



Sen. Michael E. Hastings

Filed: 4/28/2021

10200SB1089sam003

LRB102 04912 CPF 25935 a

1 AMENDMENT TO SENATE BILL 1089

2 AMENDMENT NO. _____. Amend Senate Bill 1089 by replacing
3 everything after the enacting clause with the following:

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

1 roof coverings; reclaimed or other asphalt pavement; glass;
2 plastics that are not sealed in a manner that conceals waste;
3 electrical wiring and components containing no hazardous
4 substances; and corrugated cardboard, piping or metals
5 incidental to any of those materials.

6 General construction or demolition debris does not include
7 uncontaminated soil generated during construction, remodeling,
8 repair, and demolition of utilities, structures, and roads
9 provided the uncontaminated soil is not commingled with any
10 general construction or demolition debris or other waste.

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

19 (a-1) "General construction or demolition debris recovery
20 facility" means a site or facility used to store or treat
21 exclusively general construction or demolition debris,
22 including, but not limited to, sorting, separating, or
23 transferring, for recycling, reclamation, or reuse. For
24 purposes of this definition, treatment includes altering the
25 physical nature of the general construction or demolition
26 debris, such as by size reduction, crushing, grinding, or

1 homogenization, but does not include treatment designed to
2 change the chemical nature of the general construction or
3 demolition debris.

4 (b) "Clean construction or demolition debris" means
5 uncontaminated broken concrete without protruding metal bars,
6 bricks, rock, stone, reclaimed or other asphalt pavement, or
7 soil generated from construction or demolition activities.

8 Clean construction or demolition debris does not include
9 uncontaminated soil generated during construction, remodeling,
10 repair, and demolition of utilities, structures, and roads
11 provided the uncontaminated soil is not commingled with any
12 clean construction or demolition debris or other waste.

13 To the extent allowed by federal law, clean construction
14 or demolition debris shall not be considered "waste" if it is
15 (i) used as fill material outside of a setback zone if the fill
16 is placed no higher than the highest point of elevation
17 existing prior to the filling immediately adjacent to the fill
18 area, and if covered by sufficient uncontaminated soil to
19 support vegetation within 30 days of the completion of filling
20 or if covered by a road or structure, and, if used as fill
21 material in a current or former quarry, mine, or other
22 excavation, is used in accordance with the requirements of
23 Section 22.51 of this Act and the rules adopted thereunder or
24 (ii) separated or processed and returned to the economic
25 mainstream in the form of raw materials or products, if it is
26 not speculatively accumulated and, if used as a fill material,

1 it is used in accordance with item (i), or (iii) solely broken
2 concrete without protruding metal bars used for erosion
3 control, or (iv) generated from the construction or demolition
4 of a building, road, or other structure and used to construct,
5 on the site where the construction or demolition has taken
6 place, a manmade functional structure not to exceed 20 feet
7 above the highest point of elevation of the property
8 immediately adjacent to the new manmade functional structure
9 as that elevation existed prior to the creation of that new
10 structure, provided that the structure shall be covered with
11 sufficient soil materials to sustain vegetation or by a road
12 or structure, and further provided that no such structure
13 shall be constructed within a home rule municipality with a
14 population over 500,000 without the consent of the
15 municipality.

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

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

5 (1) No later than one year after the effective date of
6 this amendatory Act of the 96th General Assembly, the
7 Agency shall propose, and, no later than one year after
8 receipt of the Agency's proposal, the Board shall adopt,
9 rules specifying the maximum concentrations of
10 contaminants that may be present in uncontaminated soil
11 for purposes of this Section. For carcinogens, the maximum
12 concentrations shall not allow exposure to exceed an
13 excess upper-bound lifetime risk of 1 in 1,000,000;
14 provided that if the most stringent remediation objective
15 or applicable background concentration for a contaminant
16 set forth in 35 Ill. Adm. Code 742 is greater than the
17 concentration that would allow exposure at an excess
18 upper-bound lifetime risk of 1 in 1,000,000, the Board may
19 consider allowing that contaminant in concentrations up to
20 its most stringent remediation objective or applicable
21 background concentration set forth in 35 Ill. Adm. Code
22 742 in soil used as fill material in a current or former
23 quarry, mine, or other excavation in accordance with
24 Section 22.51 or 22.51a of this Act and rules adopted
25 under those Sections. Any background concentration set
26 forth in 35 Ill. Adm. Code 742 that is adopted as a maximum

1 concentration must be based upon the location of the
2 quarry, mine, or other excavation where the soil is used
3 as fill material.

4 (2) To the extent allowed under federal law and
5 regulations, uncontaminated soil shall not be considered a
6 waste.

7 (Source: P.A. 96-235, eff. 8-11-09; 96-1416, eff. 7-30-10;
8 97-137, eff. 7-14-11.)

9 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

10 Sec. 3.330. Pollution control facility.

11 (a) "Pollution control facility" is any waste storage
12 site, sanitary landfill, waste disposal site, waste transfer
13 station, waste treatment facility, or waste incinerator. This
14 includes sewers, sewage treatment plants, and any other
15 facilities owned or operated by sanitary districts organized
16 under the Metropolitan Water Reclamation District Act.

17 The following are not pollution control facilities:

18 (1) (blank);

19 (2) waste storage sites regulated under 40 CFR, Part
20 761.42;

21 (3) sites or facilities used by any person conducting
22 a waste storage, waste treatment, waste disposal, waste
23 transfer or waste incineration operation, or a combination
24 thereof, for wastes generated by such person's own
25 activities, when such wastes are stored, treated, disposed

1 of, transferred or incinerated within the site or facility
2 owned, controlled or operated by such person, or when such
3 wastes are transported within or between sites or
4 facilities owned, controlled or operated by such person;

5 (4) sites or facilities at which the State is
6 performing removal or remedial action pursuant to Section
7 22.2 or 55.3;

8 (5) abandoned quarries used solely for the disposal of
9 concrete, earth materials, gravel, or aggregate debris
10 resulting from road construction activities conducted by a
11 unit of government or construction activities due to the
12 construction and installation of underground pipes, lines,
13 conduit or wires off of the premises of a public utility
14 company which are conducted by a public utility;

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

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

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

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

25 (10) the portion of a site or facility used for
26 treatment of petroleum contaminated materials by

1 application onto or incorporation into the soil surface
2 and any portion of that site or facility used for storage
3 of petroleum contaminated materials before treatment. Only
4 those categories of petroleum listed in Section 57.9(a)(3)
5 are exempt under this subdivision (10);

6 (11) the portion of a site or facility where used oil
7 is collected or stored prior to shipment to a recycling or
8 energy recovery facility, provided that the used oil is
9 generated by households or commercial establishments, and
10 the site or facility is a recycling center or a business
11 where oil or gasoline is sold at retail;

12 (11.5) processing sites or facilities that receive
13 only on-specification used oil, as defined in 35 Ill.
14 Admin. Code 739, originating from used oil collectors for
15 processing that is managed under 35 Ill. Admin. Code 739
16 to produce products for sale to off-site petroleum
17 facilities, if these processing sites or facilities are:
18 (i) located within a home rule unit of local government
19 with a population of at least 30,000 according to the 2000
20 federal census, that home rule unit of local government
21 has been designated as an Urban Round II Empowerment Zone
22 by the United States Department of Housing and Urban
23 Development, and that home rule unit of local government
24 has enacted an ordinance approving the location of the
25 site or facility and provided funding for the site or
26 facility; and (ii) in compliance with all applicable

1 zoning requirements;

2 (12) the portion of a site or facility utilizing coal
3 combustion waste for stabilization and treatment of only
4 waste generated on that site or facility when used in
5 connection with response actions pursuant to the federal
6 Comprehensive Environmental Response, Compensation, and
7 Liability Act of 1980, the federal Resource Conservation
8 and Recovery Act of 1976, or the Illinois Environmental
9 Protection Act or as authorized by the Agency;

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

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

23 (15) the portion of a site or facility located in a
24 county with a population over 3,000,000 that has obtained
25 local siting approval under Section 39.2 of this Act for a
26 municipal waste incinerator on or before July 1, 2005 and

1 that is used for a non-hazardous waste transfer station;

2 (16) a site or facility that temporarily holds in
3 transit for 10 days or less, non-putrescible solid waste
4 in original containers, no larger in capacity than 500
5 gallons, provided that such waste is further transferred
6 to a recycling, disposal, treatment, or storage facility
7 on a non-contiguous site and provided such site or
8 facility complies with the applicable 10-day transfer
9 requirements of the federal Resource Conservation and
10 Recovery Act of 1976 and United States Department of
11 Transportation hazardous material requirements. For
12 purposes of this Section only, "non-putrescible solid
13 waste" means waste other than municipal garbage that does
14 not rot or become putrid, including, but not limited to,
15 paints, solvent, filters, and absorbents;

16 (17) the portion of a site or facility located in a
17 county with a population greater than 3,000,000 that has
18 obtained local siting approval, under Section 39.2 of this
19 Act, for a municipal waste incinerator on or before July
20 1, 2005 and that is used for wood combustion facilities
21 for energy recovery that accept and burn only wood
22 material, as included in a fuel specification approved by
23 the Agency;

24 (18) a transfer station used exclusively for landscape
25 waste, including a transfer station where landscape waste
26 is ground to reduce its volume, where the landscape waste

1 is held no longer than 24 hours from the time it was
2 received;

3 (19) the portion of a site or facility that (i) is used
4 for the composting of food scrap, livestock waste, crop
5 residue, uncontaminated wood waste, or paper waste,
6 including, but not limited to, corrugated paper or
7 cardboard, and (ii) meets all of the following
8 requirements:

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

13 (B) All food scrap, livestock waste, crop residue,
14 uncontaminated wood waste, and paper waste must, by
15 the end of each operating day, be processed and placed
16 into an enclosed vessel in which air flow and
17 temperature are controlled, or all of the following
18 additional requirements must be met:

19 (i) The portion of the site or facility used
20 for the composting operation must include a
21 setback of at least 200 feet from the nearest
22 potable water supply well.

23 (ii) The portion of the site or facility used
24 for the composting operation must be located
25 outside the boundary of the 10-year floodplain or
26 floodproofed.

1 (iii) Except in municipalities with more than
2 1,000,000 inhabitants, the portion of the site or
3 facility used for the composting operation must be
4 located at least one-eighth of a mile from the
5 nearest residence, other than a residence located
6 on the same property as the site or facility.

7 (iv) The portion of the site or facility used
8 for the composting operation must be located at
9 least one-eighth of a mile from the property line
10 of all of the following areas:

11 (I) Facilities that primarily serve to
12 house or treat people that are
13 immunocompromised or immunosuppressed, such as
14 cancer or AIDS patients; people with asthma,
15 cystic fibrosis, or bioaerosol allergies; or
16 children under the age of one year.

17 (II) Primary and secondary schools and
18 adjacent areas that the schools use for
19 recreation.

20 (III) Any facility for child care licensed
21 under Section 3 of the Child Care Act of 1969;
22 preschools; and adjacent areas that the
23 facilities or preschools use for recreation.

24 (v) By the end of each operating day, all food
25 scrap, livestock waste, crop residue,
26 uncontaminated wood waste, and paper waste must be

1 (i) processed into windrows or other piles and
2 (ii) covered in a manner that prevents scavenging
3 by birds and animals and that prevents other
4 nuisances.

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

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

11 (E) The site or facility must not (i) restrict the
12 flow of a 100-year flood, (ii) result in washout of
13 food scrap, livestock waste, crop residue,
14 uncontaminated wood waste, or paper waste from a
15 100-year flood, or (iii) reduce the temporary water
16 storage capacity of the 100-year floodplain, unless
17 measures are undertaken to provide alternative storage
18 capacity, such as by providing lagoons, holding tanks,
19 or drainage around structures at the facility.

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

23 (i) an irreplaceable historic or
24 archaeological site has been listed under the
25 National Historic Preservation Act (16 U.S.C. 470
26 et seq.) or the Illinois Historic Preservation

1 Act;

2 (ii) a natural landmark has been designated by
3 the National Park Service or the Illinois State
4 Historic Preservation Office; or

5 (iii) a natural area has been designated as a
6 Dedicated Illinois Nature Preserve under the
7 Illinois Natural Areas Preservation Act.

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

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

22 (i) the portion of the site or facility is used
23 exclusively to perform testing of a thermochemical
24 conversion technology using only woody biomass,
25 collected as landscape waste within the boundaries of
26 the home rule unit, as the hydrocarbon feedstock for

1 the production of synthetic gas in accordance with
2 Section 39.9 of this Act;

3 (ii) the portion of the site or facility is in
4 compliance with all applicable zoning requirements;
5 and

6 (iii) a complete application for a demonstration
7 permit at the portion of the site or facility has been
8 submitted to the Agency in accordance with Section
9 39.9 of this Act within one year after July 27, 2010
10 (the effective date of Public Act 96-1314);

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

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

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

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

26 (B) that is located entirely within a home rule

1 unit having a population of (i) not less than 100,000
2 and not more than 115,000 according to the 2010
3 federal census, (ii) not less than 5,000 and not more
4 than 10,000 according to the 2010 federal census, or
5 (iii) not less than 25,000 and not more than 30,000
6 according to the 2010 federal census or that is
7 located in the unincorporated area of a county having
8 a population of not less than 700,000 and not more than
9 705,000 according to the 2010 federal census;

10 (C) that is permitted, by the Agency, prior to
11 January 1, 2002, for the transfer of landscape waste
12 if located in a home rule unit or that is permitted
13 prior to January 1, 2008 if located in an
14 unincorporated area of a county; and

15 (D) for which a permit application is submitted to
16 the Agency to modify an existing permit for the
17 transfer of landscape waste to also include, on a
18 demonstration basis not to exceed 24 months each time
19 a permit is issued, the transfer of commingled
20 landscape waste and food scrap or for which a permit
21 application is submitted to the Agency within 6 months
22 of the effective date of this amendatory Act of the
23 100th General Assembly; and

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

26 (A) that is located in a county having a

1 population of not less than 55,000 and not more than
2 60,000 according to the 2010 federal census;

3 (B) that is owned by that county;

4 (C) that is permitted, by the Agency, prior to
5 July 10, 2015 (the effective date of Public Act
6 99-12); and

7 (D) for which a permit application is submitted to
8 the Agency within 6 months after July 10, 2015 (the
9 effective date of Public Act 99-12) for the disposal
10 of non-hazardous special waste.

11 (b) A new pollution control facility is:

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

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

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

19 (Source: P.A. 99-12, eff. 7-10-15; 99-440, eff. 8-21-15;
20 99-642, eff. 7-28-16; 100-94, eff. 8-11-17.)

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

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

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

24 (b) Abandon, dump, or deposit any waste upon the public
25 highways or other public property, except in a sanitary

1 landfill approved by the Agency pursuant to regulations
2 adopted by the Board.

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

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

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

1 storage, or treatment of general construction or
2 demolition debris, provided that the facility was
3 receiving construction or demolition debris on August 24,
4 2009 (the effective date of Public Act 96-611) ~~this~~
5 ~~amendatory Act of the 96th General Assembly;~~

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

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

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

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

8 (e) Dispose, treat, store or abandon any waste, or
9 transport any waste into this State for disposal, treatment,
10 storage or abandonment, except at a site or facility which
11 meets the requirements of this Act and of regulations and
12 standards thereunder.

13 (f) Conduct any hazardous waste-storage, hazardous
14 waste-treatment or hazardous waste-disposal operation:

15 (1) without a RCRA permit for the site issued by the
16 Agency under subsection (d) of Section 39 of this Act, or
17 in violation of any condition imposed by such permit,
18 including periodic reports and full access to adequate
19 records and the inspection of facilities, as may be
20 necessary to assure compliance with this Act and with
21 regulations and standards adopted thereunder; or

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

24 (3) in violation of any RCRA permit filing requirement
25 established under standards adopted by the Board under
26 this Act; or

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

3 Notwithstanding the above, no RCRA permit shall be
4 required under this subsection or subsection (d) of Section 39
5 of this Act for any person engaged in agricultural activity
6 who is disposing of a substance which has been identified as a
7 hazardous waste, and which has been designated by Board
8 regulations as being subject to this exception, if the
9 substance was acquired for use by that person on his own
10 property and the substance is disposed of on his own property
11 in accordance with regulations or standards adopted by the
12 Board.

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

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

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

19 (h) Conduct any hazardous waste-recycling or hazardous
20 waste-reclamation or hazardous waste-reuse operation in
21 violation of any regulations, standards or permit requirements
22 adopted by the Board under this Act.

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

1 (j) Conduct any special waste-transportation ~~waste~~
2 ~~transportation~~ operation in violation of any regulations,
3 standards or permit requirements adopted by the Board under
4 this Act. However, sludge from a water or sewage treatment
5 plant owned and operated by a unit of local government which
6 (1) is subject to a sludge management plan approved by the
7 Agency or a permit granted by the Agency, and (2) has been
8 tested and determined not to be a hazardous waste as required
9 by applicable State and federal laws and regulations, may be
10 transported in this State without a special waste hauling
11 permit, and the preparation and carrying of a manifest shall
12 not be required for such sludge under the rules of the
13 Pollution Control Board. The unit of local government which
14 operates the treatment plant producing such sludge shall file
15 an annual report with the Agency identifying the volume of
16 such sludge transported during the reporting period, the
17 hauler of the sludge, and the disposal sites to which it was
18 transported. This subsection (j) shall not apply to hazardous
19 waste.

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

21 (l) Locate a hazardous waste disposal site above an active
22 or inactive shaft or tunneled mine or within 2 miles of an
23 active fault in the earth's crust. In counties of population
24 less than 225,000 no hazardous waste disposal site shall be
25 located (1) within 1 1/2 miles of the corporate limits as
26 defined on June 30, 1978, of any municipality without the

1 approval of the governing body of the municipality in an
2 official action; or (2) within 1000 feet of an existing
3 private well or the existing source of a public water supply
4 measured from the boundary of the actual active permitted site
5 and excluding existing private wells on the property of the
6 permit applicant. The provisions of this subsection do not
7 apply to publicly owned ~~publicly owned~~ sewage works or the
8 disposal or utilization of sludge from publicly owned
9 ~~publicly owned~~ sewage works.

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

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

18 (o) Conduct a sanitary landfill operation which is
19 required to have a permit under subsection (d) of this
20 Section, in a manner which results in any of the following
21 conditions:

22 (1) refuse in standing or flowing waters;

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

24 (3) leachate flows exiting the landfill confines (as
25 determined by the boundaries established for the landfill
26 by a permit issued by the Agency);

1 (4) open burning of refuse in violation of Section 9
2 of this Act;

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

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

8 (7) acceptance of wastes without necessary permits;

9 (8) scavenging as defined by Board regulations;

10 (9) deposition of refuse in any unpermitted portion of
11 the landfill;

12 (10) acceptance of a special waste without a required
13 manifest;

14 (11) failure to submit reports required by permits or
15 Board regulations;

16 (12) failure to collect and contain litter from the
17 site by the end of each operating day;

18 (13) failure to submit any cost estimate for the site
19 or any performance bond or other security for the site as
20 required by this Act or Board rules.

21 The prohibitions specified in this subsection (o) shall be
22 enforceable by the Agency either by administrative citation
23 under Section 31.1 of this Act or as otherwise provided by this
24 Act. The specific prohibitions in this subsection do not limit
25 the power of the Board to establish regulations or standards
26 applicable to sanitary landfills.

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

4 (1) litter;

5 (2) scavenging;

6 (3) open burning;

7 (4) deposition of waste in standing or flowing waters;

8 (5) proliferation of disease vectors;

9 (6) standing or flowing liquid discharge from the dump
10 site;

11 (7) deposition of:

12 (i) general construction or demolition debris as
13 defined in Section 3.160(a) of this Act; or

14 (ii) clean construction or demolition debris as
15 defined in Section 3.160(b) of this Act.

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

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

25 (1) conducting a landscape waste composting operation
26 for landscape wastes generated by such person's own

1 activities which are stored, treated, or disposed of
2 within the site where such wastes are generated; or

3 (1.5) conducting a landscape waste composting
4 operation that (i) has no more than 25 cubic yards of
5 landscape waste, composting additives, composting
6 material, or end-product compost on-site at any one time
7 and (ii) is not engaging in commercial activity; or

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

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

14 (A) the composting facility is operated by the
15 farmer on property on which the composting material is
16 utilized, and the composting facility constitutes no
17 more than 2% of the site's total acreage;

18 (A-5) any composting additives that the composting
19 facility accepts and uses at the facility are
20 necessary to provide proper conditions for composting
21 and do not exceed 10% of the total composting material
22 at the facility at any one time;

23 (B) the property on which the composting facility
24 is located, and any associated property on which the
25 compost is used, is principally and diligently devoted
26 to the production of agricultural crops and is not

1 owned, leased, or otherwise controlled by any waste
2 hauler or generator of nonagricultural compost
3 materials, and the operator of the composting facility
4 is not an employee, partner, shareholder, or in any
5 way connected with or controlled by any such waste
6 hauler or generator;

7 (C) all compost generated by the composting
8 facility is applied at agronomic rates and used as
9 mulch, fertilizer, or soil conditioner on land
10 actually farmed by the person operating the composting
11 facility, and the finished compost is not stored at
12 the composting site for a period longer than 18 months
13 prior to its application as mulch, fertilizer, or soil
14 conditioner;

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

17 (E) the owner or operator, by January 1, 2014 (or
18 the January 1 following commencement of operation,
19 whichever is later) and January 1 of each year
20 thereafter, registers the site with the Agency, (ii)
21 reports to the Agency on the volume of composting
22 material received and used at the site; (iii)
23 certifies to the Agency that the site complies with
24 the requirements set forth in subparagraphs (A),
25 (A-5), (B), (C), and (D) of this paragraph (2.5); and
26 (iv) certifies to the Agency that all composting

1 material was placed more than 200 feet from the
2 nearest potable water supply well, was placed outside
3 the boundary of the 10-year floodplain or on a part of
4 the site that is floodproofed, was placed at least 1/4
5 mile from the nearest residence (other than a
6 residence located on the same property as the
7 facility) or a lesser distance from the nearest
8 residence (other than a residence located on the same
9 property as the facility) if the municipality in which
10 the facility is located has by ordinance approved a
11 lesser distance than 1/4 mile, and was placed more
12 than 5 feet above the water table; any ordinance
13 approving a residential setback of less than 1/4 mile
14 that is used to meet the requirements of this
15 subparagraph (E) of paragraph (2.5) of this subsection
16 must specifically reference this paragraph; or

17 (3) operating a landscape waste composting facility on
18 a farm, if the facility meets all of the following
19 criteria:

20 (A) the composting facility is operated by the
21 farmer on property on which the composting material is
22 utilized, and the composting facility constitutes no
23 more than 2% of the property's total acreage, except
24 that the Board may allow a higher percentage for
25 individual sites where the owner or operator has
26 demonstrated to the Board that the site's soil

1 characteristics or crop needs require a higher rate;

2 (A-1) the composting facility accepts from other
3 agricultural operations for composting with landscape
4 waste no materials other than uncontaminated and
5 source-separated (i) crop residue and other
6 agricultural plant residue generated from the
7 production and harvesting of crops and other customary
8 farm practices, including, but not limited to, stalks,
9 leaves, seed pods, husks, bagasse, and roots and (ii)
10 plant-derived animal bedding, such as straw or
11 sawdust, that is free of manure and was not made from
12 painted or treated wood;

13 (A-2) any composting additives that the composting
14 facility accepts and uses at the facility are
15 necessary to provide proper conditions for composting
16 and do not exceed 10% of the total composting material
17 at the facility at any one time;

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

1 hauler or generator;

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

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

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

21 (II) was placed outside the boundary of the
22 10-year floodplain or on a part of the site that is
23 floodproofed;

24 (III) was placed either (aa) at least 1/4 mile
25 from the nearest residence (other than a residence
26 located on the same property as the facility) and

1 there are not more than 10 occupied non-farm
2 residences within 1/2 mile of the boundaries of
3 the site on the date of application or (bb) a
4 lesser distance from the nearest residence (other
5 than a residence located on the same property as
6 the facility) provided that the municipality or
7 county in which the facility is located has by
8 ordinance approved a lesser distance than 1/4 mile
9 and there are not more than 10 occupied non-farm
10 residences within 1/2 mile of the boundaries of
11 the site on the date of application; and

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

14 Any ordinance approving a residential setback of
15 less than 1/4 mile that is used to meet the
16 requirements of this subparagraph (D) must
17 specifically reference this subparagraph.

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

24 (r) Cause or allow the storage or disposal of coal
25 combustion waste unless:

26 (1) such waste is stored or disposed of at a site or

1 facility for which a permit has been obtained or is not
2 otherwise required under subsection (d) of this Section;
3 or

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

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

18 (i) such waste is stored or disposed of in
19 accordance with requirements applicable to refuse
20 disposal under regulations adopted by the Board for
21 mine-related water pollution and pursuant to NPDES and
22 Subtitle D permits issued by the Agency under such
23 regulations; or

24 (ii) the owner or operator of the facility
25 demonstrates all of the following to the Agency, and
26 the facility is operated in accordance with the

1 demonstration as approved by the Agency: (1) the
2 disposal area will be covered in a manner that will
3 support continuous vegetation, (2) the facility will
4 be adequately protected from wind and water erosion,
5 (3) the pH will be maintained so as to prevent
6 excessive leaching of metal ions, and (4) adequate
7 containment or other measures will be provided to
8 protect surface water and groundwater from
9 contamination at levels prohibited by this Act, the
10 Illinois Groundwater Protection Act, or regulations
11 adopted pursuant thereto.

12 Notwithstanding any other provision of this Title, the
13 disposal of coal combustion waste pursuant to item (2) or (3)
14 of this subdivision (r) shall be exempt from the other
15 provisions of this Title V, and notwithstanding the provisions
16 of Title X of this Act, the Agency is authorized to grant
17 experimental permits which include provision for the disposal
18 of wastes from the combustion of coal and other materials
19 pursuant to items (2) and (3) of this subdivision (r).

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

24 (t) Cause or allow a lateral expansion of a municipal
25 solid waste landfill unit on or after October 9, 1993, without
26 a permit modification, granted by the Agency, that authorizes

1 the lateral expansion.

2 (u) Conduct any vegetable by-product treatment, storage,
3 disposal or transportation operation in violation of any
4 regulation, standards or permit requirements adopted by the
5 Board under this Act. However, no permit shall be required
6 under this Title V for the land application of vegetable
7 by-products conducted pursuant to Agency permit issued under
8 Title III of this Act to the generator of the vegetable
9 by-products. In addition, vegetable by-products may be
10 transported in this State without a special waste hauling
11 permit, and without the preparation and carrying of a
12 manifest.

13 (v) (Blank).

14 (w) Conduct any generation, transportation, or recycling
15 of construction or demolition debris, clean or general, or
16 uncontaminated soil generated during construction, remodeling,
17 repair, and demolition of utilities, structures, and roads
18 that is not commingled with any waste, without the maintenance
19 of documentation identifying the hauler, generator, place of
20 origin of the debris or soil, the weight or volume of the
21 debris or soil, and the location, owner, and operator of the
22 facility where the debris or soil was transferred, disposed,
23 recycled, or treated. This documentation must be maintained by
24 the generator, transporter, or recycler for 3 years. This
25 subsection (w) shall not apply to (1) a permitted pollution
26 control facility that transfers or accepts construction or

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

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

3 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

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

5 (a) There is hereby created within the State Treasury a
6 special fund to be known as the Solid Waste Management Fund, to
7 be constituted from the fees collected by the State pursuant
8 to this Section, from repayments of loans made from the Fund
9 for solid waste projects, from registration fees collected
10 pursuant to the Consumer Electronics Recycling Act, and from
11 amounts transferred into the Fund pursuant to Public Act
12 100-433. Moneys received by the Department of Commerce and
13 Economic Opportunity in repayment of loans made pursuant to
14 the Illinois Solid Waste Management Act shall be deposited
15 into the General Revenue Fund.

16 (b) The Agency shall assess and collect a fee in the amount
17 set forth herein from the owner or operator of each sanitary
18 landfill permitted or required to be permitted by the Agency
19 to dispose of solid waste if the sanitary landfill is located
20 off the site where such waste was produced and if such sanitary
21 landfill is owned, controlled, and operated by a person other
22 than the generator of such waste. The Agency shall deposit all
23 fees collected into the Solid Waste Management Fund. If a site
24 is contiguous to one or more landfills owned or operated by the
25 same person, the volumes permanently disposed of by each

1 landfill shall be combined for purposes of determining the fee
2 under this subsection. Beginning on July 1, 2018, and on the
3 first day of each month thereafter during fiscal years 2019
4 through 2021, the State Comptroller shall direct and State
5 Treasurer shall transfer an amount equal to 1/12 of \$5,000,000
6 per fiscal year from the Solid Waste Management Fund to the
7 General Revenue Fund.

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

19 (2) If more than 100,000 cubic yards but not more than
20 150,000 cubic yards of non-hazardous waste is permanently
21 disposed of at a site in a calendar year, the owner or
22 operator shall pay a fee of \$52,630.

23 (3) If more than 50,000 cubic yards but not more than
24 100,000 cubic yards of non-hazardous solid waste is
25 permanently disposed of at a site in a calendar year, the
26 owner or operator shall pay a fee of \$23,790.

1 (4) If more than 10,000 cubic yards but not more than
2 50,000 cubic yards of non-hazardous solid waste is
3 permanently disposed of at a site in a calendar year, the
4 owner or operator shall pay a fee of \$7,260.

5 (5) If not more than 10,000 cubic yards of
6 non-hazardous solid waste is permanently disposed of at a
7 site in a calendar year, the owner or operator shall pay a
8 fee of \$1050.

9 (c) (Blank).

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

13 (1) necessary records identifying the quantities of
14 solid waste received or disposed;

15 (2) the form and submission of reports to accompany
16 the payment of fees to the Agency;

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

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

23 (e) Pursuant to appropriation, all monies in the Solid
24 Waste Management Fund shall be used by the Agency and the
25 Department of Commerce and Economic Opportunity for the
26 purposes set forth in this Section and in the Illinois Solid

1 Waste Management Act, including for the costs of fee
2 collection and administration, and for the administration of
3 (1) the Consumer Electronics Recycling Act and (2) until
4 January 1, 2020, the Electronic Products Recycling and Reuse
5 Act.

6 (f) The Agency is authorized to enter into such agreements
7 and to promulgate such rules as are necessary to carry out its
8 duties under this Section and the Illinois Solid Waste
9 Management Act.

10 (g) On the first day of January, April, July, and October
11 of each year, beginning on July 1, 1996, the State Comptroller
12 and Treasurer shall transfer \$500,000 from the Solid Waste
13 Management Fund to the Hazardous Waste Fund. Moneys
14 transferred under this subsection (g) shall be used only for
15 the purposes set forth in item (1) of subsection (d) of Section
16 22.2.

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

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

23 (j) A unit of local government, as defined in the Local
24 Solid Waste Disposal Act, in which a solid waste disposal
25 facility is located may establish a fee, tax, or surcharge
26 with regard to the permanent disposal of solid waste. All

1 fees, taxes, and surcharges collected under this subsection
2 shall be utilized for solid waste management purposes,
3 including long-term monitoring and maintenance of landfills,
4 planning, implementation, inspection, enforcement and other
5 activities consistent with the Solid Waste Management Act and
6 the Local Solid Waste Disposal Act, or for any other
7 environment-related purpose, including but not limited to an
8 environment-related public works project, but not for the
9 construction of a new pollution control facility other than a
10 household hazardous waste facility. However, the total fee,
11 tax or surcharge imposed by all units of local government
12 under this subsection (j) upon the solid waste disposal
13 facility shall not exceed:

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

22 (2) \$33,350 if more than 100,000 cubic yards, but not
23 more than 150,000 cubic yards, of non-hazardous waste is
24 permanently disposed of at the site in a calendar year.

25 (3) \$15,500 if more than 50,000 cubic yards, but not
26 more than 100,000 cubic yards, of non-hazardous solid

1 waste is permanently disposed of at the site in a calendar
2 year.

3 (4) \$4,650 if more than 10,000 cubic yards, but not
4 more than 50,000 cubic yards, of non-hazardous solid waste
5 is permanently disposed of at the site in a calendar year.

6 (5) \$650 if not more than 10,000 cubic yards of
7 non-hazardous solid waste is permanently disposed of at
8 the site in a calendar year.

9 The corporate authorities of the unit of local government
10 may use proceeds from the fee, tax, or surcharge to reimburse a
11 highway commissioner whose road district lies wholly or
12 partially within the corporate limits of the unit of local
13 government for expenses incurred in the removal of
14 nonhazardous, nonfluid municipal waste that has been dumped on
15 public property in violation of a State law or local
16 ordinance.

17 For the disposal of solid waste from general construction
18 or demolition debris recovery facilities subject to Section
19 22.38 of this Act, the total fee, tax, or surcharge imposed by
20 all units of local government under this subsection (j) upon
21 the solid waste disposal facility shall not exceed 50% of the
22 applicable amount set forth above. A unit of local government,
23 as defined in the Local Solid Waste Disposal Act, in which a
24 general construction or demolition debris recovery facility is
25 located may also establish a fee, tax, or surcharge with
26 regard to the permanent disposal of solid waste from the

1 general construction or demolition debris recovery facility at
2 a solid waste disposal facility, provided that such fee, tax,
3 or surcharge shall not exceed 50% of the applicable amount set
4 forth above and the unit of local government and fee shall be
5 subject to all other requirements of this subsection (j).

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

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

26 The fees, taxes or surcharges collected under this

1 subsection (j) shall be placed by the unit of local government
2 in a separate fund, and the interest received on the moneys in
3 the fund shall be credited to the fund. The monies in the fund
4 may be accumulated over a period of years to be expended in
5 accordance with this subsection.

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

12 (1) The total monies collected pursuant to this
13 subsection.

14 (2) The most current balance of monies collected
15 pursuant to this subsection.

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

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

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

22 The exemptions granted under Sections 22.16 and 22.16a,
23 and under subsection (k) of this Section, shall be applicable
24 to any fee, tax or surcharge imposed under this subsection
25 (j); except that the fee, tax or surcharge authorized to be
26 imposed under this subsection (j) may be made applicable by a

1 unit of local government to the permanent disposal of solid
2 waste after December 31, 1986, under any contract lawfully
3 executed before June 1, 1986 under which more than 150,000
4 cubic yards (or 50,000 tons) of solid waste is to be
5 permanently disposed of, even though the waste is exempt from
6 the fee imposed by the State under subsection (b) of this
7 Section pursuant to an exemption granted under Section 22.16.

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

12 (1) waste which is hazardous waste;

13 (2) waste which is pollution control waste;

14 (3) waste from recycling, reclamation or reuse
15 processes which have been approved by the Agency as being
16 designed to remove any contaminant from wastes so as to
17 render such wastes reusable, provided that the process
18 renders at least 50% of the waste reusable, except for
19 general construction or demolition debris recovery
20 facilities regulated pursuant to Section 22.38;

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) Except as otherwise provided by Board rule,
24 at a minimum, recycle 40% of the total general
25 construction or demolition debris received on a rolling

1 12-month average basis. The percentages in this paragraph
2 (0.5) of subsection (b) shall be calculated by weight.

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

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

23 (3) Use best management practices to identify and
24 remove all drywall and other wallboard containing gypsum
25 from the (i) recyclable general construction or demolition
26 debris and (ii) wood being recovered for use as fuel,

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

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

24 ~~(A) all non putrescible recyclable general~~
25 ~~construction or demolition debris for recycling or~~
26 ~~disposal; and~~

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

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

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

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

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

19 (6) Employ tagging and recordkeeping procedures to, at
20 a minimum, (i) demonstrate compliance with this Section,
21 ~~and~~ (ii) identify the type, amount, source, and
22 transporter of material accepted by the facility, and
23 (iii) identify the type, amount, destination, and
24 transporter of material transported from the facility.
25 Records shall be maintained in a form and format
26 prescribed by the Agency, and beginning October 1, 2021,

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

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

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

11 (9) Control access to the facility.

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

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

1 ~~the following information:~~

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

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

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

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

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

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

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

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

25 (12) On or after August 24, 2009 (the effective date
26 of Public Act 96-611), obtain a permit for the operation

1 of a general construction or demolition debris recovery
2 facility issued by the Agency prior to the initial
3 acceptance of general construction or demolition debris at
4 the facility.

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

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

25 (d) (Blank). ~~For purposes of this Section, "treatment"~~
26 ~~means processing designed to alter the physical nature of the~~

1 ~~general construction or demolition debris, including but not~~
2 ~~limited to size reduction, crushing, grinding, or~~
3 ~~homogenization, but does not include processing designed to~~
4 ~~change the chemical nature of the general construction or~~
5 ~~demolition debris.~~

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

16 (f) (Blank). ~~For purposes of this Section, "non recyclable~~
17 ~~general construction or demolition debris" does not include~~
18 ~~"recovered wood that is processed for use as fuel" or general~~
19 ~~construction or demolition debris that is processed for use at~~
20 ~~a landfill.~~

21 (g) (Blank). ~~Recyclable general construction or demolition~~
22 ~~debris, recovered wood that is processed for use as fuel, and~~
23 ~~general construction or demolition debris that is processed~~
24 ~~for use at a landfill shall not be considered as meeting the~~
25 ~~75% diversion requirement for purposes of subdivision (b) (3)~~
26 ~~of this Section if sent for disposal at the end of the~~

1 ~~applicable retention period.~~

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

9 (i) (Blank). ~~For purposes of the 75% diversion requirement~~
10 ~~under subdivision (b) (3) of this Section, owners and operators~~
11 ~~of facilities accepting exclusively general construction or~~
12 ~~demolition debris for transfer, storage, or treatment may~~
13 ~~multiply by 2 the amount of accepted asphalt roofing shingles~~
14 ~~that are transferred to a facility for recycling in accordance~~
15 ~~with a beneficial use determination issued under Section 22.54~~
16 ~~of this Act. The owner or operator of the facility accepting~~
17 ~~exclusively general construction or demolition debris for~~
18 ~~transfer, storage, or treatment must maintain receipts from~~
19 ~~the shingle recycling facility that document the amounts of~~
20 ~~asphalt roofing shingles transferred for recycling in~~
21 ~~accordance with the beneficial use determination. All receipts~~
22 ~~must be maintained for a minimum of 3 years and must be made~~
23 ~~available to the Agency for inspection and copying during~~
24 ~~normal business hours.~~

25 (j) No person shall cause or allow the acceptance of any
26 waste at a general construction or demolition debris recovery

1 facility, other than general construction or demolition
2 debris.

3 (k) No person shall cause or allow the deposit or other
4 placement of general construction or demolition debris that is
5 received at a general construction or demolition debris
6 recovery facility into or on any land or water, including, but
7 not limited to, use as fill or road construction material at a
8 site subject to Section 22.51, unless the general construction
9 or demolition debris (i) meets the definition of clean
10 construction or demolition debris in subsection (b) of Section
11 3.160 of this Act and (ii) has been returned to the economic
12 mainstream in the form of a raw material or product.

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

17 (m) In addition to any other requirements of this Act, no
18 person shall, at a general construction or demolition debris
19 recovery facility, cause or allow the storage or treatment of
20 general construction or demolition debris in violation of this
21 Act, any regulations or standards adopted under this Act, or
22 any condition of a permit issued under this Act.

23 (n) No later than one year after the effective date of this
24 Amendatory Act of the 102nd General Assembly the Agency shall
25 propose to the Board, and no later than one year after receipt
26 of the Agency's proposal the Board shall, adopt rules for

1 permitting the operation of general construction or demolition
2 debris recovery facilities. Such rules shall include, but not
3 be limited to: requirements for material receipt, handling,
4 storage, and transfer; improvements to best management
5 practices for identifying, testing for, and removing drywall
6 containing gypsum; minimal recycling, reclamation, reuse
7 requirements, and recordkeeping; reporting; financial
8 assurance; and limiting or prohibiting sulfur in wallboard
9 used or disposed of at landfills; and transition of facilities
10 to permitting under the rules.

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

14 (415 ILCS 5/31.1) (from Ch. 111 1/2, par. 1031.1)

15 Sec. 31.1. Administrative citation.

16 (a) The prohibitions specified in subsections (o) and (p)
17 of Section 21 and subsection (k) of Section 55 of this Act
18 shall be enforceable either by administrative citation under
19 this Section or as otherwise provided by this Act. Violations
20 of Sections 22.38, ~~Section~~ 22.51, and 22.51a of this Act shall
21 be enforceable either by administrative citation under this
22 Section or as otherwise provided by this Act.

23 (b) Whenever Agency personnel or personnel of a unit of
24 local government to which the Agency has delegated its
25 functions pursuant to subsection (r) of Section 4 of this Act,

1 on the basis of direct observation, determine that any person
2 has violated any provision of subsection (o) or (p) of Section
3 21, Section 22.38, Section 22.51, Section 22.51a, or
4 subsection (k) of Section 55 of this Act, the Agency or such
5 unit of local government may issue and serve an administrative
6 citation upon such person within not more than 60 days after
7 the date of the observed violation. Each such citation issued
8 shall be served upon the person named therein or such person's
9 authorized agent for service of process, and shall include the
10 following information:

11 (1) a statement specifying the provisions of
12 subsection (o) or (p) of Section 21, Section 22.38,
13 Section 22.51, Section 22.51a, or subsection (k) of
14 Section 55 of which the person was observed to be in
15 violation;

16 (2) a copy of the inspection report in which the
17 Agency or local government recorded the violation, which
18 report shall include the date and time of inspection, and
19 weather conditions prevailing during the inspection;

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

22 (4) instructions for contesting the administrative
23 citation findings pursuant to this Section, including
24 notification that the person has 35 days within which to
25 file a petition for review before the Board to contest the
26 administrative citation; and

1 (5) an affidavit by the personnel observing the
2 violation, attesting to their material actions and
3 observations.

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

8 (d) (1) If the person named in the administrative citation
9 fails to petition the Board for review within 35 days from the
10 date of service, the Board shall adopt a final order, which
11 shall include the administrative citation and findings of
12 violation as alleged in the citation, and shall impose the
13 penalty specified in subdivision (b) (4) or (b) (4-5) of Section
14 42.

15 (2) If a petition for review is filed before the Board to
16 contest an administrative citation issued under subsection (b)
17 of this Section, the Agency or unit of local government shall
18 appear as a complainant at a hearing before the Board to be
19 conducted pursuant to Section 32 of this Act at a time not less
20 than 21 days after notice of such hearing has been sent by the
21 Board to the Agency or unit of local government and the person
22 named in the citation. In such hearings, the burden of proof
23 shall be on the Agency or unit of local government. If, based
24 on the record, the Board finds that the alleged violation
25 occurred, it shall adopt a final order which shall include the
26 administrative citation and findings of violation as alleged

1 in the citation, and shall impose the penalty specified in
2 subdivision (b) (4) or (b) (4-5) of Section 42. However, if the
3 Board finds that the person appealing the citation has shown
4 that the violation resulted from uncontrollable circumstances,
5 the Board shall adopt a final order which makes no finding of
6 violation and which imposes no penalty.

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

11 (f) The other provisions of this Section shall not apply
12 to a sanitary landfill operated by a unit of local government
13 solely for the purpose of disposing of water and sewage
14 treatment plant sludges, including necessary stabilizing
15 materials.

16 (g) All final orders issued and entered by the Board
17 pursuant to this Section shall be enforceable by injunction,
18 mandamus or other appropriate remedy, in accordance with
19 Section 42 of this Act.

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

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

22 Sec. 42. Civil penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (c) Any person that violates this Act, any rule or
21 regulation adopted under this Act, any permit or term or
22 condition of a permit, or any Board order and causes the death
23 of fish or aquatic life shall, in addition to the other
24 penalties provided by this Act, be liable to pay to the State
25 an additional sum for the reasonable value of the fish or
26 aquatic life destroyed. Any money so recovered shall be placed

1 in the Wildlife and Fish Fund in the State Treasury.

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

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

14 (f) The State's Attorney of the county in which the
15 violation occurred, or the Attorney General, shall bring such
16 actions in the name of the people of the State of Illinois.
17 Without limiting any other authority which may exist for the
18 awarding of attorney's fees and costs, the Board or a court of
19 competent jurisdiction may award costs and reasonable
20 attorney's fees, including the reasonable costs of expert
21 witnesses and consultants, to the State's Attorney or the
22 Attorney General in a case where he has prevailed against a
23 person who has committed a willful, knowing, or repeated
24 violation of this Act, any rule or regulation adopted under
25 this Act, any permit or term or condition of a permit, or any
26 Board order.

1 Any funds collected under this subsection (f) in which the
2 Attorney General has prevailed shall be deposited in the
3 Hazardous Waste Fund created in Section 22.2 of this Act. Any
4 funds collected under this subsection (f) in which a State's
5 Attorney has prevailed shall be retained by the county in
6 which he serves.

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

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

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

23 (2) the presence or absence of due diligence on the
24 part of the respondent in attempting to comply with
25 requirements of this Act and regulations thereunder or to
26 secure relief therefrom as provided by this Act;

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

5 (4) the amount of monetary penalty which will serve to
6 deter further violations by the respondent and to
7 otherwise aid in enhancing voluntary compliance with this
8 Act by the respondent and other persons similarly subject
9 to the Act;

10 (5) the number, proximity in time, and gravity of
11 previously adjudicated violations of this Act by the
12 respondent;

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

16 (7) whether the respondent has agreed to undertake a
17 "supplemental environmental project", which means an
18 environmentally beneficial project that a respondent
19 agrees to undertake in settlement of an enforcement action
20 brought under this Act, but which the respondent is not
21 otherwise legally required to perform; and

22 (8) whether the respondent has successfully completed
23 a Compliance Commitment Agreement under subsection (a) of
24 Section 31 of this Act to remedy the violations that are
25 the subject of the complaint.

26 In determining the appropriate civil penalty to be imposed

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

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

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

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

25 (3) that the non-compliance was discovered and
26 disclosed prior to:

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

3 (ii) notice of a citizen suit;

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

7 (iv) the reporting of the non-compliance by an
8 employee of the person without that person's
9 knowledge; or

10 (v) imminent discovery of the non-compliance by
11 the Agency;

12 (4) that the non-compliance is being corrected and any
13 environmental harm is being remediated in a timely
14 fashion;

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

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

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

26 (8) that the person cooperates as reasonably requested

1 by the Agency after the disclosure; and

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

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

11 For the purposes of this subsection (i), "small entity"
12 has the same meaning as in Section 221 of the federal Small
13 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.
14 601).

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

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

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

1 (415 ILCS 5/22.38a rep.)

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

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