



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3595

Introduced 2/17/2023, by Rep. Theresa Mah

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.141-5 new

415 ILCS 5/42

415 ILCS 5/3.141 rep.

from Ch. 111 1/2, par. 1042

Amends the Environmental Protection Act. Provides that, before an owner or operator may initiate demolition of a thermal power plant via implosion, the owner or operator must satisfy specified notification requirements and obtain an Agency-approved air quality plan. Provides that, at least 30 days after providing notice, an owner or operator must hold at least one public meeting within the municipality in which the site is located to discuss the proposed demolition. Contains requirements for the public meeting and the air quality plan. Requires the air quality plan to include a dust mitigation plan, contingency plan, and site cleanup plan with specified requirements. Contains other provisions. Repeals a provision regarding the notice of power plant demolition. In provisions regarding civil penalties, provides that any person who engages in demolition of a thermal power plant via implosion in violation of the Act shall be liable for a civil penalty of up to \$50,000 for the first violation and up to \$250,000 for a second or subsequent violation. Effective immediately.

LRB103 30450 CPF 56882 b

1 AN ACT concerning safety.

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

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

6 (415 ILCS 5/3.141-5 new)

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

9 (a) As used in this Section:

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

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

14 (1) The demolition of a smokestack.

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

16 (3) The demolition of substantially all of the  
17 above-grade portion of a building or structure.

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

20 "Dust mitigation plan" means the dust mitigation plan  
21 required to be included in the air quality plan.

22 "Fugitive dust" means fugitive particulate matter or any  
23 particulate matter emitted into the atmosphere other than

1 through a stack, provided that nothing in this definition  
2 shall exempt any emission unit from compliance with any  
3 provision of 35 Ill. Adm. Code 212 otherwise applicable merely  
4 because of the absence of a stack.

5 "Implosion" means the use of explosives for the demolition  
6 of buildings or other structures.

7 "Owner or operator" means the owner or operator of a  
8 thermal power plant and includes agents, representatives, and  
9 any persons acting on behalf of an owner or operator of the  
10 thermal power plant.

11 "Particulate emission potential" means the potential for  
12 particulates from existing soils at the site to be dispersed  
13 by wind or by physical disturbance as determined using the  
14 procedures described in subparagraph (C) of paragraph (3) of  
15 subsection (j).

16 "Recognized environmental condition" means the presence or  
17 likely presence of any hazardous substance or petroleum  
18 product on a property under conditions that indicate an  
19 existing release, a past release, or a material threat of a  
20 release of any hazardous substance or petroleum product into a  
21 structure on the property or into the ground, ground water, or  
22 surface water of the property.

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

26 "Site" means real property containing a building or

1 structure to be demolished, and all structures, equipment, and  
2 ancillary fixtures thereon, used in or to support the  
3 demolition. "Site" includes, but is not limited to,  
4 structures, buildings, scales, roadways, parking areas,  
5 queuing areas, fences, processing equipment, processing areas,  
6 staging or stockpiling areas, and monitoring stations.

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

9 "Thermal power plant" or "plant" means a facility that  
10 currently produces or has ever produced electricity using a  
11 thermal generation technology. "Thermal power plant" or  
12 "plant" includes generation facilities creating power using  
13 coal or gas as inputs. "Thermal power plant" or "plant" does  
14 not include buildings that are exclusively administrative or  
15 exclusively office buildings.

16 (b) Before an owner or operator may initiate demolition of  
17 a thermal power plant via implosion, the owner or operator  
18 must satisfy the notification requirements under subsection  
19 (c) and obtain an Agency-approved air quality plan as  
20 specified under subsection (j).

21 (c) Before an owner or operator may initiate demolition of  
22 a thermal power plant via implosion, the owner or operator  
23 must notify the public at least 60 days before the anticipated  
24 date of the implosion. Notification must be conducted through  
25 all of the following activities:

26 (1) Posting notices in both physical and online form

1 in a newspaper of general circulation within 25 miles of  
2 where the thermal power plant is located. Where a  
3 newspaper is unavailable, the owner or operator may use  
4 appropriate broadcast media such as radio or television.

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

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

17 (4) Establishing and posting on a publicly accessible  
18 website that can be visited without providing login  
19 credentials and that functions as a repository, all  
20 demolition-related communications, notices, and documents  
21 as specified in subsection (e).

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

25 (6) Requesting that the Agency email the notices to  
26 the Agency's listserv, created under paragraph (7), for

1       the plant.

2           (7) For each plant subject to this Act, the Agency  
3       must create and maintain a listserv. Each listserv must  
4       include the email addresses of all interested persons who  
5       notify the Agency in writing, either directly through the  
6       Agency or indirectly through the owner or operator, of the  
7       person's respective email addresses and that the person  
8       would like to receive emails of notices concerning the  
9       plant.

10       (d) The notice required under subsection (c) must include  
11       the following information:

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

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

16           (3) The portion of the plant that is set for  
17       demolition.

18           (4) The amount of demolition debris anticipated,  
19       expressed in terms of both weight and volume and  
20       categorized according to waste stream if multiple waste  
21       streams will result from the demolition, how and where it  
22       will be transported, and how and where it will ultimately  
23       be disposed of or otherwise repurposed.

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

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

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

6           (e) The information posted to the website must be made  
7           available to the public on the website until 3 years after the  
8           demolition ends. The content of the notice shall be available  
9           on the home page of the website and the following information  
10          must be available through the publicly accessible website:

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

12           (2) The draft air quality plan and all documentation  
13           relied upon in making the air quality plan as described in  
14           subsection (j).

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

18           (4) A description of potential demolition impacts,  
19           including, but not limited to, a list of potential  
20           contaminants in the demolition debris, broken down by  
21           major waste stream if applicable, dates, hours, and  
22           decibels of noise anticipated, and dates and hours of road  
23           closures anticipated.

24           (5) Information on any applicable permits issued to  
25           the plant in relation to the demolition, including  
26           county-issued or municipality-issued permits, with express

1 instructions explaining how to access a copy of each  
2 permit, or a copy of each of the permits, if available.

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

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

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

15 (f) The owner or operator shall submit proof of  
16 notification to the Agency. No earlier than one week and no  
17 less than 72 hours before the originally scheduled demolition,  
18 the owner or operator must advise the phone, email, and text  
19 lists required under paragraph (5) of subsection (c) of the  
20 upcoming demolition.

21 If there is a change to the date and time of a scheduled  
22 demolition, the owner or operator must update the  
23 publicly-accessible website required under paragraph (4) of  
24 subsection (c) and advise the phone, email, and text lists  
25 required under paragraph (5) of subsection (c) that the date  
26 is changing within 24 hours of the schedule change and also



1 notice of a new planned date at least 16 hours prior to the new  
2 demolition date.

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

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

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

14 (3) The owner or operator must provide reasonable  
15 accommodations, as defined in paragraph (9) of Section  
16 12111 of the federal Americans with Disabilities Act of  
17 1990, 42 U.S.C. 12111(9), upon request.

18 (h) When a proposed demolition is located in a community  
19 with 10% or more non-English speaking residents, the owner or  
20 operator must provide translation services during the public  
21 meeting required by this Section, if requested at least 72  
22 hours in advance of the public meeting.

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

25 (1) Present the schedule and process for the  
26 demolition, which must cover the noise, air quality,

1 environmental, public health, and any other community  
2 impacts, such as road closures, expected from the  
3 demolition, as well as a summary of the air quality plan,  
4 including control equipment and best management practices  
5 that will be used to reduce fugitive dust.

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

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

10 (4) Ensure the presence of representatives from the  
11 owner or operator or the company that will be performing  
12 the demolition in whole or in part. The representative  
13 must be qualified and knowledgeable enough to answer the  
14 questions posed by the public.

15 (5) The owner and operator shall engage a certified  
16 court reporter to be present at the public meeting and  
17 transcribe the entirety of the public meeting, including,  
18 but not limited to, all statements made by the owner or  
19 operator and all public comments offered at the public  
20 meeting.

21 (6) The owner or operator shall make the transcript of  
22 the public meeting available on the owner or operator's  
23 publicly accessible website no later than 14 days after  
24 the public meeting.

25 (7) The owner or operator shall create a summary of  
26 the public meeting, including issues raised by the public,

1 and respond to all questions in writing no later than 14  
2 days after the meeting. The owner or operator shall post  
3 the summary and responses to the owner's or operator's  
4 publicly accessible website and advise the phone, email,  
5 and text lists when the documentation is available.

6 (8) The public meeting shall be live-streamed in order  
7 to allow the public to watch and meaningfully participate  
8 in the meeting. The meeting shall also be recorded. The  
9 recording shall be made available on the owner's or  
10 operator's publicly accessible website.

11 (j) Before an owner or operator may initiate demolition of  
12 a thermal power plant via implosion, the owner or operator  
13 must establish an air quality plan that is approved by the  
14 Agency. The owner or operator shall comply with the provisions  
15 of the approved air quality plan.

16 The air quality plan, the transcript of the public meeting  
17 required under subsection (g), and the public meeting summary  
18 described in paragraph (7) of subsection (i) shall be  
19 submitted to the Agency no more than 45 days after the public  
20 meeting required under subsection (g).

21 The air quality plan shall include, but is not limited to,  
22 the following:

23 (1) An air dispersion modeling study using AERMOD. The  
24 study shall simulate dust propagation generated from the  
25 implosion under varying wind speeds, wind directions, and  
26 weather stability classes, such as unstable, neutral, and

1 stable. The model shall calculate the concentrations of  
2 PM10 in the dust plume generated from the impact of the  
3 collapsed building or structure with the ground. Its  
4 results shall inform the placement of air monitors, as  
5 well as the dust mitigation plan and the site cleanup  
6 plan, and traffic management plans and the siting of  
7 protection and exclusion zones on-site and off-site. The  
8 AERMOD model shall produce the following outputs  
9 superimposed over aerial or satellite imagery:

10 (A) PM10 concentration contours.

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

14 (C) Maximum PM10 concentrations at the areas  
15 specified above.

16 (D) Computer generated videos for the estimated  
17 dust cloud propagation and dissipation.

18 (2) Air monitoring of the air upwind and downwind at  
19 the site, as well the air at sensitive areas within 1,000  
20 feet of the site or within the plume modeled under  
21 paragraph (1), whichever distance is greater, for PM10.  
22 The monitoring shall be conducted for at least a 24-hour  
23 duration one week prior to the implosion, during the  
24 implosion, and one week following the implosion, or weekly  
25 until air monitoring confirms that the 24-hour PM10 levels  
26 are back to normal, pre-implosion levels. PM10 levels

1       shall be considered normal when the measured PM10 levels  
2       are within the historic mean, plus or minus the standard  
3       deviation, within the last 3 years, unless the Agency has  
4       reason to believe that the site is still causing PM10  
5       levels to be elevated. Historic PM10 data shall be based  
6       on data collected by the owner or operator from the  
7       nearest ambient air quality station operated by the Agency  
8       or other data sources approved by the Agency. The air  
9       monitoring shall comply with the following:

10               (A) All air monitoring data shall be published on  
11               the publicly accessible website within 4 hours after  
12               collecting the data.

13               (B) In conjunction with the above PM10 monitoring,  
14               air samples shall be collected at all monitored  
15               locations for analysis of: lead using NIOSH Method  
16               7300, 7302, or 7303; asbestos fibers using NIOSH  
17               Method 7400 or 7402; silica using NIOSH Method 7500 or  
18               7602; respirable particulates using NIOSH Method 0600;  
19               and total dust using NIOSH Method 0500. The Agency may  
20               approve alternate test methods or require the use of  
21               United States Environmental Protection Agency methods,  
22               depending on site-specific factors. The Agency may  
23               also require the air sampling of any or all hazardous  
24               substances or petroleum products for which there is a  
25               recognized environmental condition that may be emitted  
26               into the air by the implosion. The PM10 monitoring

1 shall be conducted using instruments designated as  
2 Federal Equivalent Method (FEM) by the United States  
3 Environmental Protection Agency.

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

16 (3) A dust mitigation plan that ensures adequate  
17 precautions and use of best practices to minimize fugitive  
18 dust. The dust mitigation plan shall include, but is not  
19 limited to, the following:

20 (A) The following best practices:

21 (i) The thorough sweeping of paved surfaces  
22 using a sweeper effective at removing fine  
23 particulates.

24 (ii) Adequate wetting of all unpaved areas.  
25 The operator shall ensure that surficial soils  
26 within the ground impact area and 50% beyond are

1 thoroughly saturated up to a depth of 4 inches, or  
2 otherwise treated using methods approved by the  
3 Agency, on the day of and within one hour prior to  
4 the implosion, or within the closest timeframe  
5 allowed by safety protocol.

6 (iii) Employing misting cannons around the  
7 building or structure or at strategic locations  
8 and elevations determined based on the results of  
9 the air dispersion modeling under paragraph (1).

10 (iv) Applying water to debris immediately  
11 following blast and safety clearance.

12 (B) Restricting traffic and operations to paved  
13 areas or stabilized surfaces. Soils exhibiting a high  
14 particulate emission potential shall be fenced off or  
15 otherwise demarcated to prevent disturbance, or shall  
16 be effectively stabilized, removed, or covered if  
17 vehicle traffic or operations will occur over these  
18 areas.

19 (C) Evaluation of on-site surficial soil for  
20 particulate emission potential, which shall be  
21 determined to be high based on its fines content as  
22 percent passing No. 200 sieve and optimum moisture  
23 content as percent by dry weight as follows:

24 (i) if the fines content is greater than or  
25 equal to 15% and the optimum moisture content is  
26 greater than or equal to 11%, the particulate

1 emission potential is high; or

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

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

13 (4) A contingency plan describing the contingency  
14 measures to be implemented if the above control measures  
15 fail to adequately control dust emissions. In addition,  
16 the plan must describe the steps that will be taken to  
17 verify that a dust control measure is working and, upon  
18 discovery of an inadequacy, the steps that will be taken  
19 to initiate a contingency measure.

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

25 (A) The use of a street sweeper to clean impacted  
26 paved areas. The street sweeper shall be equipped with



1 a waterless dust suppression system comprised of  
2 vacuum assist and filtration for pickup and mitigation  
3 of potential fugitive fine particulates, and shall be  
4 PM10-certified.

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

7 (C) Inspection protocols that ensure that impacted  
8 areas, including, but not limited to, public roadways  
9 adjacent to residential and public structures and  
10 utility lines, are returned to preimplosion  
11 conditions.

12 (D) A staffing plan and equipment list necessary  
13 to execute the cleanup.

14 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

15 Sec. 42. Civil penalties.

16 (a) Except as provided in this Section, any person that  
17 violates any provision of this Act or any regulation adopted  
18 by the Board, or any permit or term or condition thereof, or  
19 that violates any order of the Board pursuant to this Act,  
20 shall be liable for a civil penalty of not to exceed \$50,000  
21 for the violation and an additional civil penalty of not to  
22 exceed \$10,000 for each day during which the violation  
23 continues; such penalties may, upon order of the Board or a  
24 court of competent jurisdiction, be made payable to the  
25 Environmental Protection Trust Fund, to be used in accordance

1 with the provisions of the Environmental Protection Trust Fund  
2 Act.

3 (b) Notwithstanding the provisions of subsection (a) of  
4 this Section:

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

10 (2) Any person that violates Section 12(g) of this Act  
11 or any UIC permit or term or condition thereof, or any  
12 filing requirement, regulation or order relating to the  
13 State UIC program for all wells, except Class II wells as  
14 defined by the Board under this Act, shall be liable to a  
15 civil penalty not to exceed \$2,500 per day of violation;  
16 provided, however, that any person who commits such  
17 violations relating to the State UIC program for Class II  
18 wells, as defined by the Board under this Act, shall be  
19 liable to a civil penalty of not to exceed \$10,000 for the  
20 violation and an additional civil penalty of not to exceed  
21 \$1,000 for each day during which the violation continues.

22 (3) Any person that violates Sections 21(f), 21(g),  
23 21(h) or 21(i) of this Act, or any RCRA permit or term or  
24 condition thereof, or any filing requirement, regulation  
25 or order relating to the State RCRA program, shall be  
26 liable to a civil penalty of not to exceed \$25,000 per day

1 of violation.

2 (4) In an administrative citation action under Section  
3 31.1 of this Act, any person found to have violated any  
4 provision of subsection (o) of Section 21 of this Act  
5 shall pay a civil penalty of \$500 for each violation of  
6 each such provision, plus any hearing costs incurred by  
7 the Board and the Agency. Such penalties shall be made  
8 payable to the Environmental Protection Trust Fund, to be  
9 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 (4-5) In an administrative citation action under  
15 Section 31.1 of this Act, any person found to have  
16 violated any provision of subsection (p) of Section 21,  
17 Section 22.38, Section 22.51, Section 22.51a, or  
18 subsection (k) of Section 55 of this Act shall pay a civil  
19 penalty of \$1,500 for each violation of each such  
20 provision, plus any hearing costs incurred by the Board  
21 and the Agency, except that the civil penalty amount shall  
22 be \$3,000 for each violation of any provision of  
23 subsection (p) of Section 21, Section 22.38, Section  
24 22.51, Section 22.51a, or subsection (k) of Section 55  
25 that is the person's second or subsequent adjudication  
26 violation of that provision. The penalties shall be

1 deposited into the Environmental Protection Trust Fund, to  
2 be used in accordance with the provisions of the  
3 Environmental Protection Trust Fund Act; except that if a  
4 unit of local government issued the administrative  
5 citation, 50% of the civil penalty shall be payable to the  
6 unit of local government.

7 (5) Any person who violates subsection 6 of Section  
8 39.5 of this Act or any CAAPP permit, or term or condition  
9 thereof, or any fee or filing requirement, or any duty to  
10 allow or carry out inspection, entry or monitoring  
11 activities, or any regulation or order relating to the  
12 CAAPP shall be liable for a civil penalty not to exceed  
13 \$10,000 per day of violation.

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

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

25 (8) Any person who engages in demolition of a thermal  
26 power plant via implosion in violation of Section 3.141-5

1           of this Act shall be liable for a civil penalty of up to  
2           \$50,000 for the first violation and up to \$250,000 for a  
3           second or subsequent violation.

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

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

26          (d) The penalties provided for in this Section may be

1 recovered in a civil action.

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

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

25 Any funds collected under this subsection (f) in which the  
26 Attorney General has prevailed shall be deposited in the

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

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

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

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

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

25 (3) any economic benefits accrued by the respondent  
26 because of delay in compliance with requirements, in which

1 case the economic benefits shall be determined by the  
2 lowest cost alternative for achieving compliance;

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

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

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

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

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

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



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

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

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

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

23 (3) that the non-compliance was discovered and  
24 disclosed prior to:

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

- 1 (ii) notice of a citizen suit;
- 2 (iii) the filing of a complaint by a citizen, the  
3 Illinois Attorney General, or the State's Attorney of  
4 the county in which the violation occurred;
- 5 (iv) the reporting of the non-compliance by an  
6 employee of the person without that person's  
7 knowledge; or
- 8 (v) imminent discovery of the non-compliance by  
9 the Agency;
- 10 (4) that the non-compliance is being corrected and any  
11 environmental harm is being remediated in a timely  
12 fashion;
- 13 (5) that the person agrees to prevent a recurrence of  
14 the non-compliance;
- 15 (6) that no related non-compliance events have  
16 occurred in the past 3 years at the same facility or in the  
17 past 5 years as part of a pattern at multiple facilities  
18 owned or operated by the person;
- 19 (7) that the non-compliance did not result in serious  
20 actual harm or present an imminent and substantial  
21 endangerment to human health or the environment or violate  
22 the specific terms of any judicial or administrative order  
23 or consent agreement;
- 24 (8) that the person cooperates as reasonably requested  
25 by the Agency after the disclosure; and
- 26 (9) that the non-compliance was identified voluntarily

1 and not through a monitoring, sampling, or auditing  
2 procedure that is required by statute, rule, permit,  
3 judicial or administrative order, or consent agreement.

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

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

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

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

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

23 (415 ILCS 5/3.141 rep.)

24 Section 10. The Environmental Protection Act is amended by  
25 repealing Section 3.141.

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