

1 AN ACT concerning regulation.

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

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 3.160, 3.330, 21, 22.15, 22.38, 22.44, 31.1,  
6 and 42 as follows:

7 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

8 Sec. 3.160. Construction or demolition debris.

9 (a) "General construction or demolition debris" means  
10 non-hazardous, uncontaminated materials resulting from the  
11 construction, remodeling, repair, and demolition of utilities,  
12 structures, and roads, limited to the following: bricks,  
13 concrete, and other masonry materials; soil; rock; wood,  
14 including non-hazardous painted, treated, and coated wood and  
15 wood products; wall coverings; plaster; drywall; plumbing  
16 fixtures; non-asbestos insulation; roofing shingles and other  
17 roof coverings; reclaimed or other asphalt pavement; glass;  
18 plastics that are not sealed in a manner that conceals waste;  
19 electrical wiring and components containing no hazardous  
20 substances; and corrugated cardboard, piping or metals  
21 incidental to any of those materials.

22 General construction or demolition debris does not include  
23 uncontaminated soil generated during construction, remodeling,

1 repair, and demolition of utilities, structures, and roads  
2 provided the uncontaminated soil is not commingled with any  
3 general construction or demolition debris or other waste.

4 To the extent allowed by federal law, uncontaminated  
5 concrete with protruding rebar shall be considered clean  
6 construction or demolition debris and shall not be considered  
7 "waste" if it is separated or processed and returned to the  
8 economic mainstream in the form of raw materials or products  
9 within 4 years of its generation, if it is not speculatively  
10 accumulated and, if used as a fill material, it is used in  
11 accordance with item (i) in subsection (b) of this Section.

12 (a-1) "General construction or demolition debris recovery  
13 facility" means a site or facility used to store or treat  
14 exclusively general construction or demolition debris,  
15 including, but not limited to, sorting, separating, or  
16 transferring, for recycling, reclamation, or reuse. For  
17 purposes of this definition, treatment includes altering the  
18 physical nature of the general construction or demolition  
19 debris, such as by size reduction, crushing, grinding, or  
20 homogenization, but does not include treatment designed to  
21 change the chemical nature of the general construction or  
22 demolition debris.

23 (b) "Clean construction or demolition debris" means  
24 uncontaminated broken concrete without protruding metal bars,  
25 bricks, rock, stone, reclaimed or other asphalt pavement, or  
26 soil generated from construction or demolition activities.

1 Clean construction or demolition debris does not include  
2 uncontaminated soil generated during construction, remodeling,  
3 repair, and demolition of utilities, structures, and roads  
4 provided the uncontaminated soil is not commingled with any  
5 clean construction or demolition debris or other waste.

6 To the extent allowed by federal law, clean construction  
7 or demolition debris shall not be considered "waste" if it is  
8 (i) used as fill material outside of a setback zone if the fill  
9 is placed no higher than the highest point of elevation  
10 existing prior to the filling immediately adjacent to the fill  
11 area, and if covered by sufficient uncontaminated soil to  
12 support vegetation within 30 days of the completion of filling  
13 or if covered by a road or structure, and, if used as fill  
14 material in a current or former quarry, mine, or other  
15 excavation, is used in accordance with the requirements of  
16 Section 22.51 of this Act and the rules adopted thereunder or  
17 (ii) separated or processed and returned to the economic  
18 mainstream in the form of raw materials or products, if it is  
19 not speculatively accumulated and, if used as a fill material,  
20 it is used in accordance with item (i), or (iii) solely broken  
21 concrete without protruding metal bars used for erosion  
22 control, or (iv) generated from the construction or demolition  
23 of a building, road, or other structure and used to construct,  
24 on the site where the construction or demolition has taken  
25 place, a manmade functional structure not to exceed 20 feet  
26 above the highest point of elevation of the property

1 immediately adjacent to the new manmade functional structure  
2 as that elevation existed prior to the creation of that new  
3 structure, provided that the structure shall be covered with  
4 sufficient soil materials to sustain vegetation or by a road  
5 or structure, and further provided that no such structure  
6 shall be constructed within a home rule municipality with a  
7 population over 500,000 without the consent of the  
8 municipality.

9 For purposes of this subsection (b), reclaimed or other  
10 asphalt pavement shall not be considered speculatively  
11 accumulated if: (i) it is not commingled with any other clean  
12 construction or demolition debris or any waste; (ii) it is  
13 returned to the economic mainstream in the form of raw  
14 materials or products within 4 years after its generation;  
15 (iii) at least 25% of the total amount present at a site during  
16 a calendar year is transported off of the site during the next  
17 calendar year; and (iv) if used as a fill material, it is used  
18 in accordance with item (i) of the second paragraph of this  
19 subsection (b).

20 (c) For purposes of this Section, the term "uncontaminated  
21 soil" means soil that does not contain contaminants in  
22 concentrations that pose a threat to human health and safety  
23 and the environment.

24 (1) No later than one year after the effective date of  
25 this amendatory Act of the 96th General Assembly, the  
26 Agency shall propose, and, no later than one year after

1 receipt of the Agency's proposal, the Board shall adopt,  
2 rules specifying the maximum concentrations of  
3 contaminants that may be present in uncontaminated soil  
4 for purposes of this Section. For carcinogens, the maximum  
5 concentrations shall not allow exposure to exceed an  
6 excess upper-bound lifetime risk of 1 in 1,000,000;  
7 provided that if the most stringent remediation objective  
8 or applicable background concentration for a contaminant  
9 set forth in 35 Ill. Adm. Code 742 is greater than the  
10 concentration that would allow exposure at an excess  
11 upper-bound lifetime risk of 1 in 1,000,000, the Board may  
12 consider allowing that contaminant in concentrations up to  
13 its most stringent remediation objective or applicable  
14 background concentration set forth in 35 Ill. Adm. Code  
15 742 in soil used as fill material in a current or former  
16 quarry, mine, or other excavation in accordance with  
17 Section 22.51 or 22.51a of this Act and rules adopted  
18 under those Sections. Any background concentration set  
19 forth in 35 Ill. Adm. Code 742 that is adopted as a maximum  
20 concentration must be based upon the location of the  
21 quarry, mine, or other excavation where the soil is used  
22 as fill material.

23 (2) To the extent allowed under federal law and  
24 regulations, uncontaminated soil shall not be considered a  
25 waste.

26 (Source: P.A. 96-235, eff. 8-11-09; 96-1416, eff. 7-30-10;

1 97-137, eff. 7-14-11.)

2 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

3 Sec. 3.330. Pollution control facility.

4 (a) "Pollution control facility" is any waste storage  
5 site, sanitary landfill, waste disposal site, waste transfer  
6 station, waste treatment facility, or waste incinerator. This  
7 includes sewers, sewage treatment plants, and any other  
8 facilities owned or operated by sanitary districts organized  
9 under the Metropolitan Water Reclamation District Act.

10 The following are not pollution control facilities:

11 (1) (blank);

12 (2) waste storage sites regulated under 40 CFR, Part  
13 761.42;

14 (3) sites or facilities used by any person conducting  
15 a waste storage, waste treatment, waste disposal, waste  
16 transfer or waste incineration operation, or a combination  
17 thereof, for wastes generated by such person's own  
18 activities, when such wastes are stored, treated, disposed  
19 of, transferred or incinerated within the site or facility  
20 owned, controlled or operated by such person, or when such  
21 wastes are transported within or between sites or  
22 facilities owned, controlled or operated by such person;

23 (4) sites or facilities at which the State is  
24 performing removal or remedial action pursuant to Section  
25 22.2 or 55.3;

1           (5) abandoned quarries used solely for the disposal of  
2 concrete, earth materials, gravel, or aggregate debris  
3 resulting from road construction activities conducted by a  
4 unit of government or construction activities due to the  
5 construction and installation of underground pipes, lines,  
6 conduit or wires off of the premises of a public utility  
7 company which are conducted by a public utility;

8           (6) sites or facilities used by any person to  
9 specifically conduct a landscape composting operation;

10           (7) regional facilities as defined in the Central  
11 Midwest Interstate Low-Level Radioactive Waste Compact;

12           (8) the portion of a site or facility where coal  
13 combustion wastes are stored or disposed of in accordance  
14 with subdivision (r) (2) or (r) (3) of Section 21;

15           (9) the portion of a site or facility used for the  
16 collection, storage or processing of waste tires as  
17 defined in Title XIV;

18           (10) the portion of a site or facility used for  
19 treatment of petroleum contaminated materials by  
20 application onto or incorporation into the soil surface  
21 and any portion of that site or facility used for storage  
22 of petroleum contaminated materials before treatment. Only  
23 those categories of petroleum listed in Section 57.9(a) (3)  
24 are exempt under this subdivision (10);

25           (11) the portion of a site or facility where used oil  
26 is collected or stored prior to shipment to a recycling or

1 energy recovery facility, provided that the used oil is  
2 generated by households or commercial establishments, and  
3 the site or facility is a recycling center or a business  
4 where oil or gasoline is sold at retail;

5 (11.5) processing sites or facilities that receive  
6 only on-specification used oil, as defined in 35 Ill.  
7 Admin. Code 739, originating from used oil collectors for  
8 processing that is managed under 35 Ill. Admin. Code 739  
9 to produce products for sale to off-site petroleum  
10 facilities, if these processing sites or facilities are:

11 (i) located within a home rule unit of local government  
12 with a population of at least 30,000 according to the 2000  
13 federal census, that home rule unit of local government  
14 has been designated as an Urban Round II Empowerment Zone  
15 by the United States Department of Housing and Urban  
16 Development, and that home rule unit of local government  
17 has enacted an ordinance approving the location of the  
18 site or facility and provided funding for the site or  
19 facility; and (ii) in compliance with all applicable  
20 zoning requirements;

21 (12) the portion of a site or facility utilizing coal  
22 combustion waste for stabilization and treatment of only  
23 waste generated on that site or facility when used in  
24 connection with response actions pursuant to the federal  
25 Comprehensive Environmental Response, Compensation, and  
26 Liability Act of 1980, the federal Resource Conservation



1 and Recovery Act of 1976, or the Illinois Environmental  
2 Protection Act or as authorized by the Agency;

3 (13) the portion of a site or facility regulated under  
4 ~~that accepts exclusively general construction or~~  
5 ~~demolition debris and is operated and located in~~  
6 ~~accordance with~~ Section 22.38 of this Act;

7 (14) the portion of a site or facility, located within  
8 a unit of local government that has enacted local zoning  
9 requirements, used to accept, separate, and process  
10 uncontaminated broken concrete, with or without protruding  
11 metal bars, provided that the uncontaminated broken  
12 concrete and metal bars are not speculatively accumulated,  
13 are at the site or facility no longer than one year after  
14 their acceptance, and are returned to the economic  
15 mainstream in the form of raw materials or products;

16 (15) the portion of a site or facility located in a  
17 county with a population over 3,000,000 that has obtained  
18 local siting approval under Section 39.2 of this Act for a  
19 municipal waste incinerator on or before July 1, 2005 and  
20 that is used for a non-hazardous waste transfer station;

21 (16) a site or facility that temporarily holds in  
22 transit for 10 days or less, non-putrescible solid waste  
23 in original containers, no larger in capacity than 500  
24 gallons, provided that such waste is further transferred  
25 to a recycling, disposal, treatment, or storage facility  
26 on a non-contiguous site and provided such site or

1 facility complies with the applicable 10-day transfer  
2 requirements of the federal Resource Conservation and  
3 Recovery Act of 1976 and United States Department of  
4 Transportation hazardous material requirements. For  
5 purposes of this Section only, "non-putrescible solid  
6 waste" means waste other than municipal garbage that does  
7 not rot or become putrid, including, but not limited to,  
8 paints, solvent, filters, and absorbents;

9 (17) the portion of a site or facility located in a  
10 county with a population greater than 3,000,000 that has  
11 obtained local siting approval, under Section 39.2 of this  
12 Act, for a municipal waste incinerator on or before July  
13 1, 2005 and that is used for wood combustion facilities  
14 for energy recovery that accept and burn only wood  
15 material, as included in a fuel specification approved by  
16 the Agency;

17 (18) a transfer station used exclusively for landscape  
18 waste, including a transfer station where landscape waste  
19 is ground to reduce its volume, where the landscape waste  
20 is held no longer than 24 hours from the time it was  
21 received;

22 (19) the portion of a site or facility that (i) is used  
23 for the composting of food scrap, livestock waste, crop  
24 residue, uncontaminated wood waste, or paper waste,  
25 including, but not limited to, corrugated paper or  
26 cardboard, and (ii) meets all of the following

1 requirements:

2 (A) There must not be more than a total of 30,000  
3 cubic yards of livestock waste in raw form or in the  
4 process of being composted at the site or facility at  
5 any one time.

6 (B) All food scrap, livestock waste, crop residue,  
7 uncontaminated wood waste, and paper waste must, by  
8 the end of each operating day, be processed and placed  
9 into an enclosed vessel in which air flow and  
10 temperature are controlled, or all of the following  
11 additional requirements must be met:

12 (i) The portion of the site or facility used  
13 for the composting operation must include a  
14 setback of at least 200 feet from the nearest  
15 potable water supply well.

16 (ii) The portion of the site or facility used  
17 for the composting operation must be located  
18 outside the boundary of the 10-year floodplain or  
19 floodproofed.

20 (iii) Except in municipalities with more than  
21 1,000,000 inhabitants, the portion of the site or  
22 facility used for the composting operation must be  
23 located at least one-eighth of a mile from the  
24 nearest residence, other than a residence located  
25 on the same property as the site or facility.

26 (iv) The portion of the site or facility used

1 for the composting operation must be located at  
2 least one-eighth of a mile from the property line  
3 of all of the following areas:

4 (I) Facilities that primarily serve to  
5 house or treat people that are  
6 immunocompromised or immunosuppressed, such as  
7 cancer or AIDS patients; people with asthma,  
8 cystic fibrosis, or bioaerosol allergies; or  
9 children under the age of one year.

10 (II) Primary and secondary schools and  
11 adjacent areas that the schools use for  
12 recreation.

13 (III) Any facility for child care licensed  
14 under Section 3 of the Child Care Act of 1969;  
15 preschools; and adjacent areas that the  
16 facilities or preschools use for recreation.

17 (v) By the end of each operating day, all food  
18 scrap, livestock waste, crop residue,  
19 uncontaminated wood waste, and paper waste must be  
20 (i) processed into windrows or other piles and  
21 (ii) covered in a manner that prevents scavenging  
22 by birds and animals and that prevents other  
23 nuisances.

24 (C) Food scrap, livestock waste, crop residue,  
25 uncontaminated wood waste, paper waste, and compost  
26 must not be placed within 5 feet of the water table.

1 (D) The site or facility must meet all of the  
2 requirements of the Wild and Scenic Rivers Act (16  
3 U.S.C. 1271 et seq.).

4 (E) The site or facility must not (i) restrict the  
5 flow of a 100-year flood, (ii) result in washout of  
6 food scrap, livestock waste, crop residue,  
7 uncontaminated wood waste, or paper waste from a  
8 100-year flood, or (iii) reduce the temporary water  
9 storage capacity of the 100-year floodplain, unless  
10 measures are undertaken to provide alternative storage  
11 capacity, such as by providing lagoons, holding tanks,  
12 or drainage around structures at the facility.

13 (F) The site or facility must not be located in any  
14 area where it may pose a threat of harm or destruction  
15 to the features for which:

16 (i) an irreplaceable historic or  
17 archaeological site has been listed under the  
18 National Historic Preservation Act (16 U.S.C. 470  
19 et seq.) or the Illinois Historic Preservation  
20 Act;

21 (ii) a natural landmark has been designated by  
22 the National Park Service or the Illinois State  
23 Historic Preservation Office; or

24 (iii) a natural area has been designated as a  
25 Dedicated Illinois Nature Preserve under the  
26 Illinois Natural Areas Preservation Act.

1 (G) The site or facility must not be located in an  
2 area where it may jeopardize the continued existence  
3 of any designated endangered species, result in the  
4 destruction or adverse modification of the critical  
5 habitat for such species, or cause or contribute to  
6 the taking of any endangered or threatened species of  
7 plant, fish, or wildlife listed under the Endangered  
8 Species Act (16 U.S.C. 1531 et seq.) or the Illinois  
9 Endangered Species Protection Act;

10 (20) the portion of a site or facility that is located  
11 entirely within a home rule unit having a population of no  
12 less than 120,000 and no more than 135,000, according to  
13 the 2000 federal census, and that meets all of the  
14 following requirements:

15 (i) the portion of the site or facility is used  
16 exclusively to perform testing of a thermochemical  
17 conversion technology using only woody biomass,  
18 collected as landscape waste within the boundaries of  
19 the home rule unit, as the hydrocarbon feedstock for  
20 the production of synthetic gas in accordance with  
21 Section 39.9 of this Act;

22 (ii) the portion of the site or facility is in  
23 compliance with all applicable zoning requirements;  
24 and

25 (iii) a complete application for a demonstration  
26 permit at the portion of the site or facility has been

1 submitted to the Agency in accordance with Section  
2 39.9 of this Act within one year after July 27, 2010  
3 (the effective date of Public Act 96-1314);

4 (21) the portion of a site or facility used to perform  
5 limited testing of a gasification conversion technology in  
6 accordance with Section 39.8 of this Act and for which a  
7 complete permit application has been submitted to the  
8 Agency prior to one year from April 9, 2010 (the effective  
9 date of Public Act 96-887);

10 (22) the portion of a site or facility that is used to  
11 incinerate only pharmaceuticals from residential sources  
12 that are collected and transported by law enforcement  
13 agencies under Section 17.9A of this Act;

14 (23) the portion of a site or facility:

15 (A) that is used exclusively for the transfer of  
16 commingled landscape waste and food scrap held at the  
17 site or facility for no longer than 24 hours after  
18 their receipt;

19 (B) that is located entirely within a home rule  
20 unit having a population of (i) not less than 100,000  
21 and not more than 115,000 according to the 2010  
22 federal census, (ii) not less than 5,000 and not more  
23 than 10,000 according to the 2010 federal census, or  
24 (iii) not less than 25,000 and not more than 30,000  
25 according to the 2010 federal census or that is  
26 located in the unincorporated area of a county having

1 a population of not less than 700,000 and not more than  
2 705,000 according to the 2010 federal census;

3 (C) that is permitted, by the Agency, prior to  
4 January 1, 2002, for the transfer of landscape waste  
5 if located in a home rule unit or that is permitted  
6 prior to January 1, 2008 if located in an  
7 unincorporated area of a county; and

8 (D) for which a permit application is submitted to  
9 the Agency to modify an existing permit for the  
10 transfer of landscape waste to also include, on a  
11 demonstration basis not to exceed 24 months each time  
12 a permit is issued, the transfer of commingled  
13 landscape waste and food scrap or for which a permit  
14 application is submitted to the Agency within 6 months  
15 of the effective date of this amendatory Act of the  
16 100th General Assembly; and

17 (24) the portion of a municipal solid waste landfill  
18 unit:

19 (A) that is located in a county having a  
20 population of not less than 55,000 and not more than  
21 60,000 according to the 2010 federal census;

22 (B) that is owned by that county;

23 (C) that is permitted, by the Agency, prior to  
24 July 10, 2015 (the effective date of Public Act  
25 99-12); and

26 (D) for which a permit application is submitted to



1           the Agency within 6 months after July 10, 2015 (the  
2           effective date of Public Act 99-12) for the disposal  
3           of non-hazardous special waste.

4           (b) A new pollution control facility is:

5                 (1) a pollution control facility initially permitted  
6                 for development or construction after July 1, 1981; or

7                 (2) the area of expansion beyond the boundary of a  
8                 currently permitted pollution control facility; or

9                 (3) a permitted pollution control facility requesting  
10                approval to store, dispose of, transfer or incinerate, for  
11                the first time, any special or hazardous waste.

12           (Source: P.A. 99-12, eff. 7-10-15; 99-440, eff. 8-21-15;  
13           99-642, eff. 7-28-16; 100-94, eff. 8-11-17.)

14           (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

15           Sec. 21. Prohibited acts. No person shall:

16                 (a) Cause or allow the open dumping of any waste.

17                 (b) Abandon, dump, or deposit any waste upon the public  
18                 highways or other public property, except in a sanitary  
19                 landfill approved by the Agency pursuant to regulations  
20                 adopted by the Board.

21                 (c) Abandon any vehicle in violation of the "Abandoned  
22                 Vehicles Amendment to the Illinois Vehicle Code", as enacted  
23                 by the 76th General Assembly.

24                 (d) Conduct any waste-storage, waste-treatment, or  
25                 waste-disposal operation:

1 (1) without a permit granted by the Agency or in  
2 violation of any conditions imposed by such permit,  
3 including periodic reports and full access to adequate  
4 records and the inspection of facilities, as may be  
5 necessary to assure compliance with this Act and with  
6 regulations and standards adopted thereunder; provided,  
7 however, that, except for municipal solid waste landfill  
8 units that receive waste on or after October 9, 1993, and  
9 CCR surface impoundments, no permit shall be required for  
10 (i) any person conducting a waste-storage,  
11 waste-treatment, or waste-disposal operation for wastes  
12 generated by such person's own activities which are  
13 stored, treated, or disposed within the site where such  
14 wastes are generated, or (ii) until one year after the  
15 effective date of rules adopted by the Board under  
16 subsection (n) of Section 22.38, a facility located in a  
17 county with a population over 700,000 as of January 1,  
18 2000, operated and located in accordance with Section  
19 22.38 of this Act, and used exclusively for the transfer,  
20 storage, or treatment of general construction or  
21 demolition debris, provided that the facility was  
22 receiving construction or demolition debris on August 24,  
23 2009 (the effective date of Public Act 96-611) ~~this~~  
24 ~~amendatory Act of the 96th General Assembly;~~  
25 (2) in violation of any regulations or standards  
26 adopted by the Board under this Act; or

1           (3) which receives waste after August 31, 1988, does  
2           not have a permit issued by the Agency, and is (i) a  
3           landfill used exclusively for the disposal of waste  
4           generated at the site, (ii) a surface impoundment  
5           receiving special waste not listed in an NPDES permit,  
6           (iii) a waste pile in which the total volume of waste is  
7           greater than 100 cubic yards or the waste is stored for  
8           over one year, or (iv) a land treatment facility receiving  
9           special waste generated at the site; without giving notice  
10          of the operation to the Agency by January 1, 1989, or 30  
11          days after the date on which the operation commences,  
12          whichever is later, and every 3 years thereafter. The form  
13          for such notification shall be specified by the Agency,  
14          and shall be limited to information regarding: the name  
15          and address of the location of the operation; the type of  
16          operation; the types and amounts of waste stored, treated  
17          or disposed of on an annual basis; the remaining capacity  
18          of the operation; and the remaining expected life of the  
19          operation.

20          Item (3) of this subsection (d) shall not apply to any  
21          person engaged in agricultural activity who is disposing of a  
22          substance that constitutes solid waste, if the substance was  
23          acquired for use by that person on his own property, and the  
24          substance is disposed of on his own property in accordance  
25          with regulations or standards adopted by the Board.

26          This subsection (d) shall not apply to hazardous waste.

1           (e) Dispose, treat, store or abandon any waste, or  
2 transport any waste into this State for disposal, treatment,  
3 storage or abandonment, except at a site or facility which  
4 meets the requirements of this Act and of regulations and  
5 standards thereunder.

6           (f) Conduct any hazardous waste-storage, hazardous  
7 waste-treatment or hazardous waste-disposal operation:

8               (1) without a RCRA permit for the site issued by the  
9 Agency under subsection (d) of Section 39 of this Act, or  
10 in violation of any condition imposed by such permit,  
11 including periodic reports and full access to adequate  
12 records and the inspection of facilities, as may be  
13 necessary to assure compliance with this Act and with  
14 regulations and standards adopted thereunder; or

15               (2) in violation of any regulations or standards  
16 adopted by the Board under this Act; or

17               (3) in violation of any RCRA permit filing requirement  
18 established under standards adopted by the Board under  
19 this Act; or

20               (4) in violation of any order adopted by the Board  
21 under this Act.

22           Notwithstanding the above, no RCRA permit shall be  
23 required under this subsection or subsection (d) of Section 39  
24 of this Act for any person engaged in agricultural activity  
25 who is disposing of a substance which has been identified as a  
26 hazardous waste, and which has been designated by Board

1 regulations as being subject to this exception, if the  
2 substance was acquired for use by that person on his own  
3 property and the substance is disposed of on his own property  
4 in accordance with regulations or standards adopted by the  
5 Board.

6 (g) Conduct any hazardous waste-transportation operation:

7 (1) without registering with and obtaining a special  
8 waste hauling permit from the Agency in accordance with  
9 the regulations adopted by the Board under this Act; or

10 (2) in violation of any regulations or standards  
11 adopted by the Board under this Act.

12 (h) Conduct any hazardous waste-recycling or hazardous  
13 waste-reclamation or hazardous waste-reuse operation in  
14 violation of any regulations, standards or permit requirements  
15 adopted by the Board under this Act.

16 (i) Conduct any process or engage in any act which  
17 produces hazardous waste in violation of any regulations or  
18 standards adopted by the Board under subsections (a) and (c)  
19 of Section 22.4 of this Act.

20 (j) Conduct any special waste-transportation ~~waste~~  
21 ~~transportation~~ operation in violation of any regulations,  
22 standards or permit requirements adopted by the Board under  
23 this Act. However, sludge from a water or sewage treatment  
24 plant owned and operated by a unit of local government which  
25 (1) is subject to a sludge management plan approved by the  
26 Agency or a permit granted by the Agency, and (2) has been

1 tested and determined not to be a hazardous waste as required  
2 by applicable State and federal laws and regulations, may be  
3 transported in this State without a special waste hauling  
4 permit, and the preparation and carrying of a manifest shall  
5 not be required for such sludge under the rules of the  
6 Pollution Control Board. The unit of local government which  
7 operates the treatment plant producing such sludge shall file  
8 an annual report with the Agency identifying the volume of  
9 such sludge transported during the reporting period, the  
10 hauler of the sludge, and the disposal sites to which it was  
11 transported. This subsection (j) shall not apply to hazardous  
12 waste.

13 (k) Fail or refuse to pay any fee imposed under this Act.

14 (l) Locate a hazardous waste disposal site above an active  
15 or inactive shaft or tunneled mine or within 2 miles of an  
16 active fault in the earth's crust. In counties of population  
17 less than 225,000 no hazardous waste disposal site shall be  
18 located (1) within 1 1/2 miles of the corporate limits as  
19 defined on June 30, 1978, of any municipality without the  
20 approval of the governing body of the municipality in an  
21 official action; or (2) within 1000 feet of an existing  
22 private well or the existing source of a public water supply  
23 measured from the boundary of the actual active permitted site  
24 and excluding existing private wells on the property of the  
25 permit applicant. The provisions of this subsection do not  
26 apply to publicly owned ~~publicly owned~~ sewage works or the

1 disposal or utilization of sludge from publicly owned  
2 ~~publicly owned~~ sewage works.

3 (m) Transfer interest in any land which has been used as a  
4 hazardous waste disposal site without written notification to  
5 the Agency of the transfer and to the transferee of the  
6 conditions imposed by the Agency upon its use under subsection  
7 (g) of Section 39.

8 (n) Use any land which has been used as a hazardous waste  
9 disposal site except in compliance with conditions imposed by  
10 the Agency under subsection (g) of Section 39.

11 (o) Conduct a sanitary landfill operation which is  
12 required to have a permit under subsection (d) of this  
13 Section, in a manner which results in any of the following  
14 conditions:

15 (1) refuse in standing or flowing waters;

16 (2) leachate flows entering waters of the State;

17 (3) leachate flows exiting the landfill confines (as  
18 determined by the boundaries established for the landfill  
19 by a permit issued by the Agency);

20 (4) open burning of refuse in violation of Section 9  
21 of this Act;

22 (5) uncovered refuse remaining from any previous  
23 operating day or at the conclusion of any operating day,  
24 unless authorized by permit;

25 (6) failure to provide final cover within time limits  
26 established by Board regulations;

- 1 (7) acceptance of wastes without necessary permits;
- 2 (8) scavenging as defined by Board regulations;
- 3 (9) deposition of refuse in any unpermitted portion of
- 4 the landfill;
- 5 (10) acceptance of a special waste without a required
- 6 manifest;
- 7 (11) failure to submit reports required by permits or
- 8 Board regulations;
- 9 (12) failure to collect and contain litter from the
- 10 site by the end of each operating day;
- 11 (13) failure to submit any cost estimate for the site
- 12 or any performance bond or other security for the site as
- 13 required by this Act or Board rules.

14 The prohibitions specified in this subsection (o) shall be  
15 enforceable by the Agency either by administrative citation  
16 under Section 31.1 of this Act or as otherwise provided by this  
17 Act. The specific prohibitions in this subsection do not limit  
18 the power of the Board to establish regulations or standards  
19 applicable to sanitary landfills.

20 (p) In violation of subdivision (a) of this Section, cause  
21 or allow the open dumping of any waste in a manner which  
22 results in any of the following occurrences at the dump site:

- 23 (1) litter;
- 24 (2) scavenging;
- 25 (3) open burning;
- 26 (4) deposition of waste in standing or flowing waters;



- 1           (5) proliferation of disease vectors;
- 2           (6) standing or flowing liquid discharge from the dump  
3 site;
- 4           (7) deposition of:
- 5                 (i) general construction or demolition debris as  
6 defined in Section 3.160(a) of this Act; or
- 7                 (ii) clean construction or demolition debris as  
8 defined in Section 3.160(b) of this Act.

9           The prohibitions specified in this subsection (p) shall be  
10 enforceable by the Agency either by administrative citation  
11 under Section 31.1 of this Act or as otherwise provided by this  
12 Act. The specific prohibitions in this subsection do not limit  
13 the power of the Board to establish regulations or standards  
14 applicable to open dumping.

15           (q) Conduct a landscape waste composting operation without  
16 an Agency permit, provided, however, that no permit shall be  
17 required for any person:

18                 (1) conducting a landscape waste composting operation  
19 for landscape wastes generated by such person's own  
20 activities which are stored, treated, or disposed of  
21 within the site where such wastes are generated; or

22                 (1.5) conducting a landscape waste composting  
23 operation that (i) has no more than 25 cubic yards of  
24 landscape waste, composting additives, composting  
25 material, or end-product compost on-site at any one time  
26 and (ii) is not engaging in commercial activity; or

1           (2) applying landscape waste or composted landscape  
2 waste at agronomic rates; or

3           (2.5) operating a landscape waste composting facility  
4 at a site having 10 or more occupied non-farm residences  
5 within 1/2 mile of its boundaries, if the facility meets  
6 all of the following criteria:

7           (A) the composting facility is operated by the  
8 farmer on property on which the composting material is  
9 utilized, and the composting facility constitutes no  
10 more than 2% of the site's total acreage;

11           (A-5) any composting additives that the composting  
12 facility accepts and uses at the facility are  
13 necessary to provide proper conditions for composting  
14 and do not exceed 10% of the total composting material  
15 at the facility at any one time;

16           (B) the property on which the composting facility  
17 is located, and any associated property on which the  
18 compost is used, is principally and diligently devoted  
19 to the production of agricultural crops and is not  
20 owned, leased, or otherwise controlled by any waste  
21 hauler or generator of nonagricultural compost  
22 materials, and the operator of the composting facility  
23 is not an employee, partner, shareholder, or in any  
24 way connected with or controlled by any such waste  
25 hauler or generator;

26           (C) all compost generated by the composting

1 facility is applied at agronomic rates and used as  
2 mulch, fertilizer, or soil conditioner on land  
3 actually farmed by the person operating the composting  
4 facility, and the finished compost is not stored at  
5 the composting site for a period longer than 18 months  
6 prior to its application as mulch, fertilizer, or soil  
7 conditioner;

8 (D) no fee is charged for the acceptance of  
9 materials to be composted at the facility; and

10 (E) the owner or operator, by January 1, 2014 (or  
11 the January 1 following commencement of operation,  
12 whichever is later) and January 1 of each year  
13 thereafter, registers the site with the Agency, (ii)  
14 reports to the Agency on the volume of composting  
15 material received and used at the site; (iii)  
16 certifies to the Agency that the site complies with  
17 the requirements set forth in subparagraphs (A),  
18 (A-5), (B), (C), and (D) of this paragraph (2.5); and  
19 (iv) certifies to the Agency that all composting  
20 material was placed more than 200 feet from the  
21 nearest potable water supply well, was placed outside  
22 the boundary of the 10-year floodplain or on a part of  
23 the site that is floodproofed, was placed at least 1/4  
24 mile from the nearest residence (other than a  
25 residence located on the same property as the  
26 facility) or a lesser distance from the nearest

1 residence (other than a residence located on the same  
2 property as the facility) if the municipality in which  
3 the facility is located has by ordinance approved a  
4 lesser distance than 1/4 mile, and was placed more  
5 than 5 feet above the water table; any ordinance  
6 approving a residential setback of less than 1/4 mile  
7 that is used to meet the requirements of this  
8 subparagraph (E) of paragraph (2.5) of this subsection  
9 must specifically reference this paragraph; or

10 (3) operating a landscape waste composting facility on  
11 a farm, if the facility meets all of the following  
12 criteria:

13 (A) the composting facility is operated by the  
14 farmer on property on which the composting material is  
15 utilized, and the composting facility constitutes no  
16 more than 2% of the property's total acreage, except  
17 that the Board may allow a higher percentage for  
18 individual sites where the owner or operator has  
19 demonstrated to the Board that the site's soil  
20 characteristics or crop needs require a higher rate;

21 (A-1) the composting facility accepts from other  
22 agricultural operations for composting with landscape  
23 waste no materials other than uncontaminated and  
24 source-separated (i) crop residue and other  
25 agricultural plant residue generated from the  
26 production and harvesting of crops and other customary

1 farm practices, including, but not limited to, stalks,  
2 leaves, seed pods, husks, bagasse, and roots and (ii)  
3 plant-derived animal bedding, such as straw or  
4 sawdust, that is free of manure and was not made from  
5 painted or treated wood;

6 (A-2) any composting additives that the composting  
7 facility accepts and uses at the facility are  
8 necessary to provide proper conditions for composting  
9 and do not exceed 10% of the total composting material  
10 at the facility at any one time;

11 (B) the property on which the composting facility  
12 is located, and any associated property on which the  
13 compost is used, is principally and diligently devoted  
14 to the production of agricultural crops and is not  
15 owned, leased or otherwise controlled by any waste  
16 hauler or generator of nonagricultural compost  
17 materials, and the operator of the composting facility  
18 is not an employee, partner, shareholder, or in any  
19 way connected with or controlled by any such waste  
20 hauler or generator;

21 (C) all compost generated by the composting  
22 facility is applied at agronomic rates and used as  
23 mulch, fertilizer or soil conditioner on land actually  
24 farmed by the person operating the composting  
25 facility, and the finished compost is not stored at  
26 the composting site for a period longer than 18 months

1 prior to its application as mulch, fertilizer, or soil  
2 conditioner;

3 (D) the owner or operator, by January 1 of each  
4 year, (i) registers the site with the Agency, (ii)  
5 reports to the Agency on the volume of composting  
6 material received and used at the site, (iii)  
7 certifies to the Agency that the site complies with  
8 the requirements set forth in subparagraphs (A),  
9 (A-1), (A-2), (B), and (C) of this paragraph (q) (3),  
10 and (iv) certifies to the Agency that all composting  
11 material:

12 (I) was placed more than 200 feet from the  
13 nearest potable water supply well;

14 (II) was placed outside the boundary of the  
15 10-year floodplain or on a part of the site that is  
16 floodproofed;

17 (III) was placed either (aa) at least 1/4 mile  
18 from the nearest residence (other than a residence  
19 located on the same property as the facility) and  
20 there are not more than 10 occupied non-farm  
21 residences within 1/2 mile of the boundaries of  
22 the site on the date of application or (bb) a  
23 lesser distance from the nearest residence (other  
24 than a residence located on the same property as  
25 the facility) provided that the municipality or  
26 county in which the facility is located has by

1 ordinance approved a lesser distance than 1/4 mile  
2 and there are not more than 10 occupied non-farm  
3 residences within 1/2 mile of the boundaries of  
4 the site on the date of application; and

5 (IV) was placed more than 5 feet above the  
6 water table.

7 Any ordinance approving a residential setback of  
8 less than 1/4 mile that is used to meet the  
9 requirements of this subparagraph (D) must  
10 specifically reference this subparagraph.

11 For the purposes of this subsection (q), "agronomic rates"  
12 means the application of not more than 20 tons per acre per  
13 year, except that the Board may allow a higher rate for  
14 individual sites where the owner or operator has demonstrated  
15 to the Board that the site's soil characteristics or crop  
16 needs require a higher rate.

17 (r) Cause or allow the storage or disposal of coal  
18 combustion waste unless:

19 (1) such waste is stored or disposed of at a site or  
20 facility for which a permit has been obtained or is not  
21 otherwise required under subsection (d) of this Section;  
22 or

23 (2) such waste is stored or disposed of as a part of  
24 the design and reclamation of a site or facility which is  
25 an abandoned mine site in accordance with the Abandoned  
26 Mined Lands and Water Reclamation Act; or

1           (3) such waste is stored or disposed of at a site or  
2           facility which is operating under NPDES and Subtitle D  
3           permits issued by the Agency pursuant to regulations  
4           adopted by the Board for mine-related water pollution and  
5           permits issued pursuant to the federal ~~Federal~~ Surface  
6           Mining Control and Reclamation Act of 1977 (P.L. 95-87) or  
7           the rules and regulations thereunder or any law or rule or  
8           regulation adopted by the State of Illinois pursuant  
9           thereto, and the owner or operator of the facility agrees  
10          to accept the waste; and either:

11           (i) such waste is stored or disposed of in  
12           accordance with requirements applicable to refuse  
13           disposal under regulations adopted by the Board for  
14           mine-related water pollution and pursuant to NPDES and  
15           Subtitle D permits issued by the Agency under such  
16           regulations; or

17           (ii) the owner or operator of the facility  
18           demonstrates all of the following to the Agency, and  
19           the facility is operated in accordance with the  
20           demonstration as approved by the Agency: (1) the  
21           disposal area will be covered in a manner that will  
22           support continuous vegetation, (2) the facility will  
23           be adequately protected from wind and water erosion,  
24           (3) the pH will be maintained so as to prevent  
25           excessive leaching of metal ions, and (4) adequate  
26           containment or other measures will be provided to



1 protect surface water and groundwater from  
2 contamination at levels prohibited by this Act, the  
3 Illinois Groundwater Protection Act, or regulations  
4 adopted pursuant thereto.

5 Notwithstanding any other provision of this Title, the  
6 disposal of coal combustion waste pursuant to item (2) or (3)  
7 of this subdivision (r) shall be exempt from the other  
8 provisions of this Title V, and notwithstanding the provisions  
9 of Title X of this Act, the Agency is authorized to grant  
10 experimental permits which include provision for the disposal  
11 of wastes from the combustion of coal and other materials  
12 pursuant to items (2) and (3) of this subdivision (r).

13 (s) After April 1, 1989, offer for transportation,  
14 transport, deliver, receive or accept special waste for which  
15 a manifest is required, unless the manifest indicates that the  
16 fee required under Section 22.8 of this Act has been paid.

17 (t) Cause or allow a lateral expansion of a municipal  
18 solid waste landfill unit on or after October 9, 1993, without  
19 a permit modification, granted by the Agency, that authorizes  
20 the lateral expansion.

21 (u) Conduct any vegetable by-product treatment, storage,  
22 disposal or transportation operation in violation of any  
23 regulation, standards or permit requirements adopted by the  
24 Board under this Act. However, no permit shall be required  
25 under this Title V for the land application of vegetable  
26 by-products conducted pursuant to Agency permit issued under

1 Title III of this Act to the generator of the vegetable  
2 by-products. In addition, vegetable by-products may be  
3 transported in this State without a special waste hauling  
4 permit, and without the preparation and carrying of a  
5 manifest.

6 (v) (Blank).

7 (w) Conduct any generation, transportation, or recycling  
8 of construction or demolition debris, clean or general, or  
9 uncontaminated soil generated during construction, remodeling,  
10 repair, and demolition of utilities, structures, and roads  
11 that is not commingled with any waste, without the maintenance  
12 of documentation identifying the hauler, generator, place of  
13 origin of the debris or soil, the weight or volume of the  
14 debris or soil, and the location, owner, and operator of the  
15 facility where the debris or soil was transferred, disposed,  
16 recycled, or treated. This documentation must be maintained by  
17 the generator, transporter, or recycler for 3 years. This  
18 subsection (w) shall not apply to (1) a permitted pollution  
19 control facility that transfers or accepts construction or  
20 demolition debris, clean or general, or uncontaminated soil  
21 for final disposal, recycling, or treatment, (2) a public  
22 utility (as that term is defined in the Public Utilities Act)  
23 or a municipal utility, (3) the Illinois Department of  
24 Transportation, or (4) a municipality or a county highway  
25 department, with the exception of any municipality or county  
26 highway department located within a county having a population

1 of over 3,000,000 inhabitants or located in a county that is  
2 contiguous to a county having a population of over 3,000,000  
3 inhabitants; but it shall apply to an entity that contracts  
4 with a public utility, a municipal utility, the Illinois  
5 Department of Transportation, or a municipality or a county  
6 highway department. The terms "generation" and "recycling"   as  
7 used in this subsection   do not apply to clean construction or  
8 demolition debris when (i) used as fill material below grade  
9 outside of a setback zone if covered by sufficient  
10 uncontaminated soil to support vegetation within 30 days of  
11 the completion of filling or if covered by a road or structure,  
12 (ii) solely broken concrete without protruding metal bars is  
13 used for erosion control, or (iii) milled asphalt or crushed  
14 concrete is used as aggregate in construction of the shoulder  
15 of a roadway. The terms "generation" and "recycling", as used  
16 in this subsection, do not apply to uncontaminated soil that  
17 is not commingled with any waste when (i) used as fill material  
18 below grade or contoured to grade, or (ii) used at the site of  
19 generation.

20 (Source: P.A. 100-103, eff. 8-11-17; 101-171, eff. 7-30-19;  
21 revised 9-12-19.)

22 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

23 Sec. 22.15. Solid Waste Management Fund; fees.

24 (a) There is hereby created within the State Treasury a  
25 special fund to be known as the Solid Waste Management Fund, to

1 be constituted from the fees collected by the State pursuant  
2 to this Section, from repayments of loans made from the Fund  
3 for solid waste projects, from registration fees collected  
4 pursuant to the Consumer Electronics Recycling Act, and from  
5 amounts transferred into the Fund pursuant to Public Act  
6 100-433. Moneys received by the Department of Commerce and  
7 Economic Opportunity in repayment of loans made pursuant to  
8 the Illinois Solid Waste Management Act shall be deposited  
9 into the General Revenue Fund.

10 (b) The Agency shall assess and collect a fee in the amount  
11 set forth herein from the owner or operator of each sanitary  
12 landfill permitted or required to be permitted by the Agency  
13 to dispose of solid waste if the sanitary landfill is located  
14 off the site where such waste was produced and if such sanitary  
15 landfill is owned, controlled, and operated by a person other  
16 than the generator of such waste. The Agency shall deposit all  
17 fees collected into the Solid Waste Management Fund. If a site  
18 is contiguous to one or more landfills owned or operated by the  
19 same person, the volumes permanently disposed of by each  
20 landfill shall be combined for purposes of determining the fee  
21 under this subsection. Beginning on July 1, 2018, and on the  
22 first day of each month thereafter during fiscal years 2019  
23 through 2021, the State Comptroller shall direct and State  
24 Treasurer shall transfer an amount equal to 1/12 of \$5,000,000  
25 per fiscal year from the Solid Waste Management Fund to the  
26 General Revenue Fund.

1           (1) If more than 150,000 cubic yards of non-hazardous  
2 solid waste is permanently disposed of at a site in a  
3 calendar year, the owner or operator shall either pay a  
4 fee of 95 cents per cubic yard or, alternatively, the  
5 owner or operator may weigh the quantity of the solid  
6 waste permanently disposed of with a device for which  
7 certification has been obtained under the Weights and  
8 Measures Act and pay a fee of \$2.00 per ton of solid waste  
9 permanently disposed of. In no case shall the fee  
10 collected or paid by the owner or operator under this  
11 paragraph exceed \$1.55 per cubic yard or \$3.27 per ton.

12           (2) If more than 100,000 cubic yards but not more than  
13 150,000 cubic yards of non-hazardous waste is permanently  
14 disposed of at a site in a calendar year, the owner or  
15 operator shall pay a fee of \$52,630.

16           (3) If more than 50,000 cubic yards but not more than  
17 100,000 cubic yards of non-hazardous solid waste is  
18 permanently disposed of at a site in a calendar year, the  
19 owner or operator shall pay a fee of \$23,790.

20           (4) If more than 10,000 cubic yards but not more than  
21 50,000 cubic yards of non-hazardous solid waste is  
22 permanently disposed of at a site in a calendar year, the  
23 owner or operator shall pay a fee of \$7,260.

24           (5) If not more than 10,000 cubic yards of  
25 non-hazardous solid waste is permanently disposed of at a  
26 site in a calendar year, the owner or operator shall pay a

1 fee of \$1050.

2 (c) (Blank).

3 (d) The Agency shall establish rules relating to the  
4 collection of the fees authorized by this Section. Such rules  
5 shall include, but not be limited to:

6 (1) necessary records identifying the quantities of  
7 solid waste received or disposed;

8 (2) the form and submission of reports to accompany  
9 the payment of fees to the Agency;

10 (3) the time and manner of payment of fees to the  
11 Agency, which payments shall not be more often than  
12 quarterly; and

13 (4) procedures setting forth criteria establishing  
14 when an owner or operator may measure by weight or volume  
15 during any given quarter or other fee payment period.

16 (e) Pursuant to appropriation, all monies in the Solid  
17 Waste Management Fund shall be used by the Agency and the  
18 Department of Commerce and Economic Opportunity for the  
19 purposes set forth in this Section and in the Illinois Solid  
20 Waste Management Act, including for the costs of fee  
21 collection and administration, and for the administration of  
22 (1) the Consumer Electronics Recycling Act and (2) until  
23 January 1, 2020, the Electronic Products Recycling and Reuse  
24 Act.

25 (f) The Agency is authorized to enter into such agreements  
26 and to promulgate such rules as are necessary to carry out its

1 duties under this Section and the Illinois Solid Waste  
2 Management Act.

3 (g) On the first day of January, April, July, and October  
4 of each year, beginning on July 1, 1996, the State Comptroller  
5 and Treasurer shall transfer \$500,000 from the Solid Waste  
6 Management Fund to the Hazardous Waste Fund. Moneys  
7 transferred under this subsection (g) shall be used only for  
8 the purposes set forth in item (1) of subsection (d) of Section  
9 22.2.

10 (h) The Agency is authorized to provide financial  
11 assistance to units of local government for the performance of  
12 inspecting, investigating and enforcement activities pursuant  
13 to Section 4(r) at nonhazardous solid waste disposal sites.

14 (i) The Agency is authorized to conduct household waste  
15 collection and disposal programs.

16 (j) A unit of local government, as defined in the Local  
17 Solid Waste Disposal Act, in which a solid waste disposal  
18 facility is located may establish a fee, tax, or surcharge  
19 with regard to the permanent disposal of solid waste. All  
20 fees, taxes, and surcharges collected under this subsection  
21 shall be utilized for solid waste management purposes,  
22 including long-term monitoring and maintenance of landfills,  
23 planning, implementation, inspection, enforcement and other  
24 activities consistent with the Solid Waste Management Act and  
25 the Local Solid Waste Disposal Act, or for any other  
26 environment-related purpose, including but not limited to an

1 environment-related public works project, but not for the  
2 construction of a new pollution control facility other than a  
3 household hazardous waste facility. However, the total fee,  
4 tax or surcharge imposed by all units of local government  
5 under this subsection (j) upon the solid waste disposal  
6 facility shall not exceed:

7 (1) 60¢ per cubic yard if more than 150,000 cubic  
8 yards of non-hazardous solid waste is permanently disposed  
9 of at the site in a calendar year, unless the owner or  
10 operator weighs the quantity of the solid waste received  
11 with a device for which certification has been obtained  
12 under the Weights and Measures Act, in which case the fee  
13 shall not exceed \$1.27 per ton of solid waste permanently  
14 disposed of.

15 (2) \$33,350 if more than 100,000 cubic yards, but not  
16 more than 150,000 cubic yards, of non-hazardous waste is  
17 permanently disposed of at the site in a calendar year.

18 (3) \$15,500 if more than 50,000 cubic yards, but not  
19 more than 100,000 cubic yards, of non-hazardous solid  
20 waste is permanently disposed of at the site in a calendar  
21 year.

22 (4) \$4,650 if more than 10,000 cubic yards, but not  
23 more than 50,000 cubic yards, of non-hazardous solid waste  
24 is permanently disposed of at the site in a calendar year.

25 (5) \$650 if not more than 10,000 cubic yards of  
26 non-hazardous solid waste is permanently disposed of at



1 the site in a calendar year.

2 The corporate authorities of the unit of local government  
3 may use proceeds from the fee, tax, or surcharge to reimburse a  
4 highway commissioner whose road district lies wholly or  
5 partially within the corporate limits of the unit of local  
6 government for expenses incurred in the removal of  
7 nonhazardous, nonfluid municipal waste that has been dumped on  
8 public property in violation of a State law or local  
9 ordinance.

10 For the disposal of solid waste from general construction  
11 or demolition debris recovery facilities as defined in  
12 subsection (a-1) of Section 3.160, the total fee, tax, or  
13 surcharge imposed by all units of local government under this  
14 subsection (j) upon the solid waste disposal facility shall  
15 not exceed 50% of the applicable amount set forth above. A unit  
16 of local government, as defined in the Local Solid Waste  
17 Disposal Act, in which a general construction or demolition  
18 debris recovery facility is located may establish a fee, tax,  
19 or surcharge on the general construction or demolition debris  
20 recovery facility with regard to the permanent disposal of  
21 solid waste by the general construction or demolition debris  
22 recovery facility at a solid waste disposal facility, provided  
23 that such fee, tax, or surcharge shall not exceed 50% of the  
24 applicable amount set forth above, based on the total amount  
25 of solid waste transported from the general construction or  
26 demolition debris recovery facility for disposal at solid

1 waste disposal facilities, and the unit of local government  
2 and fee shall be subject to all other requirements of this  
3 subsection (j).

4 A county or Municipal Joint Action Agency that imposes a  
5 fee, tax, or surcharge under this subsection may use the  
6 proceeds thereof to reimburse a municipality that lies wholly  
7 or partially within its boundaries for expenses incurred in  
8 the removal of nonhazardous, nonfluid municipal waste that has  
9 been dumped on public property in violation of a State law or  
10 local ordinance.

11 If the fees are to be used to conduct a local sanitary  
12 landfill inspection or enforcement program, the unit of local  
13 government must enter into a written delegation agreement with  
14 the Agency pursuant to subsection (r) of Section 4. The unit of  
15 local government and the Agency shall enter into such a  
16 written delegation agreement within 60 days after the  
17 establishment of such fees. At least annually, the Agency  
18 shall conduct an audit of the expenditures made by units of  
19 local government from the funds granted by the Agency to the  
20 units of local government for purposes of local sanitary  
21 landfill inspection and enforcement programs, to ensure that  
22 the funds have been expended for the prescribed purposes under  
23 the grant.

24 The fees, taxes or surcharges collected under this  
25 subsection (j) shall be placed by the unit of local government  
26 in a separate fund, and the interest received on the moneys in

1 the fund shall be credited to the fund. The monies in the fund  
2 may be accumulated over a period of years to be expended in  
3 accordance with this subsection.

4 A unit of local government, as defined in the Local Solid  
5 Waste Disposal Act, shall prepare and post on its website  
6 ~~distribute to the Agency,~~ in April of each year, a report that  
7 details spending plans for monies collected in accordance with  
8 this subsection. The report will at a minimum include the  
9 following:

10 (1) The total monies collected pursuant to this  
11 subsection.

12 (2) The most current balance of monies collected  
13 pursuant to this subsection.

14 (3) An itemized accounting of all monies expended for  
15 the previous year pursuant to this subsection.

16 (4) An estimation of monies to be collected for the  
17 following 3 years pursuant to this subsection.

18 (5) A narrative detailing the general direction and  
19 scope of future expenditures for one, 2 and 3 years.

20 The exemptions granted under Sections 22.16 and 22.16a,  
21 and under subsection (k) of this Section, shall be applicable  
22 to any fee, tax or surcharge imposed under this subsection  
23 (j); except that the fee, tax or surcharge authorized to be  
24 imposed under this subsection (j) may be made applicable by a  
25 unit of local government to the permanent disposal of solid  
26 waste after December 31, 1986, under any contract lawfully

1 executed before June 1, 1986 under which more than 150,000  
2 cubic yards (or 50,000 tons) of solid waste is to be  
3 permanently disposed of, even though the waste is exempt from  
4 the fee imposed by the State under subsection (b) of this  
5 Section pursuant to an exemption granted under Section 22.16.

6 (k) In accordance with the findings and purposes of the  
7 Illinois Solid Waste Management Act, beginning January 1, 1989  
8 the fee under subsection (b) and the fee, tax or surcharge  
9 under subsection (j) shall not apply to:

10 (1) waste which is hazardous waste;

11 (2) waste which is pollution control waste;

12 (3) waste from recycling, reclamation or reuse  
13 processes which have been approved by the Agency as being  
14 designed to remove any contaminant from wastes so as to  
15 render such wastes reusable, provided that the process  
16 renders at least 50% of the waste reusable; the exemption  
17 set forth in this paragraph (3) of this subsection (k)  
18 shall not apply to general construction or demolition  
19 debris recovery facilities as defined in subsection (a-1)  
20 of Section 3.160;

21 (4) non-hazardous solid waste that is received at a  
22 sanitary landfill and composted or recycled through a  
23 process permitted by the Agency; or

24 (5) any landfill which is permitted by the Agency to  
25 receive only demolition or construction debris or  
26 landscape waste.

1 (Source: P.A. 100-103, eff. 8-11-17; 100-433, eff. 8-25-17;  
2 100-587, eff. 6-4-18; 100-621, eff. 7-20-18; 100-863, eff.  
3 8-14-18; 101-10, eff. 6-5-19; 101-636, eff. 6-10-20.)

4 (415 ILCS 5/22.38)

5 Sec. 22.38. General construction or demolition debris  
6 recovery facilities ~~Facilities accepting exclusively general~~  
7 ~~construction or demolition debris for transfer, storage, or~~  
8 ~~treatment.~~

9 (a) General construction or demolition debris recovery  
10 facilities ~~Facilities accepting exclusively general~~  
11 ~~construction or demolition debris for transfer, storage, or~~  
12 ~~treatment~~ shall be subject to local zoning, ordinance, and  
13 land use requirements. General construction or demolition  
14 debris recovery ~~These~~ facilities shall be located in  
15 accordance with local zoning requirements or, in the absence  
16 of local zoning requirements, shall be located so that no part  
17 of the facility boundary is closer than 1,320 feet from the  
18 nearest property zoned for primarily residential use.

19 (b) An owner or operator of a general construction or  
20 demolition debris recovery facility ~~accepting exclusively~~  
21 ~~general construction or demolition debris for transfer,~~  
22 ~~storage, or treatment~~ shall:

23 (0.5) Ensure that no less than 40% of the total  
24 general construction or demolition debris received at the  
25 facility on a rolling 12-month average basis is recyclable

1 general construction or demolition debris as defined in  
2 subsection (c). The percentage in this paragraph (0.5) of  
3 subsection (b) shall be calculated by weight.

4 (1) Within 48 hours after receipt of the general  
5 construction or demolition debris at the facility, sort  
6 the general construction or demolition debris to separate  
7 the (i) recyclable general construction or demolition  
8 debris and (ii) wood being 7 ~~recovered wood that is~~  
9 ~~processed~~ for use as fuel from all other general  
10 construction or demolition debris 7 ~~and general~~  
11 ~~construction or demolition debris that is processed for~~  
12 ~~use at a landfill from the non-recyclable general~~  
13 ~~construction or demolition debris that is to be disposed~~  
14 ~~of or discarded.~~

15 (2) Transport off site for disposal, in accordance  
16 with all applicable federal, State, and local  
17 requirements, within 72 hours after its receipt at the  
18 facility, all ~~non usable or non recyclable~~ general  
19 construction or demolition debris that is not (i)  
20 recyclable general construction or demolition debris or  
21 (ii) wood being 7 ~~recovered wood that is processed~~ for use  
22 as fuel, ~~or general construction or demolition debris that~~  
23 ~~is processed for use at a landfill.~~

24 (3) Use best management practices to identify and  
25 remove all drywall and other wallboard containing gypsum  
26 from the (i) recyclable general construction or demolition

1 debris and (ii) wood being recovered for use as fuel,  
2 prior to any mechanical sorting, separating, grinding, or  
3 other processing. ~~Limit the percentage of incoming~~  
4 ~~non-recyclable general construction or demolition debris~~  
5 ~~to 25% or less of the total incoming general construction~~  
6 ~~or demolition debris, so that 75% or more of the general~~  
7 ~~construction or demolition debris accepted, as calculated~~  
8 ~~monthly on a rolling 12 month average, consists of~~  
9 ~~recyclable general construction or demolition debris,~~  
10 ~~recovered wood that is processed for use as fuel, or~~  
11 ~~general construction or demolition debris that is~~  
12 ~~processed for use at a landfill except that general~~  
13 ~~construction or demolition debris processed for use at a~~  
14 ~~landfill shall not exceed 35% of the general construction~~  
15 ~~or demolition debris accepted on a rolling 12 month~~  
16 ~~average basis. The percentages in this paragraph (3) of~~  
17 ~~subsection (b) shall be calculated by weight, using scales~~  
18 ~~located at the facility that are certified under the~~  
19 ~~Weights and Measures Act.~~

20 (4) Within 45 calendar days after receipt, transport  
21 off-site all putrescible recyclable general construction  
22 or demolition debris and all wood recovered for use as  
23 fuel. ~~Within 6 months after its receipt at the facility,~~  
24 ~~transport.~~

25 ~~(A) all non-putrescible recyclable general~~  
26 ~~construction or demolition debris for recycling or~~

1 ~~disposal; and~~

2 ~~(B) all non-putrescible general construction or~~  
3 ~~demolition debris that is processed for use at a~~  
4 ~~landfill to a MSWLF unit for use or disposal.~~

5 (5) Within 6 months after receipt, transport off-site  
6 all non-putrescible recyclable general construction or  
7 demolition debris. ~~45 days after its receipt at the~~  
8 ~~facility, transport:~~

9 ~~(A) all putrescible or combustible recyclable~~  
10 ~~general construction or demolition debris (excluding~~  
11 ~~recovered wood that is processed for use as fuel) for~~  
12 ~~recycling or disposal;~~

13 ~~(B) all recovered wood that is processed for use~~  
14 ~~as fuel to an intermediate processing facility for~~  
15 ~~sizing, to a combustion facility for use as fuel, or to~~  
16 ~~a disposal facility; and~~

17 ~~(C) all putrescible general construction or~~  
18 ~~demolition debris that is processed for use at a~~  
19 ~~landfill to a MSWLF unit for use or disposal.~~

20 (6) Employ tagging and recordkeeping procedures to, at  
21 a minimum, (i) demonstrate compliance with this Section,   
22 ~~and~~ (ii) identify the type, amount, source,  and  
23 transporter of material accepted by the facility, and  
24 (iii) identify the type, amount, destination, and  
25 transporter of material transported from the facility.  
26 Records shall be maintained in a form and format



1 prescribed by the Agency, and beginning October 1, 2021,  
2 no later than every October 1, January 1, April 1, and July  
3 1 thereafter the records shall be summarized in quarterly  
4 reports submitted to the Agency in a form and format  
5 prescribed by the Agency.

6 (7) Control odor, noise, combustion of materials,  
7 disease vectors, dust, and litter.

8 (8) Control, manage, and dispose of any storm water  
9 runoff and leachate generated at the facility in  
10 accordance with applicable federal, State, and local  
11 requirements.

12 (9) Control access to the facility.

13 (10) Comply with all applicable federal, State, or  
14 local requirements for the handling, storage,  
15 transportation, or disposal of asbestos-containing  
16 material or other material accepted at the facility that  
17 is not general construction or demolition debris.

18 (11) For an owner or operator that first received  
19 general construction or demolition debris prior to August  
20 24, 2009, submit to the Agency, no later than 6 months  
21 after the effective date of rules adopted by the Board  
22 under subsection (n), a permit application for a general  
23 construction or demolition debris recovery facility. ~~Prior~~  
24 ~~to August 24, 2009 (the effective date of Public Act~~  
25 ~~96-611), submit to the Agency at least 30 days prior to the~~  
26 ~~initial acceptance of general construction or demolition~~

1 ~~debris at the facility, on forms provided by the Agency,~~  
2 ~~the following information:~~

3 ~~(A) the name, address, and telephone number of~~  
4 ~~both the facility owner and operator;~~

5 ~~(B) the street address and location of the~~  
6 ~~facility;~~

7 ~~(C) a description of facility operations;~~

8 ~~(D) a description of the tagging and recordkeeping~~  
9 ~~procedures the facility will employ to (i) demonstrate~~  
10 ~~compliance with this Section and (ii) identify the~~  
11 ~~source and transporter of any material accepted by the~~  
12 ~~facility;~~

13 ~~(E) the name and location of the disposal sites to~~  
14 ~~be used for the disposal of any general construction~~  
15 ~~or demolition debris received at the facility that~~  
16 ~~must be disposed of;~~

17 ~~(F) the name and location of an individual,~~  
18 ~~facility, or business to which recyclable materials~~  
19 ~~will be transported;~~

20 ~~(G) the name and location of intermediate~~  
21 ~~processing facilities or combustion facilities to~~  
22 ~~which recovered wood that is processed for use as fuel~~  
23 ~~will be transported; and~~

24 ~~(H) other information as specified on the form~~  
25 ~~provided by the Agency.~~

26 (12) On or after August 24, 2009 (the effective date

1 of Public Act 96-611), obtain a permit for the operation  
2 of a general construction or demolition debris recovery  
3 facility ~~issued by the Agency~~ prior to the initial  
4 acceptance of general construction or demolition debris at  
5 the facility.

6 ~~When any of the information contained or processes~~  
7 ~~described in the initial notification form submitted to~~  
8 ~~the Agency under paragraph (11) of subsection (b) of this~~  
9 ~~Section changes, the owner and operator shall submit an~~  
10 ~~updated form within 14 days of the change.~~

11 (c) For purposes of this Section, the term "recyclable  
12 general construction or demolition debris" means general  
13 construction or demolition debris that is being reclaimed from  
14 the general construction or demolition debris waste stream and  
15 (i) is ~~has been~~ rendered reusable and is reused or (ii) ~~that~~  
16 would otherwise be disposed of or discarded but is collected,  
17 separated, or processed and returned to the economic  
18 mainstream in the form of raw materials or products.  
19 "Recyclable general construction or demolition debris" does  
20 not include ~~(i)~~ general construction or demolition debris that  
21 is (i) recovered ~~processed~~ for use as fuel or that is  
22 otherwise~~7~~ incinerated or ~~7~~ burned, (ii) buried~~7~~ or ~~otherwise~~  
23 used as fill material, including, but not limited to, the use  
24 of any clean construction or demolition debris fraction of  
25 general construction or demolition debris as fill material  
26 under subsection (b) of Section 3.160 or at a clean

1 construction or demolition debris fill operation under Section  
2 22.51, or (iii) disposed of at a landfill ~~(ii) general~~  
3 ~~construction or demolition debris that is processed for use at~~  
4 ~~a landfill.~~

5 (d) (Blank). ~~For purposes of this Section, "treatment"~~  
6 ~~means processing designed to alter the physical nature of the~~  
7 ~~general construction or demolition debris, including but not~~  
8 ~~limited to size reduction, crushing, grinding, or~~  
9 ~~homogenization, but does not include processing designed to~~  
10 ~~change the chemical nature of the general construction or~~  
11 ~~demolition debris.~~

12 (e) For purposes of this Section, wood recovered for use  
13 as fuel is "recovered wood that is processed for use as fuel"  
14 ~~means~~ wood that is recovered ~~has been salvaged~~ from the  
15 general construction or demolition debris waste stream ~~and~~  
16 ~~processed~~ for use as fuel, as authorized by the applicable  
17 state or federal environmental regulatory authority, and  
18 supplied only to intermediate processing facilities for  
19 sizing, or to combustion facilities for use as fuel, that have  
20 obtained all necessary waste management and air permits for  
21 handling and combustion of the fuel.

22 (f) (Blank). ~~For purposes of this Section, "non-recyclable~~  
23 ~~general construction or demolition debris" does not include~~  
24 ~~"recovered wood that is processed for use as fuel" or general~~  
25 ~~construction or demolition debris that is processed for use at~~  
26 ~~a landfill.~~

1           (g) (Blank). ~~Recyclable general construction or demolition~~  
2 ~~debris, recovered wood that is processed for use as fuel, and~~  
3 ~~general construction or demolition debris that is processed~~  
4 ~~for use at a landfill shall not be considered as meeting the~~  
5 ~~75% diversion requirement for purposes of subdivision (b) (3)~~  
6 ~~of this Section if sent for disposal at the end of the~~  
7 ~~applicable retention period.~~

8           (h) (Blank). ~~For the purposes of this Section, "general~~  
9 ~~construction or demolition debris that is processed for use at~~  
10 ~~a landfill" means general construction or demolition debris~~  
11 ~~that is processed for use at a MSWLF unit as alternative daily~~  
12 ~~cover, road building material, or drainage structure building~~  
13 ~~material in accordance with the MSWLF unit's waste disposal~~  
14 ~~permit issued by the Agency under this Act.~~

15           (i) (Blank). ~~For purposes of the 75% diversion requirement~~  
16 ~~under subdivision (b) (3) of this Section, owners and operators~~  
17 ~~of facilities accepting exclusively general construction or~~  
18 ~~demolition debris for transfer, storage, or treatment may~~  
19 ~~multiply by 2 the amount of accepted asphalt roofing shingles~~  
20 ~~that are transferred to a facility for recycling in accordance~~  
21 ~~with a beneficial use determination issued under Section 22.54~~  
22 ~~of this Act. The owner or operator of the facility accepting~~  
23 ~~exclusively general construction or demolition debris for~~  
24 ~~transfer, storage, or treatment must maintain receipts from~~  
25 ~~the shingle recycling facility that document the amounts of~~  
26 ~~asphalt roofing shingles transferred for recycling in~~

1 ~~accordance with the beneficial use determination. All receipts~~  
2 ~~must be maintained for a minimum of 3 years and must be made~~  
3 ~~available to the Agency for inspection and copying during~~  
4 ~~normal business hours.~~

5 (j) No person shall cause or allow the acceptance of any  
6 waste at a general construction or demolition debris recovery  
7 facility, other than general construction or demolition  
8 debris.

9 (k) No person shall cause or allow the deposit or other  
10 placement of any general construction or demolition debris  
11 that is received at a general construction or demolition  
12 debris recovery facility, including any clean construction or  
13 demolition debris fraction, into or on any land or water.  
14 However, any clean construction or demolition debris fraction  
15 may be used as fill or road construction material at a clean  
16 construction or demolition debris fill operation under Section  
17 22.51 and any rules or regulations adopted thereunder if the  
18 clean construction or demolition debris is separated and  
19 managed separately from other general construction or  
20 demolition debris and otherwise meets the requirements  
21 applicable to clean construction or demolition debris at a  
22 clean construction or demolition debris fill operation.

23 (l) Beginning one year after the effective date of rules  
24 adopted by the Board under subsection (n), no person shall own  
25 or operate a general construction or demolition debris  
26 recovery facility without a permit issued by the Agency.

1       (m) In addition to any other requirements of this Act, no  
2 person shall, at a general construction or demolition debris  
3 recovery facility, cause or allow the storage or treatment of  
4 general construction or demolition debris in violation of this  
5 Act, any regulations or standards adopted under this Act, or  
6 any condition of a permit issued under this Act.

7       (n) No later than one year after the effective date of this  
8 amendatory Act of the 102nd General Assembly, the Agency shall  
9 propose to the Board, and no later than one year after receipt  
10 of the Agency's proposal, the Board shall adopt, rules for the  
11 permitting of general construction or demolition debris  
12 recovery facilities. Such rules shall include, but not be  
13 limited to: requirements for material receipt, handling,  
14 storage, and transfer; improvements to best management  
15 practices for identifying, testing for, and removing drywall  
16 containing gypsum; recordkeeping; reporting; limiting or  
17 prohibiting sulfur in wallboard used or disposed of at  
18 landfills; and requirements for the separation and separate  
19 management of any clean construction or demolition debris that  
20 will be transported to a clean construction or demolition  
21 debris fill operation.

22       (Source: P.A. 96-235, eff. 8-11-09; 96-611, eff. 8-24-09;  
23 96-1000, eff. 7-2-10; 97-230, eff. 7-28-11; 97-314, eff.  
24 1-1-12; 97-813, eff. 7-13-12.)

1           Sec. 22.44. Subtitle D management fees.

2           (a) There is created within the State treasury a special  
3 fund to be known as the "Subtitle D Management Fund"  
4 constituted from the fees collected by the State under this  
5 Section.

6           (b) The Agency shall assess and collect a fee in the amount  
7 set forth in this subsection from the owner or operator of each  
8 sanitary landfill permitted or required to be permitted by the  
9 Agency to dispose of solid waste if the sanitary landfill is  
10 located off the site where the waste was produced and if the  
11 sanitary landfill is owned, controlled, and operated by a  
12 person other than the generator of the waste. The Agency shall  
13 deposit all fees collected under this subsection into the  
14 Subtitle D Management Fund. If a site is contiguous to one or  
15 more landfills owned or operated by the same person, the  
16 volumes permanently disposed of by each landfill shall be  
17 combined for purposes of determining the fee under this  
18 subsection.

19           (1) If more than 150,000 cubic yards of non-hazardous  
20 solid waste is permanently disposed of at a site in a  
21 calendar year, the owner or operator shall either pay a  
22 fee of 10.1 cents per cubic yard or, alternatively, the  
23 owner or operator may weigh the quantity of the solid  
24 waste permanently disposed of with a device for which  
25 certification has been obtained under the Weights and  
26 Measures Act and pay a fee of 22 cents per ton of waste



1 permanently disposed of.

2 (2) If more than 100,000 cubic yards, but not more  
3 than 150,000 cubic yards, of non-hazardous waste is  
4 permanently disposed of at a site in a calendar year, the  
5 owner or operator shall pay a fee of \$7,020.

6 (3) If more than 50,000 cubic yards, but not more than  
7 100,000 cubic yards, of non-hazardous solid waste is  
8 permanently disposed of at a site in a calendar year, the  
9 owner or operator shall pay a fee of \$3,120.

10 (4) If more than 10,000 cubic yards, but not more than  
11 50,000 cubic yards, of non-hazardous solid waste is  
12 permanently disposed of at a site in a calendar year, the  
13 owner or operator shall pay a fee of \$975.

14 (5) If not more than 10,000 cubic yards of  
15 non-hazardous solid waste is permanently disposed of at a  
16 site in a calendar year, the owner or operator shall pay a  
17 fee of \$210.

18 (c) The fee under subsection (b) shall not apply to any of  
19 the following:

20 (1) Hazardous waste.

21 (2) Pollution control waste.

22 (3) Waste from recycling, reclamation, or reuse  
23 processes that have been approved by the Agency as being  
24 designed to remove any contaminant from wastes so as to  
25 render the wastes reusable, provided that the process  
26 renders at least 50% of the waste reusable. However, the

1 exemption set forth in this paragraph (3) of this  
2 subsection (c) shall not apply to general construction or  
3 demolition debris recovery facilities as defined in  
4 subsection (a-1) of Section 3.160.

5 (4) Non-hazardous solid waste that is received at a  
6 sanitary landfill and composted or recycled through a  
7 process permitted by the Agency.

8 (5) Any landfill that is permitted by the Agency to  
9 receive only demolition or construction debris or  
10 landscape waste.

11 (d) The Agency shall establish rules relating to the  
12 collection of the fees authorized by this Section. These rules  
13 shall include, but not be limited to the following:

14 (1) Necessary records identifying the quantities of  
15 solid waste received or disposed.

16 (2) The form and submission of reports to accompany  
17 the payment of fees to the Agency.

18 (3) The time and manner of payment of fees to the  
19 Agency, which payments shall not be more often than  
20 quarterly.

21 (4) Procedures setting forth criteria establishing  
22 when an owner or operator may measure by weight or volume  
23 during any given quarter or other fee payment period.

24 (e) Fees collected under this Section shall be in addition  
25 to any other fees collected under any other Section.

26 (f) The Agency shall not refund any fee paid to it under

1 this Section.

2 (g) Pursuant to appropriation, all moneys in the Subtitle  
3 D Management Fund shall be used by the Agency to administer the  
4 United States Environmental Protection Agency's Subtitle D  
5 Program provided in Sections 4004 and 4010 of the Resource  
6 Conservation and Recovery Act of 1976 (P.L. 94-580) as it  
7 relates to a municipal solid waste landfill program in  
8 Illinois and to fund a delegation of inspecting,  
9 investigating, and enforcement functions, within the  
10 municipality only, pursuant to subsection (r) of Section 4 of  
11 this Act to a municipality having a population of more than  
12 1,000,000 inhabitants. The Agency shall execute a delegation  
13 agreement pursuant to subsection (r) of Section 4 of this Act  
14 with a municipality having a population of more than 1,000,000  
15 inhabitants within 90 days of September 13, 1993 and shall on  
16 an annual basis distribute from the Subtitle D Management Fund  
17 to that municipality no less than \$150,000. Pursuant to  
18 appropriation, moneys in the Subtitle D Management Fund may  
19 also be used by the Agency for activities conducted under  
20 Section 22.15a of this Act.

21 (Source: P.A. 93-32, eff. 7-1-03; 94-272, eff. 7-19-05.)

22 (415 ILCS 5/31.1) (from Ch. 111 1/2, par. 1031.1)

23 Sec. 31.1. Administrative citation.

24 (a) The prohibitions specified in subsections (o) and (p)  
25 of Section 21 and subsection (k) of Section 55 of this Act

1 shall be enforceable either by administrative citation under  
2 this Section or as otherwise provided by this Act. Violations  
3 of Sections 22.38, ~~Section 22.51,~~ and 22.51a of this Act shall  
4 be enforceable either by administrative citation under this  
5 Section or as otherwise provided by this Act.

6 (b) Whenever Agency personnel or personnel of a unit of  
7 local government to which the Agency has delegated its  
8 functions pursuant to subsection (r) of Section 4 of this Act,  
9 on the basis of direct observation, determine that any person  
10 has violated any provision of subsection (o) or (p) of Section  
11 21, Section 22.38, Section 22.51, Section 22.51a, or  
12 subsection (k) of Section 55 of this Act, the Agency or such  
13 unit of local government may issue and serve an administrative  
14 citation upon such person within not more than 60 days after  
15 the date of the observed violation. Each such citation issued  
16 shall be served upon the person named therein or such person's  
17 authorized agent for service of process, and shall include the  
18 following information:

19 (1) a statement specifying the provisions of  
20 subsection (o) or (p) of Section 21, Section 22.38,  
21 Section 22.51, Section 22.51a, or subsection (k) of  
22 Section 55 of which the person was observed to be in  
23 violation;

24 (2) a copy of the inspection report in which the  
25 Agency or local government recorded the violation, which  
26 report shall include the date and time of inspection, and

1 weather conditions prevailing during the inspection;

2 (3) the penalty imposed by subdivision (b)(4) or  
3 (b)(4-5) of Section 42 for such violation;

4 (4) instructions for contesting the administrative  
5 citation findings pursuant to this Section, including  
6 notification that the person has 35 days within which to  
7 file a petition for review before the Board to contest the  
8 administrative citation; and

9 (5) an affidavit by the personnel observing the  
10 violation, attesting to their material actions and  
11 observations.

12 (c) The Agency or unit of local government shall file a  
13 copy of each administrative citation served under subsection  
14 (b) of this Section with the Board no later than 10 days after  
15 the date of service.

16 (d) (1) If the person named in the administrative citation  
17 fails to petition the Board for review within 35 days from the  
18 date of service, the Board shall adopt a final order, which  
19 shall include the administrative citation and findings of  
20 violation as alleged in the citation, and shall impose the  
21 penalty specified in subdivision (b)(4) or (b)(4-5) of Section  
22 42.

23 (2) If a petition for review is filed before the Board to  
24 contest an administrative citation issued under subsection (b)  
25 of this Section, the Agency or unit of local government shall  
26 appear as a complainant at a hearing before the Board to be

1 conducted pursuant to Section 32 of this Act at a time not less  
2 than 21 days after notice of such hearing has been sent by the  
3 Board to the Agency or unit of local government and the person  
4 named in the citation. In such hearings, the burden of proof  
5 shall be on the Agency or unit of local government. If, based  
6 on the record, the Board finds that the alleged violation  
7 occurred, it shall adopt a final order which shall include the  
8 administrative citation and findings of violation as alleged  
9 in the citation, and shall impose the penalty specified in  
10 subdivision (b) (4) or (b) (4-5) of Section 42. However, if the  
11 Board finds that the person appealing the citation has shown  
12 that the violation resulted from uncontrollable circumstances,  
13 the Board shall adopt a final order which makes no finding of  
14 violation and which imposes no penalty.

15 (e) Sections 10-25 through 10-60 of the Illinois  
16 Administrative Procedure Act shall not apply to any  
17 administrative citation issued under subsection (b) of this  
18 Section.

19 (f) The other provisions of this Section shall not apply  
20 to a sanitary landfill operated by a unit of local government  
21 solely for the purpose of disposing of water and sewage  
22 treatment plant sludges, including necessary stabilizing  
23 materials.

24 (g) All final orders issued and entered by the Board  
25 pursuant to this Section shall be enforceable by injunction,  
26 mandamus or other appropriate remedy, in accordance with

1 Section 42 of this Act.

2 (Source: P.A. 96-737, eff. 8-25-09; 96-1416, eff. 7-30-10.)

3 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

4 Sec. 42. Civil penalties.

5 (a) Except as provided in this Section, any person that  
6 violates any provision of this Act or any regulation adopted  
7 by the Board, or any permit or term or condition thereof, or  
8 that violates any order of the Board pursuant to this Act,  
9 shall be liable for a civil penalty of not to exceed \$50,000  
10 for the violation and an additional civil penalty of not to  
11 exceed \$10,000 for each day during which the violation  
12 continues; such penalties may, upon order of the Board or a  
13 court of competent jurisdiction, be made payable to the  
14 Environmental Protection Trust Fund, to be used in accordance  
15 with the provisions of the Environmental Protection Trust Fund  
16 Act.

17 (b) Notwithstanding the provisions of subsection (a) of  
18 this Section:

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

24 (2) Any person that violates Section 12(g) of this Act  
25 or any UIC permit or term or condition thereof, or any

1 filing requirement, regulation or order relating to the  
2 State UIC program for all wells, except Class II wells as  
3 defined by the Board under this Act, shall be liable to a  
4 civil penalty not to exceed \$2,500 per day of violation;  
5 provided, however, that any person who commits such  
6 violations relating to the State UIC program for Class II  
7 wells, as defined by the Board under this Act, shall be  
8 liable to a civil penalty of not to exceed \$10,000 for the  
9 violation and an additional civil penalty of not to exceed  
10 \$1,000 for each day during which the violation continues.

11 (3) Any person that violates Sections 21(f), 21(g),  
12 21(h) or 21(i) of this Act, or any RCRA permit or term or  
13 condition thereof, or any filing requirement, regulation  
14 or order relating to the State RCRA program, shall be  
15 liable to a civil penalty of not to exceed \$25,000 per day  
16 of violation.

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



1 citation, 50% of the civil penalty shall be payable to the  
2 unit of local government.

3 (4-5) In an administrative citation action under  
4 Section 31.1 of this Act, any person found to have  
5 violated any provision of subsection (p) of Section 21,  
6 Section 22.38, Section 22.51, Section 22.51a, or  
7 subsection (k) of Section 55 of this Act shall pay a civil  
8 penalty of \$1,500 for each violation of each such  
9 provision, plus any hearing costs incurred by the Board  
10 and the Agency, except that the civil penalty amount shall  
11 be \$3,000 for each violation of any provision of  
12 subsection (p) of Section 21, Section 22.38, Section  
13 22.51, Section 22.51a, or subsection (k) of Section 55  
14 that is the person's second or subsequent adjudication  
15 violation of that provision. The penalties shall be  
16 deposited into the Environmental Protection Trust Fund, to  
17 be used in accordance with the provisions of the  
18 Environmental Protection Trust Fund Act; except that if a  
19 unit of local government issued the administrative  
20 citation, 50% of the civil penalty shall be payable to the  
21 unit of local government.

22 (5) Any person who violates subsection 6 of Section  
23 39.5 of this Act or any CAAPP permit, or term or condition  
24 thereof, or any fee or filing requirement, or any duty to  
25 allow or carry out inspection, entry or monitoring  
26 activities, or any regulation or order relating to the

1 CAAPP shall be liable for a civil penalty not to exceed  
2 \$10,000 per day of violation.

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

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

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

1 and Inspection Fund.

2 (c) Any person that violates this Act, any rule or  
3 regulation adopted under this Act, any permit or term or  
4 condition of a permit, or any Board order and causes the death  
5 of fish or aquatic life shall, in addition to the other  
6 penalties provided by this Act, be liable to pay to the State  
7 an additional sum for the reasonable value of the fish or  
8 aquatic life destroyed. Any money so recovered shall be placed  
9 in the Wildlife and Fish Fund in the State Treasury.

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

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

22 (f) The State's Attorney of the county in which the  
23 violation occurred, or the Attorney General, shall bring such  
24 actions in the name of the people of the State of Illinois.  
25 Without limiting any other authority which may exist for the  
26 awarding of attorney's fees and costs, the Board or a court of

1 competent jurisdiction may award costs and reasonable  
2 attorney's fees, including the reasonable costs of expert  
3 witnesses and consultants, to the State's Attorney or the  
4 Attorney General in a case where he has prevailed against a  
5 person who has committed a willful, knowing, or repeated  
6 violation of this Act, any rule or regulation adopted under  
7 this Act, any permit or term or condition of a permit, or any  
8 Board order.

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

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

24 (h) In determining the appropriate civil penalty to be  
25 imposed under subdivisions (a), (b)(1), (b)(2), (b)(3),  
26 (b)(5), (b)(6), or (b)(7) of this Section, the Board is

1 authorized to consider any matters of record in mitigation or  
2 aggravation of penalty, including, but not limited to, the  
3 following factors:

4 (1) the duration and gravity of the violation;

5 (2) the presence or absence of due diligence on the  
6 part of the respondent in attempting to comply with  
7 requirements of this Act and regulations thereunder or to  
8 secure relief therefrom as provided by this Act;

9 (3) any economic benefits accrued by the respondent  
10 because of delay in compliance with requirements, in which  
11 case the economic benefits shall be determined by the  
12 lowest cost alternative for achieving compliance;

13 (4) the amount of monetary penalty which will serve to  
14 deter further violations by the respondent and to  
15 otherwise aid in enhancing voluntary compliance with this  
16 Act by the respondent and other persons similarly subject  
17 to the Act;

18 (5) the number, proximity in time, and gravity of  
19 previously adjudicated violations of this Act by the  
20 respondent;

21 (6) whether the respondent voluntarily self-disclosed,  
22 in accordance with subsection (i) of this Section, the  
23 non-compliance to the Agency;

24 (7) whether the respondent has agreed to undertake a  
25 "supplemental environmental project", which means an  
26 environmentally beneficial project that a respondent

1           agrees to undertake in settlement of an enforcement action  
2           brought under this Act, but which the respondent is not  
3           otherwise legally required to perform; and

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

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

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

24                 (1) that either the regulated entity is a small entity  
25                 or the non-compliance was discovered through an  
26                 environmental audit or a compliance management system

1           documented by the regulated entity as reflecting the  
2           regulated entity's due diligence in preventing, detecting,  
3           and correcting violations;

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

7           (3) that the non-compliance was discovered and  
8           disclosed prior to:

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

11           (ii) notice of a citizen suit;

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

15           (iv) the reporting of the non-compliance by an  
16           employee of the person without that person's  
17           knowledge; or

18           (v) imminent discovery of the non-compliance by  
19           the Agency;

20           (4) that the non-compliance is being corrected and any  
21           environmental harm is being remediated in a timely  
22           fashion;

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

25           (6) that no related non-compliance events have  
26           occurred in the past 3 years at the same facility or in the

1 past 5 years as part of a pattern at multiple facilities  
2 owned or operated by the person;

3 (7) that the non-compliance did not result in serious  
4 actual harm or present an imminent and substantial  
5 endangerment to human health or the environment or violate  
6 the specific terms of any judicial or administrative order  
7 or consent agreement;

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

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

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

19 For the purposes of this subsection (i), "small entity"  
20 has the same meaning as in Section 221 of the federal Small  
21 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
22 601).

23 (j) In addition to any other remedy or penalty that may  
24 apply, whether civil or criminal, any person who violates  
25 Section 22.52 of this Act shall be liable for an additional  
26 civil penalty of up to 3 times the gross amount of any



1 pecuniary gain resulting from the violation.

2 (k) In addition to any other remedy or penalty that may  
3 apply, whether civil or criminal, any person who violates  
4 subdivision (a) (7.6) of Section 31 of this Act shall be liable  
5 for an additional civil penalty of \$2,000.

6 (Source: P.A. 99-934, eff. 1-27-17; 100-436, eff. 8-25-17;  
7 100-863, eff. 8-14-18.)

8 (415 ILCS 5/22.38a rep.)

9 Section 10. The Environmental Protection Act is amended by  
10 repealing Section 22.38a.

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