



Sen. Emil Jones, III

Adopted in Senate on May 19, 2009

09600HB4021sam002

LRB096 03352 JDS 27005 a

1 AMENDMENT TO HOUSE BILL 4021

2 AMENDMENT NO. _____. Amend House Bill 4021 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 15, 25d-1, 25d-2, 25d-3, 42, and 44 and by
6 adding Section 18.1 as follows:

7 (415 ILCS 5/15) (from Ch. 111 1/2, par. 1015)

8 Sec. 15. Plans and specifications; demonstration of
9 capability; record retention.

10 (a) Owners of public water supplies, their authorized
11 representative, or legal custodians, shall submit plans and
12 specifications to the Agency and obtain written approval before
13 construction of any proposed public water supply
14 installations, changes, or additions is started. Plans and
15 specifications shall be complete and of sufficient detail to
16 show all proposed construction, changes, or additions that may

1 affect sanitary quality, mineral quality, or adequacy of the
2 public water supply; and, where necessary, said plans and
3 specifications shall be accompanied by supplemental data as may
4 be required by the Agency to permit a complete review thereof.

5 (b) All new public water supplies established after October
6 1, 1999 shall demonstrate technical, financial, and managerial
7 capacity as a condition for issuance of a construction or
8 operation permit by the Agency or its designee. The
9 demonstration shall be consistent with the technical,
10 financial, and managerial provisions of the federal Safe
11 Drinking Water Act (P.L. 93-523), as now or hereafter amended.
12 The Agency is authorized to adopt rules in accordance with the
13 Illinois Administrative Procedure Act to implement the
14 purposes of this subsection. Such rules must take into account
15 the need for the facility, facility size, sophistication of
16 treatment of the water supply, and financial requirements
17 needed for operation of the facility.

18 (c) Except as otherwise provided under Board rules, owners
19 and operators of community water systems must maintain all
20 records, reports, and other documents related to the operation
21 of the community water system for a minimum of 10 years.
22 Documents required to be maintained under this subsection (c)
23 include, but are not limited to, all billing records and other
24 documents related to the purchase of water from other community
25 water systems. Documents required to be maintained under this
26 subsection (c) must be maintained on the premises of the

1 community water system, or at a convenient location near its
2 premises, and must be made available to the Agency for
3 inspection and copying during normal business hours.

4 (Source: P.A. 92-651, eff. 7-11-02.)

5 (415 ILCS 5/18.1 new)

6 Sec. 18.1. Public Notice.

7 (a) If any of the actions listed in paragraph (1) or (2) of
8 this subsection (a) occur in relation to the ownership or
9 operation of a community water system, the Agency shall, within
10 2 days after the action, provide public notice of the action by
11 issuing a press release and posting the press release on the
12 Agency's website:

13 (1) The Agency refers a matter for enforcement under
14 Section 43 of this Act.

15 (2) The Agency issues a seal order under subsection (a)
16 of Section 34 of this Act.

17 (b) Within 5 days after the occurrence of any action that
18 is listed in paragraph (1) or (2) of subsection (a) of this
19 Section and that is related to the ownership or operation of a
20 community water system, the Agency must provide notice of the
21 action to the owner and the operator of the community water
22 system and the owners and operators of all connected community
23 water systems. The notice must be printed on Agency letterhead
24 and describe the action being taken and the basis for the
25 action. Within 5 business days after receiving such notice from

1 the Agency under this subsection (b), the owner or operator of
2 the community water system and the owners or operators of all
3 connected community water systems must send, to all residents
4 and owners of premises connected to the affected community
5 water system or portion thereof designated by the Agency: (i) a
6 copy of the notice by first-class mail or by e-mail; or (ii)
7 notification, in a form approved by the Agency, via first-class
8 postcard, text message, or telephone; except that notices to
9 institutional residents, including, but not limited to,
10 residents of school dormitories, nursing homes, and assisted
11 care facilities, may be made to the owners and operators of
12 those institutions, and the owners or operators of those
13 institutions shall notify their residents in the same manner as
14 prescribed in this subsection for owners and operators of
15 community water systems. If the manner for notice selected by
16 the owner or operator of the community water system does not
17 include a written copy of the notice provided by the Agency,
18 the owner or operator shall include a written copy of the
19 notice provided by the Agency in the next water bill sent to
20 the residents and owners of the premises; provided, however, if
21 the water bill is sent on a postcard, no written copy of the
22 notice provided by the Agency is required if the postcard
23 includes the Internet address for the notice posted on the
24 Agency's website. The front of the envelope or postcard in
25 which any such notice is sent to residents and owners of
26 premises connected to the community water system shall carry

1 the following text in at least 18 point font: PUBLIC HEALTH
2 NOTICE - READ IMMEDIATELY. For a postcard, text message, or
3 telephonic communication, the Agency shall specify the minimum
4 information that the owner or operator must include in such
5 methods of notice. Within 7 days after the owner or operator of
6 the community water system sends the notices to all residents
7 and owners of premises connected to the affected community
8 water system, the owner or operator shall provide the Agency
9 with proof that the notices have been sent.

10 (415 ILCS 5/25d-1)

11 Sec. 25d-1. Definitions. For the purposes of this Title,
12 the terms "community water system", "non-community water
13 system", "potable", "private water system", and "semi-private
14 water system" have the meanings ascribed to them in the
15 Illinois Groundwater Protection Act. For the purposes of this
16 Title, the term "soil gas" means the air existing in void
17 spaces in the soil between the groundwater table and the ground
18 surface.

19 (Source: P.A. 94-314, eff. 7-25-05.)

20 (415 ILCS 5/25d-2)

21 Sec. 25d-2. Contaminant evaluation. The Agency shall
22 evaluate releases of contaminants whenever it determines that
23 the extent of soil, soil gas, or groundwater contamination may
24 extend beyond the boundary of the site where the release

1 occurred. The Agency shall take appropriate actions in response
2 to the release, which may include, but shall not be limited to,
3 public notices, investigations, administrative orders under
4 Sections 22.2d or 57.12(d) of this Act, and enforcement
5 referrals. Except as provided in Section 25d-3 of this Act, for
6 releases undergoing investigation or remediation under Agency
7 oversight the Agency may determine that no further action is
8 necessary to comply with this Section.

9 (Source: P.A. 94-314, eff. 7-25-05.)

10 (415 ILCS 5/25d-3)

11 Sec. 25d-3. Notices.

12 (a) Beginning January 1, 2006, if the Agency determines
13 that:

14 (1) Soil contamination beyond the boundary of the site
15 where the release occurred, soil gas contamination beyond
16 the boundary of the site where the release occurred, or
17 both pose ~~poses~~ a threat of exposure to the public above
18 the appropriate Tier 1 remediation objectives, based on the
19 current use of the off-site property, adopted by the Board
20 under Title XVII of this Act, the Agency shall give notice
21 of the threat to the owner of the contaminated property; or

22 (2) Groundwater contamination poses a threat of
23 exposure to the public above the Class I groundwater
24 quality standards adopted by the Board under this Act and
25 the Groundwater Protection Act, the Agency shall give

1 notice of the threat to the following:

2 (A) for any private, semi-private, or
3 non-community water system, the owners of the
4 properties served by the system; and

5 (B) for any community water system,

6 (i) the owners and operators of the system; and

7 (ii) the residents and owners of premises
8 connected to the affected community water system;

9 and

10 (iii) the residents and owners of premises
11 connected to water systems receiving water from
12 the affected community water system.

13 The Agency's determination must be based on the credible,
14 scientific information available to it, and the Agency is not
15 required to perform additional investigations or studies
16 beyond those required by applicable federal or State laws.

17 For notices required under subparagraph (B) of paragraph
18 (2) of subsection (a), the Agency shall (i) within 2 days after
19 determining that groundwater contamination poses a threat of
20 exposure to the public above the Class I groundwater quality
21 standards, provide notice of the determination by issuing a
22 press release and posting the press release on the Agency's
23 website and (ii) within 5 days after the determination, provide
24 the owner and operator of the community water system and the
25 owners and operators of all connected community water systems
26 with a notice printed on Agency letterhead that identifies the

1 contaminant posing the threat, the level of contamination
2 found, and possible human health effects associated with
3 exposure to the contaminant. Within 5 business days after
4 receiving a notice from the Agency under this paragraph, the
5 owner or operator of the community water system must send, to
6 all residents and owners of premises connected to the affected
7 community water system: (i) a copy of the notice by first-class
8 mail or by e-mail; or (ii) notification, in a form approved by
9 the Agency, via first-class postcard, text message, or
10 telephone; except that notices to institutional residents,
11 including, but not limited to, residents of school dormitories,
12 nursing homes, and assisted care facilities, may be made to the
13 owners and operators of those institutions, and the owner or
14 operator of those institutions shall notify their residents in
15 the same manner as prescribed in this subsection for owners and
16 operators of community water systems. If the manner for notice
17 selected by the owner or operator of the community water system
18 does not include a written copy of the notice provided by the
19 Agency, the owner or operator shall include a written copy of
20 the notice provided by the Agency in the next water bill sent
21 to the residents and owners of the premises; provided, however,
22 if the water bill is sent on a postcard, no written copy of the
23 notice provided by the Agency is required if the postcard
24 includes the Internet address for the notice posted on the
25 Agency's website. The front of the envelope or postcard in
26 which any such notice is sent to residents and owners of

1 premises connected to the affected community water system shall
2 carry the following text in at least 18 point font: PUBLIC
3 HEALTH NOTICE - READ IMMEDIATELY. For a postcard, text message,
4 or telephonic communication, the Agency shall specify the
5 minimum information that the owner or operator must include in
6 such methods of notice. Within 7 days after the owner or
7 operator of the community water system sends the notices to
8 residents and owners of premises connected to the community
9 water system, the owner or operator shall provide the Agency
10 with proof that the notices have been sent. The notices
11 required under subparagraph (B) of paragraph (2) of subsection
12 (a) shall be provided whether or not the threat of exposure has
13 been eliminated.

14 (b) Beginning January 1, 2006, if any of the following
15 actions occur: (i) the Agency refers a matter for enforcement
16 under Section 43(a) of this Act; (ii) the Agency issues a seal
17 order under Section 34 of this Act; or (iii) the Agency, the
18 United States Environmental Protection Agency (USEPA), or a
19 third party under Agency or USEPA oversight performs an
20 immediate removal under the federal Comprehensive
21 Environmental Response, Compensation, and Liability Act, as
22 amended, then, within 60 days after the action, the Agency must
23 give notice of the action to the owners of all property within
24 2,500 feet of the subject contamination or any closer or
25 farther distance that the Agency deems appropriate under the
26 circumstances. Within 30 days after a request by the Agency,

1 the appropriate officials of the county in which the property
2 is located must provide to the Agency the names and addresses
3 of all property owners to whom the Agency is required to give
4 notice under this subsection (b), these owners being the
5 persons or entities that appear from the authentic tax records
6 of the county.

7 (c) In addition to the notice requirements of subsection
8 (a) of this Section, the ~~The~~ methods by which the Agency gives
9 the notices required under this Section shall be determined in
10 consultation with members of the public and appropriate members
11 of the regulated community and may include, but shall not be
12 limited to, personal notification, public meetings, signs,
13 electronic notification, and print media. For sites at which a
14 responsible party has implemented a community relations plan,
15 the Agency may allow the responsible party to provide
16 Agency-approved notices in lieu of the notices required to be
17 given by the Agency. Notices issued under this Section may
18 contain the following information:

19 (1) the name and address of the site or facility where
20 the release occurred or is suspected to have occurred;

21 (2) the identification of the contaminant released or
22 suspected to have been released;

23 (3) information as to whether the contaminant was
24 released or suspected to have been released into the air,
25 land, or water;

26 (4) a brief description of the potential adverse health

1 effects posed by the contaminant;

2 (5) a recommendation that water systems with wells
3 impacted or potentially impacted by the contaminant be
4 appropriately tested; and

5 (6) the name, business address, and phone number of
6 persons at the Agency from whom additional information
7 about the release or suspected release can be obtained.

8 (d) Any person who is a responsible party with respect to
9 the release or substantial threat of release for which notice
10 is given under this Section is liable for all reasonable costs
11 incurred by the State in giving the notice. All moneys received
12 by the State under this subsection (d) for costs related to
13 releases and substantial threats of releases of hazardous
14 substances, pesticides, and petroleum other than releases and
15 substantial threats of releases of petroleum from underground
16 storage tanks subject to Title XVI of this Act must be
17 deposited in and used for purposes consistent with the
18 Hazardous Waste Fund. All moneys received by the State under
19 this subsection (d) for costs related to releases and
20 substantial threats of releases of petroleum from underground
21 storage tanks subject to Title XVI of this Act must be
22 deposited in and used for purposes consistent with the
23 Underground Storage Tank Fund.

24 (Source: P.A. 94-314, eff. 7-25-05; 95-454, eff. 8-27-07.)

25 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

1 Sec. 42. Civil penalties.

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

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

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

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

1 violations relating to the State UIC program for Class II
2 wells, as defined by the Board under this Act, shall be
3 liable to a civil penalty of not to exceed \$10,000 for the
4 violation and an additional civil penalty of not to exceed
5 \$1,000 for each day during which the violation continues.

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

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

24 (4-5) In an administrative citation action under
25 Section 31.1 of this Act, any person found to have violated
26 any provision of subsection (p) of Section 21 of this Act

1 shall pay a civil penalty of \$1,500 for each violation of
2 each such provision, plus any hearing costs incurred by the
3 Board and the Agency, except that the civil penalty amount
4 shall be \$3,000 for each violation of any provision of
5 subsection (p) of Section 21 that is the person's second or
6 subsequent adjudication violation of that provision. The
7 penalties shall be deposited into the Environmental
8 Protection Trust Fund, to be used in accordance with the
9 provisions of the Environmental Protection Trust Fund Act;
10 except that if a unit of local government issued the
11 administrative citation, 50% of the civil penalty shall be
12 payable to the unit of local government.

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

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

26 (b.5) In lieu of the penalties set forth in subsections (a)

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

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

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

24 (e) The State's Attorney of the county in which the
25 violation occurred, or the Attorney General, may, at the
26 request of the Agency or on his own motion, institute a civil

1 action for an injunction, prohibitory or mandatory, to restrain
2 violations of this Act, any rule or regulation adopted under
3 this Act, any permit or term or condition of a permit, or any
4 Board order, or to require such other actions as may be
5 necessary to address violations of this Act, any rule or
6 regulation adopted under this Act, any permit or term or
7 condition of a permit, or any Board order.

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

21 Any funds collected under this subsection (f) in which the
22 Attorney General has prevailed shall be deposited in the
23 Hazardous Waste Fund created in Section 22.2 of this Act. Any
24 funds collected under this subsection (f) in which a State's
25 Attorney has prevailed shall be retained by the county in which
26 he serves.

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

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

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

16 (2) the presence or absence of due diligence on the
17 part of the respondent in attempting to comply with
18 requirements of this Act and regulations thereunder or to
19 secure relief therefrom as provided by this Act;

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

24 (4) the amount of monetary penalty which will serve to
25 deter further violations by the respondent and to otherwise
26 aid in enhancing voluntary compliance with this Act by the

1 respondent and other persons similarly subject to the Act;

2 (5) the number, proximity in time, and gravity of
3 previously adjudicated violations of this Act by the
4 respondent;

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

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

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

24 (i) A person who voluntarily self-discloses non-compliance
25 to the Agency, of which the Agency had been unaware, is
26 entitled to a 100% reduction in the portion of the penalty that

1 is not based on the economic benefit of non-compliance if the
2 person can establish the following:

3 (1) that the non-compliance was discovered through an
4 environmental audit or a compliance management system
5 documented by the regulated entity as reflecting the
6 regulated entity's due diligence in preventing, detecting,
7 and correcting violations;

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

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

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

15 (ii) notice of a citizen suit;

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

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

26 (5) that the person agrees to prevent a recurrence of

1 the non-compliance;

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

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

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

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

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

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

1 (Source: P.A. 94-272, eff. 7-19-05; 94-580, eff. 8-12-05;
2 95-331, eff. 8-21-07.)

3 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

4 Sec. 44. Criminal acts; penalties.

5 (a) Except as otherwise provided in this Section, it shall
6 be a Class A misdemeanor to violate this Act or regulations
7 thereunder, or any permit or term or condition thereof, or
8 knowingly to submit any false information under this Act or
9 regulations adopted thereunder, or under any permit or term or
10 condition thereof. A court may, in addition to any other
11 penalty herein imposed, order a person convicted of any
12 violation of this Act to perform community service for not less
13 than 100 hours and not more than 300 hours if community service
14 is available in the jurisdiction. It shall be the duty of all
15 State and local law-enforcement officers to enforce such Act
16 and regulations, and all such officers shall have authority to
17 issue citations for such violations.

18 (b) Calculated Criminal Disposal of Hazardous Waste.

19 (1) A person commits the offense of Calculated Criminal
20 Disposal of Hazardous Waste when, without lawful
21 justification, he knowingly disposes of hazardous waste
22 while knowing that he thereby places another person in
23 danger of great bodily harm or creates an immediate or
24 long-term danger to the public health or the environment.

1 (2) Calculated Criminal Disposal of Hazardous Waste is
2 a Class 2 felony. In addition to any other penalties
3 prescribed by law, a person convicted of the offense of
4 Calculated Criminal Disposal of Hazardous Waste is subject
5 to a fine not to exceed \$500,000 for each day of such
6 offense.

7 (c) Criminal Disposal of Hazardous Waste.

8 (1) A person commits the offense of Criminal Disposal
9 of Hazardous Waste when, without lawful justification, he
10 knowingly disposes of hazardous waste.

11 (2) Criminal Disposal of Hazardous Waste is a Class 3
12 felony. In addition to any other penalties prescribed by
13 law, a person convicted of the offense of Criminal Disposal
14 of Hazardous Waste is subject to a fine not to exceed
15 \$250,000 for each day of such offense.

16 (d) Unauthorized Use of Hazardous Waste.

17 (1) A person commits the offense of Unauthorized Use of
18 Hazardous Waste when he, being required to have a permit,
19 registration, or license under this Act or any other law
20 regulating the treatment, transportation, or storage of
21 hazardous waste, knowingly:

22 (A) treats, transports, or stores any hazardous
23 waste without such permit, registration, or license;

24 (B) treats, transports, or stores any hazardous

1 waste in violation of the terms and conditions of such
2 permit or license;

3 (C) transports any hazardous waste to a facility
4 which does not have a permit or license required under
5 this Act; or

6 (D) transports by vehicle any hazardous waste
7 without having in each vehicle credentials issued to
8 the transporter by the transporter's base state
9 pursuant to procedures established under the Uniform
10 Program.

11 (2) A person who is convicted of a violation of
12 subdivision (1) (A), (1) (B) or (1) (C) of this subsection is
13 guilty of a Class 4 felony. A person who is convicted of a
14 violation of subdivision (1) (D) is guilty of a Class A
15 misdemeanor. In addition to any other penalties prescribed
16 by law, a person convicted of violating subdivision (1) (A),
17 (1) (B) or (1) (C) is subject to a fine not to exceed
18 \$100,000 for each day of such violation, and a person who
19 is convicted of violating subdivision (1) (D) is subject to
20 a fine not to exceed \$1,000.

21 (e) Unlawful Delivery of Hazardous Waste.

22 (1) Except as authorized by this Act or the federal
23 Resource Conservation and Recovery Act, and the
24 regulations promulgated thereunder, it is unlawful for any
25 person to knowingly deliver hazardous waste.

1 (2) Unlawful Delivery of Hazardous Waste is a Class 3
2 felony. In addition to any other penalties prescribed by
3 law, a person convicted of the offense of Unlawful Delivery
4 of Hazardous Waste is subject to a fine not to exceed
5 \$250,000 for each such violation.

6 (3) For purposes of this Section, "deliver" or
7 "delivery" means the actual, constructive, or attempted
8 transfer of possession of hazardous waste, with or without
9 consideration, whether or not there is an agency
10 relationship.

11 (f) Reckless Disposal of Hazardous Waste.

12 (1) A person commits Reckless Disposal of Hazardous
13 Waste if he disposes of hazardous waste, and his acts which
14 cause the hazardous waste to be disposed of, whether or not
15 those acts are undertaken pursuant to or under color of any
16 permit or license, are performed with a conscious disregard
17 of a substantial and unjustifiable risk that such disposing
18 of hazardous waste is a gross deviation from the standard
19 of care which a reasonable person would exercise in the
20 situation.

21 (2) Reckless Disposal of Hazardous Waste is a Class 4
22 felony. In addition to any other penalties prescribed by
23 law, a person convicted of the offense of Reckless Disposal
24 of Hazardous Waste is subject to a fine not to exceed
25 \$50,000 for each day of such offense.

1 (g) Concealment of Criminal Disposal of Hazardous Waste.

2 (1) A person commits the offense of Concealment of
3 Criminal Disposal of Hazardous Waste when he conceals,
4 without lawful justification, the disposal of hazardous
5 waste with the knowledge that such hazardous waste has been
6 disposed of in violation of this Act.

7 (2) Concealment of Criminal Disposal of a Hazardous
8 Waste is a Class 4 felony. In addition to any other
9 penalties prescribed by law, a person convicted of the
10 offense of Concealment of Criminal Disposal of Hazardous
11 Waste is subject to a fine not to exceed \$50,000 for each
12 day of such offense.

13 (h) Violations; False Statements.

14 (1) Any person who knowingly makes a false material
15 statement in an application for a permit or license
16 required by this Act to treat, transport, store, or dispose
17 of hazardous waste commits the offense of perjury and shall
18 be subject to the penalties set forth in Section 32-2 of
19 the Criminal Code of 1961.

20 (2) Any person who knowingly makes a false material
21 statement or representation in any label, manifest,
22 record, report, permit or license, or other document filed,
23 maintained or used for the purpose of compliance with this
24 Act in connection with the generation, disposal,

1 treatment, storage, or transportation of hazardous waste
2 commits a Class 4 felony. A second or any subsequent
3 offense after conviction hereunder is a Class 3 felony.

4 (3) Any person who knowingly destroys, alters or
5 conceals any record required to be made by this Act in
6 connection with the disposal, treatment, storage, or
7 transportation of hazardous waste, commits a Class 4
8 felony. A second or any subsequent offense after a
9 conviction hereunder is a Class 3 felony.

10 (4) Any person who knowingly makes a false material
11 statement or representation in any application, bill,
12 invoice, or other document filed, maintained, or used for
13 the purpose of receiving money from the Underground Storage
14 Tank Fund commits a Class 4 felony. A second or any
15 subsequent offense after conviction hereunder is a Class 3
16 felony.

17 (5) Any person who knowingly destroys, alters, or
18 conceals any record required to be made or maintained by
19 this Act or required to be made or maintained by Board or
20 Agency rules for the purpose of receiving money from the
21 Underground Storage Tank Fund commits a Class 4 felony. A
22 second or any subsequent offense after a conviction
23 hereunder is a Class 3 felony.

24 (6) A person who knowingly and falsely certifies under
25 Section 22.48 that an industrial process waste or pollution
26 control waste is not special waste commits a Class 4 felony

1 for a first offense and commits a Class 3 felony for a
2 second or subsequent offense.

3 (7) In addition to any other penalties prescribed by
4 law, a person convicted of violating this subsection (h) is
5 subject to a fine not to exceed \$50,000 for each day of
6 such violation.

7 (8) Any person who knowingly makes a false, fictitious,
8 or fraudulent material statement, orally or in writing, to
9 the Agency, or to a unit of local government to which the
10 Agency has delegated authority under subsection (r) of
11 Section 4 of this Act, related to or required by this Act,
12 a regulation adopted under this Act, any federal law or
13 regulation for which the Agency has responsibility, or any
14 permit, term, or condition thereof, commits a Class 4
15 felony, and each such statement or writing shall be
16 considered a separate Class 4 felony. A person who, after
17 being convicted under this paragraph (8), violates this
18 paragraph (8) a second or subsequent time, commits a Class
19 3 felony.

20 (i) Verification.

21 (1) Each application for a permit or license to dispose
22 of, transport, treat, store or generate hazardous waste
23 under this Act shall contain an affirmation that the facts
24 are true and are made under penalty of perjury as defined
25 in Section 32-2 of the Criminal Code of 1961. It is perjury

1 for a person to sign any such application for a permit or
2 license which contains a false material statement, which he
3 does not believe to be true.

4 (2) Each request for money from the Underground Storage
5 Tank Fund shall contain an affirmation that the facts are
6 true and are made under penalty of perjury as defined in
7 Section 32-2 of the Criminal Code of 1961. It is perjury
8 for a person to sign any request that contains a false
9 material statement that he does not believe to be true.

10 (j) Violations of Other Provisions.

11 (1) It is unlawful for a person knowingly to violate:

12 (A) subsection (f) of Section 12 of this Act;

13 (B) subsection (g) of Section 12 of this Act;

14 (C) any term or condition of any Underground
15 Injection Control (UIC) permit;

16 (D) any filing requirement, regulation, or order
17 relating to the State Underground Injection Control
18 (UIC) program;

19 (E) any provision of any regulation, standard, or
20 filing requirement under subsection (b) of Section 13
21 of this Act;

22 (F) any provision of any regulation, standard, or
23 filing requirement under subsection (b) of Section 39
24 of this Act;

25 (G) any National Pollutant Discharge Elimination

1 System (NPDES) permit issued under this Act or any term
2 or condition of such permit;

3 (H) subsection (h) of Section 12 of this Act;

4 (I) subsection 6 of Section 39.5 of this Act;

5 (J) any provision of any regulation, standard or
6 filing requirement under Section 39.5 of this Act;

7 (K) a provision of the Procedures for Asbestos
8 Emission Control in subsection (c) of Section 61.145 of
9 Title 40 of the Code of Federal Regulations; or

10 (L) the standard for waste disposal for
11 manufacturing, fabricating, demolition, renovation,
12 and spraying operations in Section 61.150 of Title 40
13 of the Code of Federal Regulations.

14 (2) A person convicted of a violation of subdivision
15 (1) of this subsection commits a Class 4 felony, and in
16 addition to any other penalty prescribed by law is subject
17 to a fine not to exceed \$25,000 for each day of such
18 violation.

19 (3) A person who negligently violates the following
20 shall be subject to a fine not to exceed \$10,000 for each
21 day of such violation:

22 (A) subsection (f) of Section 12 of this Act;

23 (B) subsection (g) of Section 12 of this Act;

24 (C) any provision of any regulation, standard, or
25 filing requirement under subsection (b) of Section 13
26 of this Act;

1 (D) any provision of any regulation, standard, or
2 filing requirement under subsection (b) of Section 39
3 of this Act;

4 (E) any National Pollutant Discharge Elimination
5 System (NPDES) permit issued under this Act;

6 (F) subsection 6 of Section 39.5 of this Act; or

7 (G) any provision of any regulation, standard, or
8 filing requirement under Section 39.5 of this Act.

9 (4) It is unlawful for a person knowingly to:

10 (A) make any false statement, representation, or
11 certification in an application form, or form
12 pertaining to, a National Pollutant Discharge
13 Elimination System (NPDES) permit;

14 (B) render inaccurate any monitoring device or
15 record required by the Agency or Board in connection
16 with any such permit or with any discharge which is
17 subject to the provisions of subsection (f) of Section
18 12 of this Act;

19 (C) make any false statement, representation, or
20 certification in any form, notice or report pertaining
21 to a CAAPP permit under Section 39.5 of this Act;

22 (D) render inaccurate any monitoring device or
23 record required by the Agency or Board in connection
24 with any CAAPP permit or with any emission which is
25 subject to the provisions of Section 39.5 of this Act;

26 or

1 (E) violate subsection 6 of Section 39.5 of this
2 Act or any CAAPP permit, or term or condition thereof,
3 or any fee or filing requirement.

4 (5) A person convicted of a violation of subdivision
5 (4) of this subsection commits a Class A misdemeanor, and
6 in addition to any other penalties provided by law is
7 subject to a fine not to exceed \$10,000 for each day of
8 violation.

9 (k) Criminal operation of a hazardous waste or PCB
10 incinerator.

11 (1) A person commits the offense of criminal operation
12 of a hazardous waste or PCB incinerator when, in the course
13 of operating a hazardous waste or PCB incinerator, he
14 knowingly and without justification operates the
15 incinerator (i) without an Agency permit, or in knowing
16 violation of the terms of an Agency permit, and (ii) as a
17 result of such violation, knowingly places any person in
18 danger of great bodily harm or knowingly creates an
19 immediate or long term material danger to the public health
20 or the environment.

21 (2) Any person who commits the offense of criminal
22 operation of a hazardous waste or PCB incinerator for the
23 first time commits a Class 4 felony and, in addition to any
24 other penalties prescribed by law, shall be subject to a
25 fine not to exceed \$100,000 for each day of the offense.

1 Any person who commits the offense of criminal
2 operation of a hazardous waste or PCB incinerator for a
3 second or subsequent time commits a Class 3 felony and, in
4 addition to any other penalties prescribed by law, shall be
5 subject to a fine not to exceed \$250,000 for each day of
6 the offense.

7 (3) For the purpose of this subsection (k), the term
8 "hazardous waste or PCB incinerator" means a pollution
9 control facility at which either hazardous waste or PCBs,
10 or both, are incinerated. "PCBs" means any substance or
11 mixture of substances that contains one or more
12 polychlorinated biphenyls in detectable amounts.

13 (1) It shall be the duty of all State and local law
14 enforcement officers to enforce this Act and the regulations
15 adopted hereunder, and all such officers shall have authority
16 to issue citations for such violations.

17 (m) Any action brought under this Section shall be brought
18 by the State's Attorney of the county in which the violation
19 occurred, or by the Attorney General, and shall be conducted in
20 accordance with the applicable provisions of the Code of
21 Criminal Procedure of 1963.

22 (n) For an offense described in this Section, the period
23 for commencing prosecution prescribed by the statute of
24 limitations shall not begin to run until the offense is
25 discovered by or reported to a State or local agency having the
26 authority to investigate violations of this Act.

1 (o) In addition to any other penalties provided under this
2 Act, if a person is convicted of (or agrees to a settlement in
3 an enforcement action over) illegal dumping of waste on the
4 person's own property, the Attorney General, the Agency or
5 local prosecuting authority shall file notice of the
6 conviction, finding or agreement in the office of the Recorder
7 in the county in which the landowner lives.

8 (p) Criminal Disposal of Waste.

9 (1) A person commits the offense of Criminal Disposal
10 of Waste when he or she:

11 (A) if required to have a permit under subsection
12 (d) of Section 21 of this Act, knowingly conducts a
13 waste-storage, waste-treatment, or waste-disposal
14 operation in a quantity that exceeds 250 cubic feet of
15 waste without a permit; or

16 (B) knowingly conducts open dumping of waste in
17 violation of subsection (a) of Section 21 of this Act.

18 (2) (A) A person who is convicted of a violation of
19 item (A) of subdivision (1) of this subsection is guilty of
20 a Class 4 felony for a first offense and, in addition to
21 any other penalties provided by law, is subject to a fine
22 not to exceed \$25,000 for each day of violation. A person
23 who is convicted of a violation of item (A) of subdivision
24 (1) of this subsection is guilty of a Class 3 felony for a
25 second or subsequent offense and, in addition to any other
26 penalties provided by law, is subject to a fine not to

1 exceed \$50,000 for each day of violation.

2 (B) A person who is convicted of a violation of
3 item (B) of subdivision (1) of this subsection is
4 guilty of a Class A misdemeanor. However, a person who
5 is convicted of a second or subsequent violation of
6 item (B) of subdivision (1) of this subsection for the
7 open dumping of waste in a quantity that exceeds 250
8 cubic feet is guilty of a Class 4 felony and, in
9 addition to any other penalties provided by law, is
10 subject to a fine not to exceed \$5,000 for each day of
11 violation.

12 (Source: P.A. 94-286, eff. 7-21-05.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."