State Forest Act. ILCS Chapters 605 through 625, include express grants to

the IDNR for land along public waters for pleasure, recreation, or sport purposes, under the Rivers, Lakes, and Streams Act, and for purposes under the Flood Control Act of 1945.

The ***Department of Commerce and Economic Opportunity Law*** [20 ILCS 605], DCEO acts as the official state planning agency and accepts and uses planning grants or other financial assistance from the federal government, for statewide comprehensive planning work including research and coordination directly related to urban needs, and for state and interstate comprehensive planning, research, and coordination. DCEO focuses on commercial aspects of planning, for example, the encouragement of new industry, incentives for foreign firms to locate in Illinois, industrial growth, and jobs. DCEO also has the power to formulate economic development plans and to recommend economic development legislation.

This law created the Economic Development Matching Grants Program authorizing DCEO to make grants from the ***Statewide Economic Development Fund*** [30 ILCS 105/6z-55] for promoting statewide economic development activities and enhance marketing of Illinois by enabling regions and communities to market themselves and attract new business and industry. DCEO is authorized to make grants to nonprofit organizations and local units of government to promote Illinois communities as sites for industrial and business location and expansion. [20 ILCS 605/605-328]

DCEO, in cooperation with IDOA and the International Trade and Port Promotion Advisory Committee, has the power and duty to establish a freight rate information service for U.S. and foreign shippers, promoting advantages of Illinois water ports and existing airport facilities through appropriate means and media in this country and overseas, and to cooperate with the export expansion projects and any other activity that results in the additional flow of agricultural and manufactured products through Illinois water ports and existing airport facilities. [20 ILCS 605/605-625]

The ***Economic Development Area Tax Increment Allocation Act*** [20 ILCS 620] allows municipality to submit adopted ordinances, approving economic development plans, establishing economic development project areas, and authorizing tax increment allocation financing for economic development project areas to DCEO who then determines if it qualifies as an economic development area and certifies it accordingly. [20 ILCS 620/5]

Under the ***Illinois Economic Development Board Act*** [20 ILCS 3965], the state authorizes a long-term economic development strategy through the establishment of a unique public/private partnership to attract new businesses and encourage investment. The Illinois Economic Development Board was created within DCEO to assist in developing a strategy to spur economic growth, enhance opportunities for core industries, and encourage new job creation and investment.

The Board has responsibility and power to secure private sector, and community support in the analysis of economic development opportunities and in development of specific recommendations. The Board assists DCEO's research efforts to identify key businesses, and industries, and determine

their potential for expansion, diversification and production of value-added goods; to propose appropriate state roles in new product development, venture capital formation, and research and development; and to assist DCEO's efforts to study key components for a long-term strategy based on consensus goals and principles, including education and training, energy, environmental conditions, research and development, capital, land, transportation, advanced communications, taxes, and regulations.

The ***Site Remediation Program*** described under ***Title XVII of the Environmental Protection Act*** establishes a risk-based system of remediation based on protection of human health and the environment. This system assesses present and future uses of the site and assures that remedial action considers the adequacy for the new land use. The Program provides incentives to the private sector to undertake remedial action, establishes expeditious alternatives for review of site investigation, and remedial activities, and provides assistance to local government for contaminated property remediation.

This Title establishes procedures for investigative and remedial activities at sites where there is a release, threatened release, or suspected release of hazardous substances, pesticides, or petroleum and review and approval of those activities. "Brownfields site" or "brownfields" means a parcel of real property, or a portion of the parcel, that has actual or perceived contamination and active potential for redevelopment. The ***Municipal Brownfields Redevelopment Grant Program*** provides financial assistance to municipalities for coordination of activities related to brownfields redevelopment.

Under the ***Department of Transportation Law*** [20 ILCS 2705], IDOT has the power to undertake port and waterway development planning and studies of port and waterway development problems. It also can provide technical assistance to port districts and units of local government and port and waterway development activities. IDOT provides financial assistance for the ordinary, and contingent expenses of port districts upon the terms and conditions that IDOT finds necessary to aid in development of those districts. IDOT coordinates all its activities with DCEO. IDOT has the power to advise in formulating a mass transportation policy for the state, proposals designed to help meet and resolve special problems of mass transportation, and programs for comprehensive planning, development, and administration of mass transportation facilities and services.

Under the ***River, Lakes and Streams Act*** [615 ILCS 5], IDNR can issue permits to individuals, corporations, firms, or governments to take sand, earth, minerals, and gravel from the bed or below the bed of any state water. IDNR is also authorized to issue permits to any individual, corporation, firm or government to remove oil, coal or gas from the bed or below the bed of any water.

Under the ***Lake Calumet Harbor Act*** [615 ILCS 65], the term "harbor" refers only to water area and not to lands adjacent thereto, and having a basin and slips, a depth of not less than 21.34 feet Chicago datum and a total area of not less than 500 acres of which not less than 300 acres in the basin, may be constructed by the City of Chicago in and near Lake Calumet in the City of Chicago.

The acceptance of the City of Chicago of lands granted by this Act obligates the city to maintain the harbor at the depth stated. *“The City of Chicago may use for any of the purposes conferred and authorized by Division 123 of Article 11 of the ‘Illinois Municipal Code,’ approved May 29, 1961, may sell and convey, or may lease for any term of years, any part or parts or all of the lands granted to the City by this Act for industrial, manufacturing or harbor purposes. When any lands are sold or leased, such grant or lease shall contain a clause in the deed, or lease to the effect that the lands shall be used for the purpose authorized within a certain time fixed or agreed upon between the City of Chicago and its grantees or lessees.”* Such sale or lease shall be approved in writing by the IDNR Director.

Category 8: Energy Facilities and Air Quality

Uses subject to management:

- Any construction in Lake Michigan or public waters of Illinois
- The diversion or withdrawal of water from Lake Michigan for any purpose including the use of water for industrial or public utility purposes
- Siting electrical generating and high voltage transmission facilities
- Emitting air pollutants from point sources
- Siting of energy facilities
- Storing and transporting energy resources

Energy facility and air quality management authorities are addressed in Chapter 10: Energy Facility Planning Process.

Overview of ICMP Management Authorities by State Agencies, Boards and Commissions

The following is a general description of the authorities of state agencies, boards, and commissions networked with the ICMP:

- Illinois Department of Natural Resources (IDNR)

IDNR conserves, preserves, and enhances Illinois resources, while meeting the outdoor recreation needs of a large and diverse population. IDNR programs address a wide scope of concerns, ranging from recreational facilities development on public lands, to protecting natural areas.

IDNR Office of Realty and Environmental Planning (OREP)

OREP is responsible for natural resource and outdoor recreation planning. OREP administers Illinois Endangered Species Protection and Illinois Natural Areas Preservation Acts. These Acts require state and local units of government (municipalities and counties) to participate in a consultation process with OREP prior to approving, funding or performing activities that will disturb water, land or air

development. OREP also reviews Section 404 wetland permits for impacts to fish and wildlife resources, it administers the IWPA.

IDNR Office of Resource Conservation (ORC)

ORC reviews Section 404 wetland permits for impacts to fish and wildlife resources. ORC protects, restores, and enhances fisheries and other aquatic resources in Illinois through regulation, ecological management, and public education. The ORC also performs fish surveys as part of basin studies and biannual sampling programs.

IDNR Office of Architecture, Engineering and Grants

Administer IDNR grants, including state and federal grants for open space programs. Open Space Lands Acquisition and Development (OSLAD) is the state's grant program; Land and Water Conservation Fund (LWCF or LAWCON) is the federal program. These grants provide 50% reimbursement for open space acquisition.

IDNR Office of Water Resources (OWR)

OWR is responsible for administering regulatory programs for construction in the floodways of rivers, lakes and streams; construction in the shore waters of Lake Michigan; construction and operation of dams; construction in public bodies of water; and diversion and withdrawal of waters from the state's lakes. It is also the lead state agency for water resource planning, navigation, floodplain management; the National Flood Insurance Program, and interstate organizations on water resources. The OWR performs initial surveys and collects water resource data to make recommendations to local officials for flood control or acquisition projects. If a project is warranted, the OWR coordinates planning and funding, and provides project design.

IDNR Coastal Management Program

Preserves, protects, restores, and where possible, enhances the coastal resources in Illinois for this and succeeding generations. The program will improve the quality of decision-making by the state and coastal communities resulting in more effective outcomes.

- Illinois Environmental Protection Agency (IEPA)

IEPA's mission is to safeguard environmental quality consistent with the social and economic needs of the state, to protect health, welfare, property, and quality of life. The Environmental Protection Act is Illinois' primary statute for restoring, protecting, and enhancing the environment. IEPA investigates violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any IPCB order; takes necessary enforcement actions. IEPA has authority to make recommendations to the IPCB to adopt regulations (Title VII) and represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts or other

governmental arrangements relating to environmental protection. IEPA is designated as the implementing agency for the State for all purposes of the following federal acts: the Water Pollution Control Act; the Safe Drinking Water Act (except for Section 1425); the Clean Air Act; the Solid Waste Disposal Act; the Resource Conservation and Recovery Act; the Noise Control Act; and the Comprehensive Environmental Response, Compensation, and Liability Act. IEPA can enter into written delegation agreements with any unit of local government and it can delegate all or portions of its inspecting, investigating, and enforcement functions.

- Illinois Pollution Control Board (IPCB)

IPCB is an independent agency created in 1970 by the Environmental Protection Act. The IPCB adopts Illinois' environmental regulations and decides contested environmental cases. The IPCB's environmental regulations on air pollution, land pollution, water pollution, and other types of pollution are found in Title 35 of the IAC. The IPCB's procedural rules (35 IAC 101-130) explain how to initiate and participate in IPCB proceedings. Any person can file a complaint with the IPCB against an alleged polluter. The IPCB is Illinois' environmental court for pollution cases, and therefore hears and decides environmental enforcement actions, but does not prosecute or investigate alleged pollution.

- Illinois Department of Agriculture (IDOA)

IDOA coordinates district programs to reduce erosion and sedimentation, protect water quality, control flooding, plan land use, and enhance woodland, wildlife, and recreational resources. Conservation practices, such as terraces, filter strips and grass waterways, are designed to reduce soil loss on cropland. The Streambank Stabilization and Restoration Program funds streambank erosion demonstration projects utilizing bioengineering techniques. IDOA administers programs to control and eradicate plant pests, diseases, and noxious weeds, and it enforces proper storage, containment, and disposal of pesticides and fertilizers. The IDOA also manages a livestock management facilities program.

- Illinois Department of Commerce and Economic Opportunity (DCEO)

DCEO is the lead state planning agency responsible for improving competitiveness of Illinois in the global economy. DCEO is charged with enhancing Illinois' economic competitiveness by providing technical and financial assistance to businesses, local governments, workers and families. DCEO provides information, assistance and advocacy to facilitate the economic development process in partnership with communities, businesses, and Illinois' network of public and private service providers.

- Illinois Emergency Management Agency (IEMA)

IEMA coordinates state flood and other disaster planning, response, and mitigation activities. IEMA provides training programs for local governments, reviews local plans, offers advice and assistance on emergency preparedness, and provides operational support during an emergency. IEMA also collects flood damage data from local units of government and administers FEMA funded programs, including the mitigation grant programs.

- Illinois Nature Preserves Commission (INPC)

INPC assists private and public landowners in protecting high quality natural areas and habitats, of endangered and threatened species, in perpetuity, through voluntary dedication or registration of such lands with the Illinois Nature Preserves System. INPC promotes preservation of these significant lands and provides leadership in their stewardship, management, and protection.

- Illinois Department of Transportation (IDOT)

IDOT is responsible for transportation planning, road and bridge construction, and maintenance along some sections of highways and routes. IDOT has an aeronautics division, a traffic safety division, and a public and intermodal transportation division.

ICMP Statutory Authorities, Policies and Programs by State Agency

- Illinois Department of Natural Resources (IDNR)

20 ILCS 805/ Department of Natural Resources Act
 20 ILCS 830/ Interagency Wetlands Policy Act of 1989
 20 ILCS 860/ Outdoor Recreation Resources Act
 20 ILCS 862/ Recreational Trails of Illinois Act
 20 ILCS 1120/ Energy Policy and Planning Act
 20 ILCS 3988/ Local Legacy Act (Board also includes IHPA and IDOA)
 30 ILCS 150/ Illinois Natural Heritage Fund Act
 55 ILCS 5/ Counties Code regarding the National Flood Insurance Act of 1968
 70 ILCS 1810/ Illinois International Port District Act
 415 ILCS 55/ Illinois Groundwater Protection Act
 515 ILCS 5/ Fish and Aquatic Life Code
 520 ILCS 5/ Wildlife Code
 520 ILCS 10/ Illinois Endangered Species Protection Act
 520 ILCS 15/ Wildlife Restoration Cooperation Act
 520 ILCS 25/ Habitat Endowment Act
 525 ILCS 30/ Natural Areas Preservation Act
 525 ILCS 33/ Illinois Open Land Trust Act
 525 ILCS 35/ Open Space Lands Acquisition and Development Act

525 ILCS 40/ State Forest Act
 525 ILCS 45/ Water Use Act of 1983
 615 ILCS 5/ Rivers, Lakes and Streams Act
 615 ILCS 5/14a IEPA, IDNR, IPCB coordination preservation of Lake Michigan water
 615 ILCS 5/18 (permitting of fills along streams and Lake Michigan)
 615 ILCS 5/18a, b, d (permitting/use of materials and minerals at or below bed of public waters)
 615 ILCS 5/18f (defining and permits for construction in floodplains)
 615 ILCS 5/24 Shoreline encroachment and bed of Lake Michigan in trust for Illinois citizens
 615 ILCS 15/ Flood Control Act of 1945
 615 ILCS 20/ Navigable Waters Obstruction Act
 615 ILCS 50/ Level of Lake Michigan Act
 615 ILCS 55/ Lake Michigan Shore Line Act
 615 ILCS 65/ Lake Calumet Harbor Act

- Illinois Environmental Protection Agency (IEPA)

415 ILCS 5/ Illinois Environmental Protection Act
 415 ILCS 5/9.11 Great Lakes Water Quality Agreement (Great Lakes AOCs)
 415 ILCS 5/14-19 Title IV: Public Water Supplies
 415 ILCS 5/39 Title X: Permits
 415 ILCS 5/39.5 Clean Air Act Permit Program
 415 ILCS 5/58.13 Municipal Brownfields Redevelopment Grant Program
 415 ILCS 55/ Illinois Groundwater Protection Act
 615 ILCS 5/14a IEPA, IDNR, IPCB coordination preservation of Lake Michigan water

- Illinois Pollution Control Board (IPCB)

415 ILCS 5/13 Authority to adopt regulations for the Environmental Protection Act
 415 ILCS 5/17 Authority to adopt regulations for public water supplies
 615 ILCS 5/14a IEPA, IDNR, IPCB coordination preservation of Lake Michigan water

- Illinois Department of Agriculture (IDOA)

20 ILCS 3988/ Local Legacy Act (Board also includes IHPA and IDNR)
 70 ILCS 405/ Soil and Water Conservation Districts Act
 415 ILCS 60/ Illinois Pesticide Act
 505 ILCS 35/ Illinois Conservation Enhancement Act
 505 ILCS 140/ Watershed Improvement Act

- Illinois Historic Preservation Agency (IHPA)

20 ILCS 860/ Outdoor Recreation Resources Act
 20 ILCS 3410/ Illinois Historic Preservation Act
 20 ILCS 3435/ Archaeological and Paleontological Resources Protection Act
 20 ILCS 3988/ Local Legacy Act (Board also includes IDNR and IDOA)

- Illinois Nature Preserves Commission

60 ILCS 1/115-100 Township Code – dedication of nature preserves
 525 ILCS 30/ Illinois Natural Areas Preservation Act

- Illinois Commerce Commission (ICC)

220 ILCS 5/ Public Utilities Act
 220 ILCS 5/8-406 Certificate of Public Convenience and Necessity
 220 ILCS 15/ Gas Storage Act
 220 ILCS 25/ Gas Transmission Facilities Act
 220 ILCS 30/ Electric Supplier Act

- Illinois Department of Public Health

415 ILCS 55/ Illinois Groundwater Protection Act

- Illinois Emergency Management Agency (IEMA)

20 ILCS 3310/ Nuclear Safety Law of 2004
 420 ILCS 5/ Illinois Nuclear Safety Preparedness Act
 420 ILCS 10/ Illinois Nuclear Facility Safety Act
 420 ILCS 15/ Spent Nuclear Fuel Act
 430 ILCS 75/ Boiler and Pressure Vessel Safety Act

- Illinois Department of Transportation (IDOT)

20 ILCS 2705/285 (can undertake port and waterway development planning and studies)

- Illinois Department of Commerce and Economic Opportunity (DCEO)

20 ILCS 605/ Statutory Responsibilities and Economic Development Matching Grants
 20 ILCS 620/ Economic Development Area Tax Increment Allocation Act
 20 ILCS 860/ Outdoor Recreation Resources Act
 20 ILCS 3965/ Illinois Economic Development Board Act
 30 ILCS 105/6z-55 Statewide Economic Development Fund

- Other relevant statutes cited with no reference to a specific state agency authority:

65 ILCS 105/ Shore Lands for Park Use Act
 70 ILCS 3405/ Surface Water Protection District Act
 70 ILCS 3715/ Water Authorities Act
 415 ILCS 25/ Water Pollutant Discharge Act
 735 ILCS 30/ Eminent Domain Act

Land and Water Uses of Regional Benefit

Land and water uses of regional benefit serve more than one community. Examples of regional benefit include construction of an energy facility, a coastal recreational trail, or a public park, which could benefit many communities. Since many activities can have a regional benefit, it is necessary to define what would be considered as an unreasonable exclusion by a local government action.

Several state statutes directly address state agencies authorities in meeting public interests and needs. These include authorities cited in the various Acts under Chapter 220 “Utilities,” such as the Public Utilities Act, the Gas Storage Act, and the Electric Supplier Act. Other statutes include the Metropolitan Water Reclamation District of Greater Chicago under the Metropolitan Water Reclamation District Act [70 ILCS 2605/], and the Department of Transportation under the Illinois Highway Code [605 ILCS 5/]. These authorities include procedures and requirements governing the use of eminent domain, or requirements for utilities need to demonstrate that proposed construction is necessary to provide adequate, reliable, and efficient service.

Exercise of eminent domain is most relevant when addressing land and water uses of regional benefit. The Eminent Domain Act [735 ILCS 30/] cites limitations on the exercise of this power. If exercise of eminent domain authority is to acquire property for public ownership and control, then the condemning authority must prove that (i) the acquisition of the property is necessary for a public purpose, and (ii) the acquired property will be owned and controlled by the condemning authority or another governmental entity. With exceptions as cited in Article 5 of the Act, if the exercise of eminent domain is to acquire property for private ownership or control, or both, then the condemning authority must prove with clear and convincing evidence that acquisition of the property for private ownership or control is (i) primarily for the benefit, use, or enjoyment of the public, and (ii) necessary for a public purpose.

Article 15 of the Eminent Domain Act provides a list of Sections of the Illinois Compiled Statutes that include express grants of power to acquire property by condemnation or eminent domain. The grants of power provided in the Eminent Domain Act are given to the State and its various divisions and agencies, and all units of local government, school districts, and other entities. The list is intended to be comprehensive. The following is a short list of several cited statutes:

- (20 ILCS 3110/5); **Building Authority Act; Capital Development Board**; for purposes declared by the General Assembly to be in the public interest

- (70 ILCS 2605/16); **Metropolitan Water Reclamation District Act**; quick-take power for improvements
- (70 ILCS 2605/17); **Metropolitan Water Reclamation District Act**; for bridges
- (70 ILCS 2605/35); **Metropolitan Water Reclamation District Act**; for widening and deepening a navigable stream
- (70 ILCS 3610/3 and 3610/5); **Local Mass Transit District Act**
- (70 ILCS 3615/2.13); **Regional Transportation Authority Act**
- (220 ILCS 5/8-509); **Public Utilities Act**; public utilities
- (220 ILCS 15/1); **Gas Storage Act**; corporations engaged in the distribution, transportation, or storage of natural gas or manufactured gas
- (220 ILCS 30/13); **Electric Supplier Act**; electric cooperatives
- (515 ILCS 5/1-145); **Fish and Aquatic Life Code**; Department of Natural Resources
- (520 ILCS 5/1.9); **Wildlife Code**; Department of Natural Resources
- (605 ILCS 5/4-501); **Illinois Highway Code**; Department of Transportation and counties
- (605 ILCS 5/4-505); **Illinois Highway Code**; Department of Transportation
- (610 ILCS 5/17); **Railroad Incorporation Act**; railroad corporation; for real estate for railroad purposes
- (615 ILCS 5/19); **Rivers, Lakes, and Streams Act**; Department of Natural Resources
- (615 ILCS 10/7.8); **Illinois Waterway Act**; Department of Natural Resources
- (615 ILCS 15/7); **Flood Control Act of 1945**; Department of Natural Resources

Uses of Regional Benefit Subject to Management

The following is a list of uses that affect, or produce some regional benefit along the Illinois Coast:

- Major transportation facilities such as interstate highways, state roads, airports, railroads, passenger transit systems, ports, marinas, harbors and important navigational projects
- Public recreation facilities, natural areas, or historical significance in the region
- Regional water supply and wastewater treatment facilities or systems
- Regional waste disposal systems
- Major energy transmission, generation or distribution facilities
- Major public facilities such as hospitals and universities
- Housing development and community growth

Illinois courts have consistently ruled that the inherent powers of local government do not include the power to enact ordinances that conflict with state regulations. See 259 Ill. Dec. 909, 759 N.E.2d 970 (Ill.App. 2 Dist. 2001).