



Rep. Theresa Mah

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10200HB2767ham001

LRB102 12787 CPF 36234 a

1 AMENDMENT TO HOUSE BILL 2767

2 AMENDMENT NO. _____. Amend House Bill 2767 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 adding Section 3.141-5 and by changing Section 42 as follows:

6 (415 ILCS 5/3.141-5 new)

7 Sec. 3.141-5. Power plant demolition transparency and air
8 protection.

9 (a) As used in this Section:

10 "Air quality plan" means the air quality plan established
11 under subsection (j).

12 "Demolition" means any of the following activities
13 conducted in relation to a thermal power plant:

14 (1) The demolition of a smokestack.

15 (2) The demolition of an entire building or structure.

16 (3) The demolition of substantially all of the

1 above-grade portion of a building or structure.

2 (4) The alteration of an existing building to
3 permanently reduce its building area via demolition.

4 "Dust mitigation plan" means the dust mitigation plan
5 required to be included in the air quality plan.

6 "Fugitive dust" means fugitive particulate matter or any
7 particulate matter emitted into the atmosphere other than
8 through a stack, provided that nothing in this definition
9 shall exempt any emission unit from compliance with any
10 provision of 35 Ill. Adm. Code 212 otherwise applicable merely
11 because of the absence of a stack.

12 "Implosion" means the use of explosives for the demolition
13 of buildings or other structures.

14 "Owner or operator" means the owner or operator of a
15 thermal power plant and includes agents, representatives, and
16 any persons acting on behalf of an owner or operator of the
17 thermal power plant.

18 "Particulate emission potential" means the potential for
19 particulates from existing soils at the site to be dispersed
20 by wind or by physical disturbance as determined using the
21 procedures described in subparagraph (C) of paragraph (3) of
22 subsection (j).

23 "Recognized environmental condition" means the presence or
24 likely presence of any hazardous substance or petroleum
25 product on a property under conditions that indicate an
26 existing release, a past release, or a material threat of a

1 release of any hazardous substance or petroleum product into a
2 structure on the property or into the ground, ground water, or
3 surface water of the property.

4 "Sensitive area" means any residentially-zoned or
5 mixed-used property with residential use, a park, a hospital,
6 a clinic, a church, a day-care, or a school.

7 "Site" means real property containing a building or
8 structure to be demolished, and all structures, equipment, and
9 ancillary fixtures thereon, used in or to support the
10 demolition. "Site" includes, but is not limited to,
11 structures, buildings, scales, roadways, parking areas,
12 queuing areas, fences, processing equipment, processing areas,
13 staging or stockpiling areas, and monitoring stations.

14 "Site cleanup plan" means the site cleanup plan required
15 in paragraph (5) of subsection (j).

16 "Thermal power plant" or "plant" means a facility that
17 currently produces or has ever produced electricity using a
18 thermal generation technology. "Thermal power plant" or
19 "plant" includes, at a minimum, generation facilities creating
20 power using coal, gas, or nuclear fuel as inputs. "Thermal
21 power plant" or "plant" does not include buildings that are
22 exclusively administrative or exclusively office buildings.

23 (b) Before an owner or operator may initiate demolition of
24 a thermal power plant via implosion, the owner or operator
25 must satisfy the notification requirements under subsection
26 (c) and obtain an Agency-approved air quality plan as

1 specified under subsection (j).

2 (c) Before an owner or operator may initiate demolition of
3 a thermal power plant via implosion, the owner or operator
4 must notify the public at least 60 days before the anticipated
5 date of the implosion. Notification must be conducted through
6 all of the following activities:

7 (1) Posting notices in both physical and online form
8 in a newspaper of general circulation within 25 miles of
9 where the thermal power plant is located. Where a
10 newspaper is unavailable, the owner or operator may use
11 appropriate broadcast media such as radio or television.

12 (2) Mailing or hand-delivering notices to the Agency
13 and all residents within at least a one-mile radius from
14 the property line of the thermal power plant site; the
15 radius requirement is subject to the discretion of the
16 Agency and may be extended dependent on site-specific
17 characteristics including, but not limited to, surrounding
18 area population density, method of demolition, and
19 pollution constituents associated with the demolition
20 site.

21 (3) Posting the notices on-site and in conspicuous
22 public locations, such as grocery stores, public
23 libraries, schools, municipal buildings, and pharmacies.

24 (4) Establishing and posting on a publicly accessible
25 website that can be visited without providing login
26 credentials and that functions as a repository, all

1 demolition-related communications, notices, and documents
2 as specified in subsection (e).

3 (5) Creating and sending alerts to phone, email, and
4 text lists to announce the public meeting and specific
5 demolition dates.

6 (6) Requesting that the Agency email the notices to
7 the Agency's listserv, created under paragraph (7), for
8 the plant.

9 (7) For each plant subject to this Act, the Agency
10 must create and maintain a listserv. Each listserv must
11 include the email addresses of all interested persons who
12 notify the Agency in writing, either directly through the
13 Agency or indirectly through the owner or operator, of the
14 person's respective email addresses and that the person
15 would like to receive emails of notices concerning the
16 plant.

17 (d) The notice required under subsection (c) must include
18 the following information:

19 (1) The owner or operator's contact information, as
20 well as the business name of each company that will be
21 performing the demolition in whole or in part.

22 (2) The date and time of the scheduled demolition.

23 (3) The portion of the plant that is set for
24 demolition.

25 (4) The amount of demolition debris anticipated,
26 expressed in terms of both weight and volume and

1 categorized according to waste stream if multiple waste
2 streams will result from the demolition, how and where it
3 will be transported, and how and where it will ultimately
4 be disposed of or otherwise repurposed.

5 (5) The date, time, and location of the public meeting
6 required under subsection (g), along with a reference to
7 the statute requiring the public meeting.

8 (6) The address of the publicly accessible website.

9 (7) Instructions for how to join phone, email, or text
10 lists required under paragraph (5) of subsection (c) for
11 future notices, public meetings, and specific demolition
12 dates.

13 (e) The information posted to the website must be made
14 available to the public on the website until 3 years after the
15 demolition ends. The content of the notice shall be available
16 on the home page of the website and the following information
17 must be available through the publicly accessible website:

18 (1) A copy of the notice with identical content.

19 (2) The draft air quality plan and all documentation
20 relied upon in making the air quality plan as described in
21 subsection (j).

22 (3) The date, time, and location of the public meeting
23 required under subsection (g), along with a reference to
24 the statute requiring the public meeting.

25 (4) A description of potential demolition impacts,
26 including, but not limited to, a list of potential

1 contaminants in the demolition debris, broken down by
2 major waste stream if applicable, dates, hours, and
3 decibels of noise anticipated, and dates and hours of road
4 closures anticipated.

5 (5) Information on any applicable permits issued to
6 the plant in relation to the demolition, including
7 county-issued or municipality-issued permits, with express
8 instructions explaining how to access a copy of each
9 permit, or a copy of each of the permits, if available.

10 (6) Whether there are any unlined CCR surface
11 impoundments, as defined in Section 3.143, at or nearby
12 the plant or public water sources or private wells within
13 2,500 feet of the plant.

14 (7) A detailed description of the preventative
15 measures that will be implemented by the owner or operator
16 to control, mitigate, or prevent from occurring any air,
17 soil, or water pollution during the demolition.

18 (8) When a proposed demolition is located in a
19 community with 10% or more non-English speaking residents,
20 non-English versions of all of the above reflecting local
21 language prevalence.

22 (f) The owner or operator shall submit proof of
23 notification to the Agency. No earlier than one week and no
24 less than 72 hours before the originally scheduled demolition,
25 the owner or operator must advise the phone, email, and text
26 lists required under paragraph (5) of subsection (c) of the

1 upcoming demolition.

2 If there is a change to the date and time of a scheduled
3 demolition, the owner or operator must update the
4 publicly-accessible website required under paragraph (4) of
5 subsection (c) and advise the phone, email, and text lists
6 required under paragraph (5) of subsection (c) that the date
7 is changing within 24 hours of the schedule change and also
8 notice of a new planned date at least 16 hours prior to the new
9 demolition date.

10 (g) At least 30 days after providing notice pursuant to
11 this Section, an owner or operator must hold at least one
12 public meeting within the municipality in which the site is
13 located to discuss the proposed demolition, subject to the
14 following rules:

15 (1) The public meeting must be not more than 5 miles
16 from the site unless a suitable venue is not available
17 within that distance.

18 (2) The public meeting must begin after 5:00 p.m. and
19 be located at a venue that is accessible to persons with
20 disabilities.

21 (3) The owner or operator must provide reasonable
22 accommodations, as defined in paragraph (9) of Section
23 12111 of the federal Americans with Disabilities Act of
24 1990, 42 U.S.C. 12111(9), upon request.

25 (h) When a proposed demolition is located in a community
26 with 10% or more non-English speaking residents, the owner or

1 operator must provide translation services during the public
2 meeting required by this Section, if requested at least 72
3 hours in advance of the public meeting.

4 (i) At the public meeting, the owner or operator must
5 comply with the following:

6 (1) Present the schedule and process for the
7 demolition, which must cover the noise, air quality,
8 environmental, public health, and any other community
9 impacts, such as road closures, expected from the
10 demolition, as well as a summary of the air quality plan,
11 including control equipment and best management practices
12 that will be used to reduce fugitive dust.

13 (2) Include a question and answer portion of the
14 meeting to allow the public to ask questions.

15 (3) Include a public comment portion of the meeting to
16 allow the public to offer comments.

17 (4) Ensure the presence of representatives from the
18 owner or operator or the company that will be performing
19 the demolition in whole or in part. The representative
20 must be qualified and knowledgeable enough to answer the
21 questions posed by the public.

22 (5) The owner and operator shall engage a certified
23 court reporter to be present at the public meeting and
24 transcribe the entirety of the public meeting, including,
25 but not limited to, all statements made by the owner or
26 operator and all public comments offered at the public

1 meeting.

2 (6) The owner or operator shall make the transcript of
3 the public meeting available on the owner or operator's
4 publicly accessible website no later than 14 days after
5 the public meeting.

6 (7) The owner or operator shall create a summary of
7 the public meeting, including issues raised by the public,
8 and respond to all questions in writing no later than 14
9 days after the meeting. The owner or operator shall post
10 the summary and responses to the owner's or operator's
11 publicly accessible website and advise the phone, email,
12 and text lists when the documentation is available.

13 (8) The public meeting shall be live-streamed in order
14 to allow the public to watch and meaningfully participate
15 in the meeting. The meeting shall also be recorded. The
16 recording shall be made available on the owner's or
17 operator's publicly accessible website.

18 (j) Before an owner or operator may initiate demolition of
19 a thermal power plant via implosion, the owner or operator
20 must establish an air quality plan that is approved by the
21 Agency. The owner or operator shall comply with the provisions
22 of the approved air quality plan.

23 The air quality plan, the transcript of the public meeting
24 required under subsection (g), and the public meeting summary
25 described in paragraph (7) of subsection (i) shall be
26 submitted to the Agency no more than 45 days after the public

1 meeting required under subsection (g).

2 The air quality plan shall include, but is not limited to,
3 the following:

4 (1) An air dispersion modeling study using AERMOD. The
5 study shall simulate dust propagation generated from the
6 implosion under varying wind speeds, wind directions, and
7 weather stability classes, such as unstable, neutral, and
8 stable. The model shall calculate the concentrations of
9 PM10 in the dust plume generated from the impact of the
10 collapsed building or structure with the ground. Its
11 results shall inform the placement of air monitors, as
12 well as the dust mitigation plan and the site cleanup
13 plan, and traffic management plans and the siting of
14 protection and exclusion zones on-site and off-site. The
15 AERMOD model shall produce the following outputs
16 superimposed over aerial or satellite imagery:

17 (A) PM10 concentration contours.

18 (B) PM10 concentration versus time at the source,
19 in the surrounding public way, and at sensitive areas
20 offsite within 1,000 feet of the site.

21 (C) Maximum PM10 concentrations at the areas
22 specified above.

23 (D) Computer generated videos for the estimated
24 dust cloud propagation and dissipation.

25 (2) Air monitoring of the air upwind and downwind at
26 the site, as well the air at sensitive areas within 1,000

1 feet of the site or within the plume modeled under
2 paragraph (1), whichever distance is greater, for PM10.
3 The monitoring shall be conducted for at least a 24-hour
4 duration one week prior to the implosion, during the
5 implosion, and one week following the implosion, or weekly
6 until air monitoring confirms that the 24-hour PM10 levels
7 are back to normal, pre-implosion levels. PM10 levels
8 shall be considered normal when the measured PM10 levels
9 are within the historic mean, plus or minus the standard
10 deviation, within the last 3 years, unless the Agency has
11 reason to believe that the site is still causing PM10
12 levels to be elevated. Historic PM10 data shall be based
13 on data collected by the owner or operator from the
14 nearest ambient air quality station operated by the Agency
15 or other data sources approved by the Agency. The air
16 monitoring shall comply with the following:

17 (A) All air monitoring data shall be published on
18 the publicly accessible website within 4 hours after
19 collecting the data.

20 (B) In conjunction with the above PM10 monitoring,
21 air samples shall be collected at all monitored
22 locations for analysis of: lead using NIOSH Method
23 7300, 7302, or 7303; asbestos fibers using NIOSH
24 Method 7400 or 7402; silica using NIOSH Method 7500 or
25 7602; respirable particulates using NIOSH Method 0600;
26 and total dust using NIOSH Method 0500. The Agency may

1 approve alternate test methods or require the use of
2 United States Environmental Protection Agency methods,
3 depending on site-specific factors. The Agency may
4 also require the air sampling of any or all hazardous
5 substances or petroleum products for which there is a
6 recognized environmental condition that may be emitted
7 into the air by the implosion. The PM10 monitoring
8 shall be conducted using instruments designated as
9 Federal Equivalent Method (FEM) by the United States
10 Environmental Protection Agency.

11 (C) The air quality plan shall also include
12 operation, according to manufacturer's specifications,
13 of a weather station or other permanent device to
14 monitor and record wind speed and wind direction,
15 along with the corresponding temperature, barometric
16 pressure, and relative humidity at or near the site.
17 Such readings shall be taken at an unobstructed,
18 unsheltered area, unimpacted by the implosion, and at
19 a minimum height of 10 meters above ground level,
20 unless another height is appropriate pursuant to
21 applicable United States Environmental Protection
22 Agency protocols and guidance.

23 (3) A dust mitigation plan that ensures adequate
24 precautions and use of best practices to minimize fugitive
25 dust. The dust mitigation plan shall include, but is not
26 limited to, the following:

1 (A) The following best practices:

2 (i) The thorough sweeping of paved surfaces
3 using a sweeper effective at removing fine
4 particulates.

5 (ii) Adequate wetting of all unpaved areas.
6 The operator shall ensure that surficial soils
7 within the ground impact area and 50% beyond are
8 thoroughly saturated up to a depth of 4 inches, or
9 otherwise treated using methods approved by the
10 Agency, on the day of and within one hour prior to
11 the implosion, or within the closest timeframe
12 allowed by safety protocol.

13 (iii) Employing misting cannons around the
14 building or structure or at strategic locations
15 and elevations determined based on the results of
16 the air dispersion modeling under paragraph (1).

17 (iv) Applying water to debris immediately
18 following blast and safety clearance.

19 (B) Restricting traffic and operations to paved
20 areas or stabilized surfaces. Soils exhibiting a high
21 particulate emission potential shall be fenced off or
22 otherwise demarcated to prevent disturbance, or shall
23 be effectively stabilized, removed, or covered if
24 vehicle traffic or operations will occur over these
25 areas.

26 (C) Evaluation of on-site surficial soil for

1 particulate emission potential, which shall be
2 determined to be high based on its fines content as
3 percent passing No. 200 sieve and optimum moisture
4 content as percent by dry weight as follows:

5 (i) if the fines content is greater than or
6 equal to 15% and the optimum moisture content is
7 greater than or equal to 11%, the particulate
8 emission potential is high; or

9 (ii) if the fines content is greater than 50%,
10 the particulate emission potential is high.

11 The fines content shall be determined using ASTM
12 D1140-17, or updates thereto, while the optimum
13 moisture content shall be measured using ASTM D1557 or
14 AASHTO T180-D, or updates thereto. Alternate methods
15 may be used with prior written approval from the
16 Agency. The results of the investigation shall be
17 depicted on a site map showing the areas of high
18 particulate emission potential of unpaved surfaces at
19 the site.

20 (4) A contingency plan describing the contingency
21 measures to be implemented if the above control measures
22 fail to adequately control dust emissions. In addition,
23 the plan must describe the steps that will be taken to
24 verify that a dust control measure is working and, upon
25 discovery of an inadequacy, the steps that will be taken
26 to initiate a contingency measure.

1 (5) A site cleanup plan to remove dust, debris, and
2 litter from the surrounding impacted area as expeditiously
3 and as safely as possible to minimize disruption to the
4 community. The site cleanup plan shall include, but is not
5 limited to, the following:

6 (A) The use of a street sweeper to clean impacted
7 paved areas. The street sweeper shall be equipped with
8 a waterless dust suppression system comprised of
9 vacuum assist and filtration for pickup and mitigation
10 of potential fugitive fine particulates, and shall be
11 PM10-certified.

12 (B) The cleaning of impacted parkways and private
13 properties, with owner permission.

14 (C) Inspection protocols that ensure that impacted
15 areas, including, but not limited to, public roadways
16 adjacent to residential and public structures and
17 utility lines, are returned to preimplosion
18 conditions.

19 (D) A staffing plan and equipment list necessary
20 to execute the cleanup.

21 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

22 Sec. 42. Civil penalties.

23 (a) Except as provided in this Section, any person that
24 violates any provision of this Act or any regulation adopted
25 by the Board, or any permit or term or condition thereof, or

1 that violates any order of the Board pursuant to this Act,
2 shall be liable for a civil penalty of not to exceed \$50,000
3 for the violation and an additional civil penalty of not to
4 exceed \$10,000 for each day during which the violation
5 continues; such penalties may, upon order of the Board or a
6 court of competent jurisdiction, be made payable to the
7 Environmental Protection Trust Fund, to be used in accordance
8 with the provisions of the Environmental Protection Trust Fund
9 Act.

10 (b) Notwithstanding the provisions of subsection (a) of
11 this Section:

12 (1) Any person that violates Section 12(f) of this Act
13 or any NPDES permit or term or condition thereof, or any
14 filing requirement, regulation or order relating to the
15 NPDES permit program, shall be liable to a civil penalty
16 of not to exceed \$10,000 per day of violation.

17 (2) Any person that violates Section 12(g) of this Act
18 or any UIC permit or term or condition thereof, or any
19 filing requirement, regulation or order relating to the
20 State UIC program for all wells, except Class II wells as
21 defined by the Board under this Act, shall be liable to a
22 civil penalty not to exceed \$2,500 per day of violation;
23 provided, however, that any person who commits such
24 violations relating to the State UIC program for Class II
25 wells, as defined by the Board under this Act, shall be
26 liable to a civil penalty of not to exceed \$10,000 for the

1 violation and an additional civil penalty of not to exceed
2 \$1,000 for each day during which the violation continues.

3 (3) Any person that violates Sections 21(f), 21(g),
4 21(h) or 21(i) of this Act, or any RCRA permit or term or
5 condition thereof, or any filing requirement, regulation
6 or order relating to the State RCRA program, shall be
7 liable to a civil penalty of not to exceed \$25,000 per day
8 of violation.

9 (4) In an administrative citation action under Section
10 31.1 of this Act, any person found to have violated any
11 provision of subsection (o) of Section 21 of this Act
12 shall pay a civil penalty of \$500 for each violation of
13 each such provision, plus any hearing costs incurred by
14 the Board and the Agency. Such penalties shall be made
15 payable to the Environmental Protection Trust Fund, to be
16 used in accordance with the provisions of the
17 Environmental Protection Trust Fund Act; except that if a
18 unit of local government issued the administrative
19 citation, 50% of the civil penalty shall be payable to the
20 unit of local government.

21 (4-5) In an administrative citation action under
22 Section 31.1 of this Act, any person found to have
23 violated any provision of subsection (p) of Section 21,
24 Section 22.38, Section 22.51, Section 22.51a, or
25 subsection (k) of Section 55 of this Act shall pay a civil
26 penalty of \$1,500 for each violation of each such

1 provision, plus any hearing costs incurred by the Board
2 and the Agency, except that the civil penalty amount shall
3 be \$3,000 for each violation of any provision of
4 subsection (p) of Section 21, Section 22.38, Section
5 22.51, Section 22.51a, or subsection (k) of Section 55
6 that is the person's second or subsequent adjudication
7 violation of that provision. The penalties shall be
8 deposited into the Environmental Protection Trust Fund, to
9 be used in accordance with the provisions of the
10 Environmental Protection Trust Fund Act; except that if a
11 unit of local government issued the administrative
12 citation, 50% of the civil penalty shall be payable to the
13 unit of local government.

14 (5) Any person who violates subsection 6 of Section
15 39.5 of this Act or any CAAPP permit, or term or condition
16 thereof, or any fee or filing requirement, or any duty to
17 allow or carry out inspection, entry or monitoring
18 activities, or any regulation or order relating to the
19 CAAPP shall be liable for a civil penalty not to exceed
20 \$10,000 per day of violation.

21 (6) Any owner or operator of a community water system
22 that violates subsection (b) of Section 18.1 or subsection
23 (a) of Section 25d-3 of this Act shall, for each day of
24 violation, be liable for a civil penalty not to exceed \$5
25 for each of the premises connected to the affected
26 community water system.

1 (7) Any person who violates Section 52.5 of this Act
2 shall be liable for a civil penalty of up to \$1,000 for the
3 first violation of that Section and a civil penalty of up
4 to \$2,500 for a second or subsequent violation of that
5 Section.

6 (8) Any person who engages in demolition of a thermal
7 power plant via implosion in violation of Section 3.141-5
8 of this Act shall be liable for a civil penalty of up to
9 \$50,000 for the first violation and up to \$250,000 for a
10 second or subsequent violation.

11 (b.5) In lieu of the penalties set forth in subsections
12 (a) and (b) of this Section, any person who fails to file, in a
13 timely manner, toxic chemical release forms with the Agency
14 pursuant to Section 25b-2 of this Act shall be liable for a
15 civil penalty of \$100 per day for each day the forms are late,
16 not to exceed a maximum total penalty of \$6,000. This daily
17 penalty shall begin accruing on the thirty-first day after the
18 date that the person receives the warning notice issued by the
19 Agency pursuant to Section 25b-6 of this Act; and the penalty
20 shall be paid to the Agency. The daily accrual of penalties
21 shall cease as of January 1 of the following year. All
22 penalties collected by the Agency pursuant to this subsection
23 shall be deposited into the Environmental Protection Permit
24 and Inspection Fund.

25 (c) Any person that violates this Act, any rule or
26 regulation adopted under this Act, any permit or term or

1 condition of a permit, or any Board order and causes the death
2 of fish or aquatic life shall, in addition to the other
3 penalties provided by this Act, be liable to pay to the State
4 an additional sum for the reasonable value of the fish or
5 aquatic life destroyed. Any money so recovered shall be placed
6 in the Wildlife and Fish Fund in the State Treasury.

7 (d) The penalties provided for in this Section may be
8 recovered in a civil action.

9 (e) The State's Attorney of the county in which the
10 violation occurred, or the Attorney General, may, at the
11 request of the Agency or on his own motion, institute a civil
12 action for an injunction, prohibitory or mandatory, to
13 restrain violations of this Act, any rule or regulation
14 adopted under this Act, any permit or term or condition of a
15 permit, or any Board order, or to require such other actions as
16 may be necessary to address violations of this Act, any rule or
17 regulation adopted under this Act, any permit or term or
18 condition of a permit, or any Board order.

19 (f) The State's Attorney of the county in which the
20 violation occurred, or the Attorney General, shall bring such
21 actions in the name of the people of the State of Illinois.
22 Without limiting any other authority which may exist for the
23 awarding of attorney's fees and costs, the Board or a court of
24 competent jurisdiction may award costs and reasonable
25 attorney's fees, including the reasonable costs of expert
26 witnesses and consultants, to the State's Attorney or the

1 Attorney General in a case where he has prevailed against a
2 person who has committed a willful, knowing, or repeated
3 violation of this Act, any rule or regulation adopted under
4 this Act, any permit or term or condition of a permit, or any
5 Board order.

6 Any funds collected under this subsection (f) in which the
7 Attorney General has prevailed shall be deposited in the
8 Hazardous Waste Fund created in Section 22.2 of this Act. Any
9 funds collected under this subsection (f) in which a State's
10 Attorney has prevailed shall be retained by the county in
11 which he serves.

12 (g) All final orders imposing civil penalties pursuant to
13 this Section shall prescribe the time for payment of such
14 penalties. If any such penalty is not paid within the time
15 prescribed, interest on such penalty at the rate set forth in
16 subsection (a) of Section 1003 of the Illinois Income Tax Act,
17 shall be paid for the period from the date payment is due until
18 the date payment is received. However, if the time for payment
19 is stayed during the pendency of an appeal, interest shall not
20 accrue during such stay.

21 (h) In determining the appropriate civil penalty to be
22 imposed under subdivisions (a), (b)(1), (b)(2), (b)(3),
23 (b)(5), (b)(6), or (b)(7) of this Section, the Board is
24 authorized to consider any matters of record in mitigation or
25 aggravation of penalty, including, but not limited to, the
26 following factors:

- 1 (1) the duration and gravity of the violation;
- 2 (2) the presence or absence of due diligence on the
3 part of the respondent in attempting to comply with
4 requirements of this Act and regulations thereunder or to
5 secure relief therefrom as provided by this Act;
- 6 (3) any economic benefits accrued by the respondent
7 because of delay in compliance with requirements, in which
8 case the economic benefits shall be determined by the
9 lowest cost alternative for achieving compliance;
- 10 (4) the amount of monetary penalty which will serve to
11 deter further violations by the respondent and to
12 otherwise aid in enhancing voluntary compliance with this
13 Act by the respondent and other persons similarly subject
14 to the Act;
- 15 (5) the number, proximity in time, and gravity of
16 previously adjudicated violations of this Act by the
17 respondent;
- 18 (6) whether the respondent voluntarily self-disclosed,
19 in accordance with subsection (i) of this Section, the
20 non-compliance to the Agency;
- 21 (7) whether the respondent has agreed to undertake a
22 "supplemental environmental project", which means an
23 environmentally beneficial project that a respondent
24 agrees to undertake in settlement of an enforcement action
25 brought under this Act, but which the respondent is not
26 otherwise legally required to perform; and

1 (8) whether the respondent has successfully completed
2 a Compliance Commitment Agreement under subsection (a) of
3 Section 31 of this Act to remedy the violations that are
4 the subject of the complaint.

5 In determining the appropriate civil penalty to be imposed
6 under subsection (a) or paragraph (1), (2), (3), (5), (6), or
7 (7) of subsection (b) of this Section, the Board shall ensure,
8 in all cases, that the penalty is at least as great as the
9 economic benefits, if any, accrued by the respondent as a
10 result of the violation, unless the Board finds that
11 imposition of such penalty would result in an arbitrary or
12 unreasonable financial hardship. However, such civil penalty
13 may be off-set in whole or in part pursuant to a supplemental
14 environmental project agreed to by the complainant and the
15 respondent.

16 (i) A person who voluntarily self-discloses non-compliance
17 to the Agency, of which the Agency had been unaware, is
18 entitled to a 100% reduction in the portion of the penalty that
19 is not based on the economic benefit of non-compliance if the
20 person can establish the following:

21 (1) that either the regulated entity is a small entity
22 or the non-compliance was discovered through an
23 environmental audit or a compliance management system
24 documented by the regulated entity as reflecting the
25 regulated entity's due diligence in preventing, detecting,
26 and correcting violations;

1 (2) that the non-compliance was disclosed in writing
2 within 30 days of the date on which the person discovered
3 it;

4 (3) that the non-compliance was discovered and
5 disclosed prior to:

6 (i) the commencement of an Agency inspection,
7 investigation, or request for information;

8 (ii) notice of a citizen suit;

9 (iii) the filing of a complaint by a citizen, the
10 Illinois Attorney General, or the State's Attorney of
11 the county in which the violation occurred;

12 (iv) the reporting of the non-compliance by an
13 employee of the person without that person's
14 knowledge; or

15 (v) imminent discovery of the non-compliance by
16 the Agency;

17 (4) that the non-compliance is being corrected and any
18 environmental harm is being remediated in a timely
19 fashion;

20 (5) that the person agrees to prevent a recurrence of
21 the non-compliance;

22 (6) that no related non-compliance events have
23 occurred in the past 3 years at the same facility or in the
24 past 5 years as part of a pattern at multiple facilities
25 owned or operated by the person;

26 (7) that the non-compliance did not result in serious

1 actual harm or present an imminent and substantial
2 endangerment to human health or the environment or violate
3 the specific terms of any judicial or administrative order
4 or consent agreement;

5 (8) that the person cooperates as reasonably requested
6 by the Agency after the disclosure; and

7 (9) that the non-compliance was identified voluntarily
8 and not through a monitoring, sampling, or auditing
9 procedure that is required by statute, rule, permit,
10 judicial or administrative order, or consent agreement.

11 If a person can establish all of the elements under this
12 subsection except the element set forth in paragraph (1) of
13 this subsection, the person is entitled to a 75% reduction in
14 the portion of the penalty that is not based upon the economic
15 benefit of non-compliance.

16 For the purposes of this subsection (i), "small entity"
17 has the same meaning as in Section 221 of the federal Small
18 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.
19 601).

20 (j) In addition to any other remedy or penalty that may
21 apply, whether civil or criminal, any person who violates
22 Section 22.52 of this Act shall be liable for an additional
23 civil penalty of up to 3 times the gross amount of any
24 pecuniary gain resulting from the violation.

25 (k) In addition to any other remedy or penalty that may
26 apply, whether civil or criminal, any person who violates

1 subdivision (a) (7.6) of Section 31 of this Act shall be liable
2 for an additional civil penalty of \$2,000.

3 (Source: P.A. 102-310, eff. 8-6-21.)

4 (415 ILCS 5/3.141 rep.)

5 Section 10. The Environmental Protection Act is amended by
6 repealing Section 3.141.

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