

1 AMENDMENT TO SENATE BILL 1379

2 AMENDMENT NO. _____. Amend Senate Bill 1379, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Procurement Code is amended by
6 adding Section 50-11 as follows:

7 (30 ILCS 500/50-11 new)

8 Sec. 50-11. Environmental Protection Act violations.

9 (a) Unless otherwise provided, no person or business
10 found by a court or the Pollution Control Board to have
11 committed a willful or knowing violation of Section 42 of the
12 Environmental Protection Act shall do business with the State
13 of Illinois or any State agency from the date of the order
14 containing the finding of violation until 5 years after that
15 date, unless the person or business can show that no person
16 involved in the violation continues to have any involvement
17 with the business.

18 (b) A person or business otherwise barred from doing
19 business with the State of Illinois or any State agency under
20 subsection (a) may be allowed to do business with the State
21 of Illinois or any State agency if it is shown that there is
22 no practicable alternative to the State to contracting with

1 that person or business.

2 (c) Every bid submitted to and contract executed by the
3 State shall contain a certification by the bidder or
4 contractor that the bidder or contractor is not barred from
5 being awarded a contract under this Section and that the
6 contractor acknowledges that the contracting State agency may
7 declare the contract void if the certification completed
8 pursuant to this subsection (c) is false.

9 Section 10. The Environmental Protection Act is amended
10 by changing Sections 39 and 42 as follows:

11 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

12 Sec. 39. Issuance of permits; procedures.

13 (a) When the Board has by regulation required a permit
14 for the construction, installation, or operation of any type
15 of facility, equipment, vehicle, vessel, or aircraft, the
16 applicant shall apply to the Agency for such permit and it
17 shall be the duty of the Agency to issue such a permit upon
18 proof by the applicant that the facility, equipment, vehicle,
19 vessel, or aircraft will not cause a violation of this Act or
20 of regulations hereunder. The Agency shall adopt such
21 procedures as are necessary to carry out its duties under
22 this Section. In granting permits the Agency may consider the
23 applicant's previous history of compliance or noncompliance
24 with this Act and may impose such conditions as may be
25 necessary to accomplish the purposes of this Act, and as are
26 not inconsistent with the regulations promulgated by the
27 Board hereunder. Except as otherwise provided in this Act, a
28 bond or other security shall not be required as a condition
29 for the issuance of a permit. If the Agency denies any
30 permit under this Section, the Agency shall transmit to the
31 applicant within the time limitations of this Section
32 specific, detailed statements as to the reasons the permit

1 application was denied. Such statements shall include, but
2 not be limited to the following:

3 (i) the Sections of this Act which may be violated
4 if the permit were granted;

5 (ii) the provision of the regulations, promulgated
6 under this Act, which may be violated if the permit were
7 granted;

8 (iii) the specific type of information, if any,
9 which the Agency deems the applicant did not provide the
10 Agency; and

11 (iv) a statement of specific reasons why the Act
12 and the regulations might not be met if the permit were
13 granted.

14 If there is no final action by the Agency within 90 days
15 after the filing of the application for permit, the applicant
16 may deem the permit issued; except that this time period
17 shall be extended to 180 days when (1) notice and opportunity
18 for public hearing are required by State or federal law or
19 regulation, (2) the application which was filed is for any
20 permit to develop a landfill subject to issuance pursuant to
21 this subsection, or (3) the application that was filed is for
22 a MSWLF unit required to issue public notice under subsection
23 (p) of Section 39. The 90-day and 180-day time periods for
24 the Agency to take final action do not apply to NPDES permit
25 applications under subsection (b) of this Section, to RCRA
26 permit applications under subsection (d) of this Section, or
27 to UIC permit applications under subsection (e) of this
28 Section.

29 The Agency shall publish notice of all final permit
30 determinations for development permits for MSWLF units and
31 for significant permit modifications for lateral expansions
32 for existing MSWLF units one time in a newspaper of general
33 circulation in the county in which the unit is or is proposed
34 to be located.

1 After January 1, 1994 and until July 1, 1998, operating
2 permits issued under this Section by the Agency for sources
3 of air pollution permitted to emit less than 25 tons per year
4 of any combination of regulated air pollutants, as defined in
5 Section 39.5 of this Act, shall be required to be renewed
6 only upon written request by the Agency consistent with
7 applicable provisions of this Act and regulations promulgated
8 hereunder. Such operating permits shall expire 180 days
9 after the date of such a request. The Board shall revise its
10 regulations for the existing State air pollution operating
11 permit program consistent with this provision by January 1,
12 1994.

13 After June 30, 1998, operating permits issued under this
14 Section by the Agency for sources of air pollution that are
15 not subject to Section 39.5 of this Act and are not required
16 to have a federally enforceable State operating permit shall
17 be required to be renewed only upon written request by the
18 Agency consistent with applicable provisions of this Act and
19 its rules. Such operating permits shall expire 180 days
20 after the date of such a request. Before July 1, 1998, the
21 Board shall revise its rules for the existing State air
22 pollution operating permit program consistent with this
23 paragraph and shall adopt rules that require a source to
24 demonstrate that it qualifies for a permit under this
25 paragraph.

26 (b) The Agency may issue NPDES permits exclusively under
27 this subsection for the discharge of contaminants from point
28 sources into navigable waters, all as defined in the Federal
29 Water Pollution Control Act, as now or hereafter amended,
30 within the jurisdiction of the State, or into any well.

31 All NPDES permits shall contain those terms and
32 conditions, including but not limited to schedules of
33 compliance, which may be required to accomplish the purposes
34 and provisions of this Act.

1 The Agency may issue general NPDES permits for discharges
2 from categories of point sources which are subject to the
3 same permit limitations and conditions. Such general permits
4 may be issued without individual applications and shall
5 conform to regulations promulgated under Section 402 of the
6 Federal Water Pollution Control Act, as now or hereafter
7 amended.

8 The Agency may include, among such conditions, effluent
9 limitations and other requirements established under this
10 Act, Board regulations, the Federal Water Pollution Control
11 Act, as now or hereafter amended, and regulations pursuant
12 thereto, and schedules for achieving compliance therewith at
13 the earliest reasonable date.

14 The Agency shall adopt filing requirements and procedures
15 which are necessary and appropriate for the issuance of NPDES
16 permits, and which are consistent with the Act or regulations
17 adopted by the Board, and with the Federal Water Pollution
18 Control Act, as now or hereafter amended, and regulations
19 pursuant thereto.

20 The Agency, subject to any conditions which may be
21 prescribed by Board regulations, may issue NPDES permits to
22 allow discharges beyond deadlines established by this Act or
23 by regulations of the Board without the requirement of a
24 variance, subject to the Federal Water Pollution Control Act,
25 as now or hereafter amended, and regulations pursuant
26 thereto.

27 (c) Except for those facilities owned or operated by
28 sanitary districts organized under the Metropolitan Water
29 Reclamation District Act, no permit for the development or
30 construction of a new pollution control facility may be
31 granted by the Agency unless the applicant submits proof to
32 the Agency that the location of the facility has been
33 approved by the County Board of the county if in an
34 unincorporated area, or the governing body of the

1 municipality when in an incorporated area, in which the
2 facility is to be located in accordance with Section 39.2 of
3 this Act.

4 In the event that siting approval granted pursuant to
5 Section 39.2 has been transferred to a subsequent owner or
6 operator, that subsequent owner or operator may apply to the
7 Agency for, and the Agency may grant, a development or
8 construction permit for the facility for which local siting
9 approval was granted. Upon application to the Agency for a
10 development or construction permit by that subsequent owner
11 or operator, the permit applicant shall cause written notice
12 of the permit application to be served upon the appropriate
13 county board or governing body of the municipality that
14 granted siting approval for that facility and upon any party
15 to the siting proceeding pursuant to which siting approval
16 was granted. In that event, the Agency shall conduct an
17 evaluation of the subsequent owner or operator's prior
18 experience in waste management operations in the manner
19 conducted under subsection (i) of Section 39 of this Act.

20 Beginning August 20, 1993, if the pollution control
21 facility consists of a hazardous or solid waste disposal
22 facility for which the proposed site is located in an
23 unincorporated area of a county with a population of less
24 than 100,000 and includes all or a portion of a parcel of
25 land that was, on April 1, 1993, adjacent to a municipality
26 having a population of less than 5,000, then the local siting
27 review required under this subsection (c) in conjunction with
28 any permit applied for after that date shall be performed by
29 the governing body of that adjacent municipality rather than
30 the county board of the county in which the proposed site is
31 located; and for the purposes of that local siting review,
32 any references in this Act to the county board shall be
33 deemed to mean the governing body of that adjacent
34 municipality; provided, however, that the provisions of this

1 paragraph shall not apply to any proposed site which was, on
2 April 1, 1993, owned in whole or in part by another
3 municipality.

4 In the case of a pollution control facility for which a
5 development permit was issued before November 12, 1981, if an
6 operating permit has not been issued by the Agency prior to
7 August 31, 1989 for any portion of the facility, then the
8 Agency may not issue or renew any development permit nor
9 issue an original operating permit for any portion of such
10 facility unless the applicant has submitted proof to the
11 Agency that the location of the facility has been approved by
12 the appropriate county board or municipal governing body
13 pursuant to Section 39.2 of this Act.

14 After January 1, 1994, if a solid waste disposal
15 facility, any portion for which an operating permit has been
16 issued by the Agency, has not accepted waste disposal for 5
17 or more consecutive calendar years, before that facility may
18 accept any new or additional waste for disposal, the owner
19 and operator must obtain a new operating permit under this
20 Act for that facility unless the owner and operator have
21 applied to the Agency for a permit authorizing the temporary
22 suspension of waste acceptance. The Agency may not issue a
23 new operation permit under this Act for the facility unless
24 the applicant has submitted proof to the Agency that the
25 location of the facility has been approved or re-approved by
26 the appropriate county board or municipal governing body
27 under Section 39.2 of this Act after the facility ceased
28 accepting waste.

29 Except for those facilities owned or operated by sanitary
30 districts organized under the Metropolitan Water Reclamation
31 District Act, and except for new pollution control facilities
32 governed by Section 39.2, and except for fossil fuel mining
33 facilities, the granting of a permit under this Act shall not
34 relieve the applicant from meeting and securing all necessary

1 zoning approvals from the unit of government having zoning
2 jurisdiction over the proposed facility.

3 Before beginning construction on any new sewage treatment
4 plant or sludge drying site to be owned or operated by a
5 sanitary district organized under the Metropolitan Water
6 Reclamation District Act for which a new permit (rather than
7 the renewal or amendment of an existing permit) is required,
8 such sanitary district shall hold a public hearing within the
9 municipality within which the proposed facility is to be
10 located, or within the nearest community if the proposed
11 facility is to be located within an unincorporated area, at
12 which information concerning the proposed facility shall be
13 made available to the public, and members of the public shall
14 be given the opportunity to express their views concerning
15 the proposed facility.

16 The Agency may issue a permit for a municipal waste
17 transfer station without requiring approval pursuant to
18 Section 39.2 provided that the following demonstration is
19 made:

20 (1) the municipal waste transfer station was in
21 existence on or before January 1, 1979 and was in
22 continuous operation from January 1, 1979 to January 1,
23 1993;

24 (2) the operator submitted a permit application to
25 the Agency to develop and operate the municipal waste
26 transfer station during April of 1994;

27 (3) the operator can demonstrate that the county
28 board of the county, if the municipal waste transfer
29 station is in an unincorporated area, or the governing
30 body of the municipality, if the station is in an
31 incorporated area, does not object to resumption of the
32 operation of the station; and

33 (4) the site has local zoning approval.

34 (d) The Agency may issue RCRA permits exclusively under

1 this subsection to persons owning or operating a facility for
2 the treatment, storage, or disposal of hazardous waste as
3 defined under this Act.

4 All RCRA permits shall contain those terms and
5 conditions, including but not limited to schedules of
6 compliance, which may be required to accomplish the purposes
7 and provisions of this Act. The Agency may include among
8 such conditions standards and other requirements established
9 under this Act, Board regulations, the Resource Conservation
10 and Recovery Act of 1976 (P.L. 94-580), as amended, and
11 regulations pursuant thereto, and may include schedules for
12 achieving compliance therewith as soon as possible. The
13 Agency shall require that a performance bond or other
14 security be provided as a condition for the issuance of a
15 RCRA permit.

16 In the case of a permit to operate a hazardous waste or
17 PCB incinerator as defined in subsection (k) of Section 44,
18 the Agency shall require, as a condition of the permit, that
19 the operator of the facility perform such analyses of the
20 waste to be incinerated as may be necessary and appropriate
21 to ensure the safe operation of the incinerator.

22 The Agency shall adopt filing requirements and procedures
23 which are necessary and appropriate for the issuance of RCRA
24 permits, and which are consistent with the Act or regulations
25 adopted by the Board, and with the Resource Conservation and
26 Recovery Act of 1976 (P.L. 94-580), as amended, and
27 regulations pursuant thereto.

28 The applicant shall make available to the public for
29 inspection all documents submitted by the applicant to the
30 Agency in furtherance of an application, with the exception
31 of trade secrets, at the office of the county board or
32 governing body of the municipality. Such documents may be
33 copied upon payment of the actual cost of reproduction during
34 regular business hours of the local office. The Agency shall

1 issue a written statement concurrent with its grant or denial
2 of the permit explaining the basis for its decision.

3 (e) The Agency may issue UIC permits exclusively under
4 this subsection to persons owning or operating a facility for
5 the underground injection of contaminants as defined under
6 this Act.

7 All UIC permits shall contain those terms and conditions,
8 including but not limited to schedules of compliance, which
9 may be required to accomplish the purposes and provisions of
10 this Act. The Agency may include among such conditions
11 standards and other requirements established under this Act,
12 Board regulations, the Safe Drinking Water Act (P.L. 93-523),
13 as amended, and regulations pursuant thereto, and may include
14 schedules for achieving compliance therewith. The Agency
15 shall require that a performance bond or other security be
16 provided as a condition for the issuance of a UIC permit.

17 The Agency shall adopt filing requirements and procedures
18 which are necessary and appropriate for the issuance of UIC
19 permits, and which are consistent with the Act or regulations
20 adopted by the Board, and with the Safe Drinking Water Act
21 (P.L. 93-523), as amended, and regulations pursuant thereto.

22 The applicant shall make available to the public for
23 inspection, all documents submitted by the applicant to the
24 Agency in furtherance of an application, with the exception
25 of trade secrets, at the office of the county board or
26 governing body of the municipality. Such documents may be
27 copied upon payment of the actual cost of reproduction during
28 regular business hours of the local office. The Agency shall
29 issue a written statement concurrent with its grant or denial
30 of the permit explaining the basis for its decision.

31 (f) In making any determination pursuant to Section 9.1
32 of this Act:

33 (1) The Agency shall have authority to make the
34 determination of any question required to be determined

1 by the Clean Air Act, as now or hereafter amended, this
2 Act, or the regulations of the Board, including the
3 determination of the Lowest Achievable Emission Rate,
4 Maximum Achievable Control Technology, or Best Available
5 Control Technology, consistent with the Board's
6 regulations, if any.

7 (2) The Agency shall, after conferring with the
8 applicant, give written notice to the applicant of its
9 proposed decision on the application including the terms
10 and conditions of the permit to be issued and the facts,
11 conduct or other basis upon which the Agency will rely to
12 support its proposed action.

13 (3) Following such notice, the Agency shall give
14 the applicant an opportunity for a hearing in accordance
15 with the provisions of Sections 10-25 through 10-60 of
16 the Illinois Administrative Procedure Act.

17 (g) The Agency shall include as conditions upon all
18 permits issued for hazardous waste disposal sites such
19 restrictions upon the future use of such sites as are
20 reasonably necessary to protect public health and the
21 environment, including permanent prohibition of the use of
22 such sites for purposes which may create an unreasonable risk
23 of injury to human health or to the environment. After
24 administrative and judicial challenges to such restrictions
25 have been exhausted, the Agency shall file such restrictions
26 of record in the Office of the Recorder of the county in
27 which the hazardous waste disposal site is located.

28 (h) A hazardous waste stream may not be deposited in a
29 permitted hazardous waste site unless specific authorization
30 is obtained from the Agency by the generator and disposal
31 site owner and operator for the deposit of that specific
32 hazardous waste stream. The Agency may grant specific
33 authorization for disposal of hazardous waste streams only
34 after the generator has reasonably demonstrated that,

1 considering technological feasibility and economic
2 reasonableness, the hazardous waste cannot be reasonably
3 recycled for reuse, nor incinerated or chemically, physically
4 or biologically treated so as to neutralize the hazardous
5 waste and render it nonhazardous. In granting authorization
6 under this Section, the Agency may impose such conditions as
7 may be necessary to accomplish the purposes of the Act and
8 are consistent with this Act and regulations promulgated by
9 the Board hereunder. If the Agency refuses to grant
10 authorization under this Section, the applicant may appeal as
11 if the Agency refused to grant a permit, pursuant to the
12 provisions of subsection (a) of Section 40 of this Act. For
13 purposes of this subsection (h), the term "generator" has the
14 meaning given in Section 3.205 of this Act, unless: (1) the
15 hazardous waste is treated, incinerated, or partially
16 recycled for reuse prior to disposal, in which case the last
17 person who treats, incinerates, or partially recycles the
18 hazardous waste prior to disposal is the generator; or (2)
19 the hazardous waste is from a response action, in which case
20 the person performing the response action is the generator.
21 This subsection (h) does not apply to any hazardous waste
22 that is restricted from land disposal under 35 Ill. Adm. Code
23 728.

24 (i) Before issuing any RCRA permit or any permit for a
25 waste storage site, sanitary landfill, waste disposal site,
26 waste transfer station, waste treatment facility, waste
27 incinerator, or any waste-transportation operation, the
28 Agency shall conduct an evaluation of the prospective owner's
29 or operator's prior experience in waste management
30 operations. The Agency may deny such a permit if the
31 prospective owner or operator or any employee or officer of
32 the prospective owner or operator has a history of:

33 (1) repeated violations of federal, State, or local
34 laws, regulations, standards, or ordinances in the

1 operation of waste management facilities or sites; or

2 (2) conviction in this or another State of any
3 crime which is a felony under the laws of this State, or
4 conviction of a felony in a federal court; or

5 (3) proof of gross carelessness or incompetence in
6 handling, storing, processing, transporting or disposing
7 of waste.

8 (j) The issuance under this Act of a permit to engage in
9 the surface mining of any resources other than fossil fuels
10 shall not relieve the permittee from its duty to comply with
11 any applicable local law regulating the commencement,
12 location or operation of surface mining facilities.

13 (k) A development permit issued under subsection (a) of
14 Section 39 for any facility or site which is required to have
15 a permit under subsection (d) of Section 21 shall expire at
16 the end of 2 calendar years from the date upon which it was
17 issued, unless within that period the applicant has taken
18 action to develop the facility or the site. In the event that
19 review of the conditions of the development permit is sought
20 pursuant to Section 40 or 41, or permittee is prevented from
21 commencing development of the facility or site by any other
22 litigation beyond the permittee's control, such two-year
23 period shall be deemed to begin on the date upon which such
24 review process or litigation is concluded.

25 (l) No permit shall be issued by the Agency under this
26 Act for construction or operation of any facility or site
27 located within the boundaries of any setback zone established
28 pursuant to this Act, where such construction or operation is
29 prohibited.

30 (m) The Agency may issue permits to persons owning or
31 operating a facility for composting landscape waste. In
32 granting such permits, the Agency may impose such conditions
33 as may be necessary to accomplish the purposes of this Act,
34 and as are not inconsistent with applicable regulations

1 promulgated by the Board. Except as otherwise provided in
2 this Act, a bond or other security shall not be required as a
3 condition for the issuance of a permit. If the Agency denies
4 any permit pursuant to this subsection, the Agency shall
5 transmit to the applicant within the time limitations of this
6 subsection specific, detailed statements as to the reasons
7 the permit application was denied. Such statements shall
8 include but not be limited to the following:

9 (1) the Sections of this Act that may be violated
10 if the permit were granted;

11 (2) the specific regulations promulgated pursuant
12 to this Act that may be violated if the permit were
13 granted;

14 (3) the specific information, if any, the Agency
15 deems the applicant did not provide in its application to
16 the Agency; and

17 (4) a statement of specific reasons why the Act and
18 the regulations might be violated if the permit were
19 granted.

20 If no final action is taken by the Agency within 90 days
21 after the filing of the application for permit, the applicant
22 may deem the permit issued. Any applicant for a permit may
23 waive the 90 day limitation by filing a written statement
24 with the Agency.

25 The Agency shall issue permits for such facilities upon
26 receipt of an application that includes a legal description
27 of the site, a topographic map of the site drawn to the scale
28 of 200 feet to the inch or larger, a description of the
29 operation, including the area served, an estimate of the
30 volume of materials to be processed, and documentation that:

31 (1) the facility includes a setback of at least 200
32 feet from the nearest potable water supply well;

33 (2) the facility is located outside the boundary of
34 the 10-year floodplain or the site will be floodproofed;

1 (3) the facility is located so as to minimize
2 incompatibility with the character of the surrounding
3 area, including at least a 200 foot setback from any
4 residence, and in the case of a facility that is
5 developed or the permitted composting area of which is
6 expanded after November 17, 1991, the composting area is
7 located at least 1/8 mile from the nearest residence
8 (other than a residence located on the same property as
9 the facility);

10 (4) the design of the facility will prevent any
11 compost material from being placed within 5 feet of the
12 water table, will adequately control runoff from the
13 site, and will collect and manage any leachate that is
14 generated on the site;

15 (5) the operation of the facility will include
16 appropriate dust and odor control measures, limitations
17 on operating hours, appropriate noise control measures
18 for shredding, chipping and similar equipment, management
19 procedures for composting, containment and disposal of
20 non-compostable wastes, procedures to be used for
21 terminating operations at the site, and recordkeeping
22 sufficient to document the amount of materials received,
23 composted and otherwise disposed of; and

24 (6) the operation will be conducted in accordance
25 with any applicable rules adopted by the Board.

26 The Agency shall issue renewable permits of not longer
27 than 10 years in duration for the composting of landscape
28 wastes, as defined in Section 3.155 of this Act, based on the
29 above requirements.

30 The operator of any facility permitted under this
31 subsection (m) must submit a written annual statement to the
32 Agency on or before April 1 of each year that includes an
33 estimate of the amount of material, in tons, received for
34 composting.

1 (n) The Agency shall issue permits jointly with the
2 Department of Transportation for the dredging or deposit of
3 material in Lake Michigan in accordance with Section 18 of
4 the Rivers, Lakes, and Streams Act.

5 (o) (Blank.)

6 (p) (1) Any person submitting an application for a
7 permit for a new MSWLF unit or for a lateral expansion under
8 subsection (t) of Section 21 of this Act for an existing
9 MSWLF unit that has not received and is not subject to local
10 siting approval under Section 39.2 of this Act shall publish
11 notice of the application in a newspaper of general
12 circulation in the county in which the MSWLF unit is or is
13 proposed to be located. The notice must be published at
14 least 15 days before submission of the permit application to
15 the Agency. The notice shall state the name and address of
16 the applicant, the location of the MSWLF unit or proposed
17 MSWLF unit, the nature and size of the MSWLF unit or proposed
18 MSWLF unit, the nature of the activity proposed, the probable
19 life of the proposed activity, the date the permit
20 application will be submitted, and a statement that persons
21 may file written comments with the Agency concerning the
22 permit application within 30 days after the filing of the
23 permit application unless the time period to submit comments
24 is extended by the Agency.

25 When a permit applicant submits information to the Agency
26 to supplement a permit application being reviewed by the
27 Agency, the applicant shall not be required to reissue the
28 notice under this subsection.

29 (2) The Agency shall accept written comments concerning
30 the permit application that are postmarked no later than 30
31 days after the filing of the permit application, unless the
32 time period to accept comments is extended by the Agency.

33 (3) Each applicant for a permit described in part (1) of
34 this subsection shall file a copy of the permit application

1 with the county board or governing body of the municipality
2 in which the MSWLF unit is or is proposed to be located at
3 the same time the application is submitted to the Agency.
4 The permit application filed with the county board or
5 governing body of the municipality shall include all
6 documents submitted to or to be submitted to the Agency,
7 except trade secrets as determined under Section 7.1 of this
8 Act. The permit application and other documents on file with
9 the county board or governing body of the municipality shall
10 be made available for public inspection during regular
11 business hours at the office of the county board or the
12 governing body of the municipality and may be copied upon
13 payment of the actual cost of reproduction.

14 (g) For any permit that is not covered by subsection (i)
15 of this Section, the Agency may deny such permit if the
16 person applying for the permit has a history of:

17 (1) repeated adjudicated violations of federal,
18 State, or local laws, regulations, standards, or
19 ordinances intended to protect the environment in the
20 operation of facilities or sites; or

21 (2) conviction in this or another State of any
22 crime that is a felony, or conviction of a felony in a
23 federal court.

24 For purpose of this Section, in considering the previous
25 history of non-compliance, the Agency shall not consider any
26 violation or conviction that resulted from any evidence that
27 in the first instance was obtained by the Agency from a
28 written self-disclosure of non-compliance submitted by the
29 applicant to the Agency.

30 (Source: P.A. 92-574, eff. 6-26-02.)

31 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)
32 Sec. 42. Civil penalties.

33 (a) Except as provided in this Section, any person that

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

12 (b) Notwithstanding the provisions of subsection (a) of
13 this Section:

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

19 (2) Any person that violates Section 12(g) of this
20 Act or any UIC permit or term or condition thereof, or
21 any filing requirement, regulation or order relating to
22 the State UIC program for all wells, except Class II
23 wells as defined by the Board under this Act, shall be
24 liable to a civil penalty not to exceed \$2,500 per day of
25 violation; provided, however, that any person who commits
26 such violations relating to the State UIC program for
27 Class II wells, as defined by the Board under this Act,
28 shall be liable to a civil penalty of not to exceed
29 \$10,000 for the violation and an additional civil penalty
30 of not to exceed \$1,000 for each day during which the
31 violation continues.

32 (3) Any person that violates Sections 21(f), 21(g),
33 21(h) or 21(i) of this Act, or any RCRA permit or term or
34 condition thereof, or any filing requirement, regulation

1 or order relating to the State RCRA program, shall be
2 liable to a civil penalty of not to exceed \$25,000 per
3 day of violation.

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

16 (4-5) In an administrative citation action under
17 Section 31.1 of this Act, any person found to have
18 violated any provision of subsection (p) of Section 21 of
19 this Act shall pay a civil penalty of \$1,500 for a first
20 offense and \$3,000 for a second or subsequent offense,
21 plus any hearing costs incurred by the Board and the
22 Agency. The penalties shall be deposited into the
23 Environmental Protection Trust Fund, to be used in
24 accordance with the provisions of the Environmental
25 Protection Trust Fund Act; except that if a unit of local
26 government issued the administrative citation, 50% of the
27 civil penalty shall be payable to the unit of local
28 government.

29 (5) Any person who violates subsection 6 of Section
30 39.5 of this Act or any CAAPP permit, or term or
31 condition thereof, or any fee or filing requirement, or
32 any duty to allow or carry out inspection, entry or
33 monitoring activities, or any regulation or order
34 relating to the CAAPP shall be liable for a civil penalty

1 not to exceed \$10,000 per day of violation.

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

16 (c) Any person that violates this Act, or an order or
17 other determination of the Board under this Act and causes
18 the death of fish or aquatic life shall, in addition to the
19 other penalties provided by this Act, be liable to pay to the
20 State an additional sum for the reasonable value of the fish
21 or aquatic life destroyed. Any money so recovered shall be
22 placed in the Wildlife and Fish Fund in the State Treasury.

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

25 (e) The State's Attorney of the county in which the
26 violation occurred, or the Attorney General, may, at the
27 request of the Agency or on his own motion, institute a civil
28 action for an injunction to restrain violations of this Act.

29 (f) The State's Attorney of the county in which the
30 violation occurred, or the Attorney General, shall bring such
31 actions in the name of the people of the State of Illinois.
32 Without limiting any other authority which may exist for the
33 awarding of attorney's fees and costs, the Board or a court
34 of competent jurisdiction may award costs and reasonable

1 attorney's fees, including the reasonable costs of expert
 2 witnesses and consultants, to the State's Attorney or the
 3 Attorney General in a case where he has prevailed against a
 4 person who has committed a wilful, knowing or repeated
 5 violation of the Act.

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

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

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

- 26 (1) the duration and gravity of the violation;
- 27 (2) the presence or absence of due diligence on the
 28 part of the respondent ~~violator~~ in attempting to comply
 29 with requirements of this Act and regulations thereunder
 30 or to secure relief therefrom as provided by this Act;
- 31 (3) any economic benefits accrued by the respondent
 32 ~~violator~~ because of delay in compliance with
 33 requirements, in which case the economic benefits shall
 34 be based upon the lowest cost alternative for achieving

1 compliance;

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

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

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

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

19 In determining the appropriate civil penalty to be
20 imposed under subsection (a) or paragraph (1), (2), (3), or
21 (5) of subsection (b) of this Section, the Board shall
22 ensure, in all cases, that the penalty is at least as great
23 as the economic benefits, if any, accrued by the respondent
24 as a result of the violation, unless the Board finds that
25 imposition of such penalty would result in an arbitrary or
26 unreasonable financial hardship. However, such civil penalty,
27 including the portion of the penalty based upon economic
28 benefit of non-compliance, may be off-set in whole or in part
29 pursuant to a supplemental environmental project agreed to by
30 the complainant and the respondent.

31 (i) A person who voluntarily self-discloses
32 non-compliance to the Agency, of which the Agency had been
33 unaware, is entitled to a 100% reduction in the Board's
34 consideration of the gravity of the violation, if the person

1 can establish the following:

2 (1) that the non-compliance was discovered through
3 an environmental audit, as defined in Section 52.2 of
4 this Act, and the person waives the environmental audit
5 privileges as provided in that Section with respect to
6 that non-compliance;

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

10 (3) that the non-compliance was discovered and
11 disclosed prior to:

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

14 (ii) notice of a citizen suit;

15 (iii) the filing of a complaint by a citizen,
16 the Illinois Attorney General, or the State's
17 Attorney of the county in which the violation
18 occurred;

19 (iv) the reporting of the non-compliance by an
20 employee of the person without that person's
21 knowledge; or

22 (v) imminent discovery of the non-compliance
23 by the Agency;

24 (4) that the non-compliance is being corrected and
25 any environmental harm is being remediated in a timely
26 fashion;

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

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

33 (7) that the non-compliance did not result in
34 serious actual harm or present an imminent and

1 substantial endangerment to human health or the
2 environment or violate the specific terms of any judicial
3 or administrative order or consent agreement; and,

4 (8) that the person cooperates as reasonably
5 requested by the Agency after the disclosure.

6 (Source: P.A. 90-773, eff. 8-14-98; 91-82, eff. 1-1-00.)".