

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 changing Sections 3.160, 22.51, 31.1, and 42 and by adding  
6 Sections 22.51a and 22.51b as follows:

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

8 Sec. 3.160. Construction or demolition debris.

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

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

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

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

12 (b) "Clean construction or demolition debris" means  
13 uncontaminated broken concrete without protruding metal bars,  
14 bricks, rock, stone, reclaimed or other asphalt pavement, or  
15 soil generated from construction or demolition activities.

16 Clean construction or demolition debris does not include  
17 uncontaminated soil generated during construction, remodeling,  
18 repair, and demolition of utilities, structures, and roads  
19 provided the uncontaminated soil is not commingled with any  
20 clean construction or demolition debris or other waste.

21 To the extent allowed by federal law, clean construction or  
22 demolition debris shall not be considered "waste" if it is (i)  
23 used as fill material outside of a setback zone if the fill is  
24 placed no higher than the highest point of elevation existing  
25 prior to the filling immediately adjacent to the fill area, and  
26 if covered by sufficient uncontaminated soil to support

1 vegetation within 30 days of the completion of filling or if  
2 covered by a road or structure, and, if used as fill material  
3 in a current or former quarry, mine, or other excavation, is  
4 used in accordance with the requirements of Section 22.51 of  
5 this Act and the rules adopted thereunder or (ii) separated or  
6 processed and returned to the economic mainstream in the form  
7 of raw materials or products, if it is not speculatively  
8 accumulated and, if used as a fill material, it is used in  
9 accordance with item (i), or (iii) solely broken concrete  
10 without protruding metal bars used for erosion control, or (iv)  
11 generated from the construction or demolition of a building,  
12 road, or other structure and used to construct, on the site  
13 where the construction or demolition has taken place, a manmade  
14 functional structure not to exceed 20 feet above the highest  
15 point of elevation of the property immediately adjacent to the  
16 new manmade functional structure as that elevation existed  
17 prior to the creation of that new structure, provided that the  
18 structure shall be covered with sufficient soil materials to  
19 sustain vegetation or by a road or structure, and further  
20 provided that no such structure shall be constructed within a  
21 home rule municipality with a population over 500,000 without  
22 the consent of the municipality.

23 For purposes of this subsection (b), reclaimed or other  
24 asphalt pavement shall not be considered speculatively  
25 accumulated if: (i) it is not commingled with any other clean  
26 construction or demolition debris or any waste; (ii) it is

1 returned to the economic mainstream in the form of raw  
2 materials or products within 4 years after its generation;  
3 (iii) at least 25% of the total amount present at a site during  
4 a calendar year is transported off of the site during the next  
5 calendar year; and (iv) if used as a fill material, it is used  
6 in accordance with item (i) of the second paragraph of this  
7 subsection (b).

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

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

1       the applicable background concentration is based upon the  
2       location of the quarry, mine, or other excavation.

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

6       (Source: P.A. 95-121, eff. 8-13-07; 96-235, eff. 8-11-09.)

7       (415 ILCS 5/22.51)

8       Sec. 22.51. Clean Construction or Demolition Debris Fill  
9       Operations.

10       (a) No person shall conduct any clean construction or  
11       demolition debris fill operation in violation of this Act or  
12       any regulations or standards adopted by the Board.

13       (b) (1) (A) Beginning August 18, 2005 ~~30 days after the~~  
14       ~~effective date of this amendatory Act of the 94th General~~  
15       ~~Assembly~~ but prior to July 1, 2008, no person shall use clean  
16       construction or demolition debris as fill material in a current  
17       or former quarry, mine, or other excavation, unless they have  
18       applied for an interim authorization from the Agency for the  
19       clean construction or demolition debris fill operation.

20       (B) The Agency shall approve an interim authorization upon  
21       its receipt of a written application for the interim  
22       authorization that is signed by the site owner and the site  
23       operator, or their duly authorized agent, and that contains the  
24       following information: (i) the location of the site where the  
25       clean construction or demolition debris fill operation is

1 taking place, (ii) the name and address of the site owner,  
2 (iii) the name and address of the site operator, and (iv) the  
3 types and amounts of clean construction or demolition debris  
4 being used as fill material at the site.

5 (C) The Agency may deny an interim authorization if the  
6 site owner or the site operator, or their duly authorized  
7 agent, fails to provide to the Agency the information listed in  
8 subsection (b) (1) (B) of this Section. Any denial of an interim  
9 authorization shall be subject to appeal to the Board in  
10 accordance with the procedures of Section 40 of this Act.

11 (D) No person shall use clean construction or demolition  
12 debris as fill material in a current or former quarry, mine, or  
13 other excavation for which the Agency has denied interim  
14 authorization under subsection (b) (1) (C) of this Section. The  
15 Board may stay the prohibition of this subsection (D) during  
16 the pendency of an appeal of the Agency's denial of the interim  
17 authorization brought under subsection (b) (1) (C) of this  
18 Section.

19 (2) Beginning September 1, 2006, owners and operators of  
20 clean construction or demolition debris fill operations shall,  
21 in accordance with a schedule prescribed by the Agency, submit  
22 to the Agency applications for the permits required under this  
23 Section. The Agency shall notify owners and operators in  
24 writing of the due date for their permit application. The due  
25 date shall be no less than 90 days after the date of the  
26 Agency's written notification. Owners and operators who do not

1 receive a written notification from the Agency by October 1,  
2 2007, shall submit a permit application to the Agency by  
3 January 1, 2008. The interim authorization of owners and  
4 operators who fail to submit a permit application to the Agency  
5 by the permit application's due date shall terminate on (i) the  
6 due date established by the Agency if the owner or operator  
7 received a written notification from the Agency prior to  
8 October 1, 2007, or (ii) or January 1, 2008, if the owner or  
9 operator did not receive a written notification from the Agency  
10 by October 1, 2007.

11 (3) On and after July 1, 2008, no person shall use clean  
12 construction or demolition debris as fill material in a current  
13 or former quarry, mine, or other excavation (i) without a  
14 permit granted by the Agency for the clean construction or  
15 demolition debris fill operation or in violation of any  
16 conditions imposed by such permit, including periodic reports  
17 and full access to adequate records and the inspection of  
18 facilities, as may be necessary to assure compliance with this  
19 Act and with Board regulations and standards adopted under this  
20 Act or (ii) in violation of any regulations or standards  
21 adopted by the Board under this Act.

22 (4) This subsection (b) does not apply to:

23 (A) the use of clean construction or demolition debris  
24 as fill material in a current or former quarry, mine, or  
25 other excavation located on the site where the clean  
26 construction or demolition debris was generated;

1 (B) the use of clean construction or demolition debris  
2 as fill material in an excavation other than a current or  
3 former quarry or mine if this use complies with Illinois  
4 Department of Transportation specifications; or

5 (C) current or former quarries, mines, and other  
6 excavations that do not use clean construction or  
7 demolition debris as fill material.

8 (c) In accordance with Title VII of this Act, the Board may  
9 adopt regulations to promote the purposes of this Section. The  
10 Agency shall consult with the mining and construction  
11 industries during the development of any regulations to promote  
12 the purposes of this Section.

13 (1) No later than December 15, 2005, the Agency shall  
14 propose to the Board, and no later than September 1, 2006,  
15 the Board shall adopt, regulations for the use of clean  
16 construction or demolition debris as fill material in  
17 current and former quarries, mines, and other excavations.  
18 Such regulations shall include, but shall not be limited  
19 to, standards for clean construction or demolition debris  
20 fill operations and the submission and review of permits  
21 required under this Section.

22 (2) Until the Board adopts rules under subsection  
23 (c)(1) of this Section, all persons using clean  
24 construction or demolition debris as fill material in a  
25 current or former quarry, mine, or other excavation shall:

26 (A) Assure that only clean construction or



1 demolition debris is being used as fill material by  
2 screening each truckload of material received using a  
3 device approved by the Agency that detects volatile  
4 organic compounds. Such devices may include, but are  
5 not limited to, photo ionization detectors. All  
6 screening devices shall be operated and maintained in  
7 accordance with manufacturer's specifications.  
8 Unacceptable fill material shall be rejected from the  
9 site; and

10 (B) Retain for a minimum of 3 years the following  
11 information:

12 (i) The name of the hauler, the name of the  
13 generator, and place of origin of the debris or  
14 soil;

15 (ii) The approximate weight or volume of the  
16 debris or soil; and

17 (iii) The date the debris or soil was received.

18 (d) This Section applies only to clean construction or  
19 demolition debris that is not considered "waste" as provided in  
20 Section 3.160 of this Act.

21 (e) For purposes of this Section ~~a clean construction or~~  
22 ~~demolition debris fill operation:~~

23 (1) The term "operator" means a person responsible for  
24 the operation and maintenance of a clean construction or  
25 demolition debris fill operation.

26 (2) The term "owner" means a person who has any direct

1 or indirect interest in a clean construction or demolition  
2 debris fill operation or in land on which a person operates  
3 and maintains a clean construction or demolition debris  
4 fill operation. A "direct or indirect interest" does not  
5 include the ownership of publicly traded stock. The "owner"  
6 is the "operator" if there is no other person who is  
7 operating and maintaining a clean construction or  
8 demolition debris fill operation.

9 (3) The term "clean construction or demolition debris  
10 fill operation" means a current or former quarry, mine, or  
11 other excavation where clean construction or demolition  
12 debris is used as fill material.

13 (4) The term "uncontaminated soil" shall have the same  
14 meaning as uncontaminated soil under Section 3.160 of this  
15 Act.

16 (f) (1) No later than one year after the effective date of  
17 this amendatory Act of the 96th General Assembly, the Agency  
18 shall propose to the Board, and, no later than one year after  
19 the Board's receipt of the Agency's proposal, the Board shall  
20 adopt, rules for the use of clean construction or demolition  
21 debris and uncontaminated soil as fill material at clean  
22 construction or demolition debris fill operations. The rules  
23 must include standards and procedures necessary to protect  
24 groundwater, which may include, but shall not be limited to,  
25 the following: requirements regarding testing and  
26 certification of soil used as fill material, surface water

1 runoff, liners or other protective barriers, monitoring  
2 (including, but not limited to, groundwater monitoring),  
3 corrective action, recordkeeping, reporting, closure and  
4 post-closure care, financial assurance, post-closure land use  
5 controls, location standards, and the modification of existing  
6 permits to conform to the requirements of this Act and Board  
7 rules. The rules may also include limits on the use of  
8 recyclable concrete and asphalt as fill material at clean  
9 construction or demolition debris fill operations, taking into  
10 account factors such as technical feasibility, economic  
11 reasonableness, and the availability of markets for such  
12 materials.

13 (2) Until the effective date of the Board rules adopted  
14 under subdivision (f)(1) of this Section, and in addition to  
15 any other requirements, owners and operators of clean  
16 construction or demolition debris fill operations must do all  
17 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of  
18 this Section for all clean construction or demolition debris  
19 and uncontaminated soil accepted for use as fill material. The  
20 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of  
21 this Section shall not limit any rules adopted by the Board.

22 (A) Document the following information for each load of  
23 clean construction or demolition debris or uncontaminated  
24 soil received: (i) the name of the hauler, the address of  
25 the site of origin, and the owner and the operator of the  
26 site of origin of the clean construction or demolition

1 debris or uncontaminated soil, (ii) the weight or volume of  
2 the clean construction or demolition debris or  
3 uncontaminated soil, and (iii) the date the clean  
4 construction or demolition debris or uncontaminated soil  
5 was received.

6 (B) For all soil, obtain either (i) a certification  
7 from the owner or operator of the site from which the soil  
8 was removed that the site has never been used for  
9 commercial or industrial purposes and is presumed to be  
10 uncontaminated soil or (ii) a certification from a licensed  
11 Professional Engineer that the soil is uncontaminated  
12 soil. Certifications required under this subdivision  
13 (f) (2) (B) must be on forms and in a format prescribed by  
14 the Agency.

15 (C) Confirm that the clean construction or demolition  
16 debris or uncontaminated soil was not removed from a site  
17 as part of a cleanup or removal of contaminants, including,  
18 but not limited to, activities conducted under the  
19 Comprehensive Environmental Response, Compensation, and  
20 Liability Act of 1980, as amended; as part of a Closure or  
21 Corrective Action under the Resource Conservation and  
22 Recovery Act, as amended; or under an Agency remediation  
23 program, such as the Leaking Underground Storage Tank  
24 Program or Site Remediation Program, but excluding sites  
25 subject to Section 58.16 of this Act where there is no  
26 presence or likely presence of a release or a substantial

1 threat of a release of a regulated substance at, on, or  
2 from the real property.

3 (D) Document all activities required under subdivision  
4 (f)(2) of this Section. Documentation of any chemical  
5 analysis must include, but is not limited to, (i) a copy of  
6 the lab analysis, (ii) accreditation status of the  
7 laboratory performing the analysis, and (iii)  
8 certification by an authorized agent of the laboratory that  
9 the analysis has been performed in accordance with the  
10 Agency's rules for the accreditation of environmental  
11 laboratories and the scope of accreditation.

12 (3) Owners and operators of clean construction or  
13 demolition debris fill operations must maintain all  
14 documentation required under subdivision (f)(2) of this  
15 Section for a minimum of 3 years following the receipt of each  
16 load of clean construction or demolition debris or  
17 uncontaminated soil, except that documentation relating to an  
18 appeal, litigation, or other disputed claim must be maintained  
19 until at least 3 years after the date of the final disposition  
20 of the appeal, litigation, or other disputed claim. Copies of  
21 the documentation must be made available to the Agency and to  
22 units of local government for inspection and copying during  
23 normal business hours. The Agency may prescribe forms and  
24 formats for the documentation required under subdivision  
25 (f)(2) of this Section.

26 Chemical analysis conducted under subdivision (f)(2) of

1 this Section must be conducted in accordance with the  
2 requirements of 35 Ill. Adm. Code 742, as amended, and "Test  
3 Methods for Evaluating Solid Waste, Physical/Chemical  
4 Methods", USEPA Publication No. SW-846, as amended.

5 (g) (1) No person shall use soil other than uncontaminated  
6 soil as fill material at a clean construction or demolition  
7 debris fill operation.

8 (2) No person shall use construction or demolition debris  
9 other than clean construction or demolition debris as fill  
10 material at a clean construction or demolition debris fill  
11 operation.

12 (Source: P.A. 94-272, eff. 7-19-05; 94-725, eff. 6-1-06.)

13 (415 ILCS 5/22.51a new)

14 Sec. 22.51a. Uncontaminated Soil Fill Operations.

15 (a) For purposes of this Section:

16 (1) The term "uncontaminated soil" shall have the same  
17 meaning as uncontaminated soil under Section 3.160 of this  
18 Act.

19 (2) The term "uncontaminated soil fill operation"  
20 means a current or former quarry, mine, or other excavation  
21 where uncontaminated soil is used as fill material, but  
22 does not include a clean construction or demolition debris  
23 fill operation.

24 (b) No person shall use soil other than uncontaminated soil  
25 as fill material at an uncontaminated soil fill operation.

1       (c) Owners and operators of uncontaminated soil fill  
2 operations must register the fill operations with the Agency.  
3 Uncontaminated soil fill operations that received  
4 uncontaminated soil prior to the effective date of this  
5 amendatory Act of the 96th General Assembly must be registered  
6 with the Agency no later than March 31, 2011. Uncontaminated  
7 soil fill operations that first receive uncontaminated soil on  
8 or after the effective date of this amendatory Act of the 96th  
9 General Assembly must be registered with the Agency prior to  
10 the receipt of any uncontaminated soil. Registrations must be  
11 submitted on forms and in a format prescribed by the Agency.

12       (d) (1) No later than one year after the effective date of  
13 this amendatory Act of the 96th General Assembly, the Agency  
14 shall propose to the Board, and, no later than one year after  
15 the Board's receipt of the Agency's proposal, the Board shall  
16 adopt, rules for the use of uncontaminated soil as fill  
17 material at uncontaminated soil fill operations. The rules must  
18 include standards and procedures necessary to protect  
19 groundwater, which shall include, but shall not be limited to,  
20 testing and certification of soil used as fill material and  
21 requirements for recordkeeping.

22       (2) Until the effective date of the Board rules adopted  
23 under subdivision (d) (1) of this Section, owners and operators  
24 of uncontaminated soil fill operations must do all of the  
25 following in subdivisions (d) (2) (A) through (d) (2) (F) of this  
26 Section for all uncontaminated soil accepted for use as fill

1 material. The requirements in subdivisions (d)(2)(A) through  
2 (d)(2)(F) of this Section shall not limit any rules adopted by  
3 the Board.

4 (A) Document the following information for each load of  
5 uncontaminated soil received: (i) the name of the hauler,  
6 the address of the site of origin, and the owner and the  
7 operator of the site of origin of the uncontaminated soil,  
8 (ii) the weight or volume of the uncontaminated soil, and  
9 (iii) the date the uncontaminated soil was received.

10 (B) Obtain either (i) a certification from the owner or  
11 operator of the site from which the soil was removed that  
12 the site has never been used for commercial or industrial  
13 purposes and is presumed to be uncontaminated soil or (ii)  
14 a certification from a licensed Professional Engineer that  
15 the soil is uncontaminated soil. Certifications required  
16 under this subdivision (d)(2)(B) must be on forms and in a  
17 format prescribed by the Agency.

18 (C) Confirm that the uncontaminated soil was not  
19 removed from a site as part of a cleanup or removal of  
20 contaminants, including, but not limited to, activities  
21 conducted under the Comprehensive Environmental Response,  
22 Compensation, and Liability Act of 1980, as amended; as  
23 part of a Closure or Corrective Action under the Resource  
24 Conservation and Recovery Act, as amended; or under an  
25 Agency remediation program, such as the Leaking  
26 Underground Storage Tank Program or Site Remediation



1 Program, but excluding sites subject to Section 58.16 of  
2 this Act where there is no presence or likely presence of a  
3 release or a substantial threat of a release of a regulated  
4 substance at, on, or from the real property.

5 (D) Visually inspect each load to confirm that only  
6 uncontaminated soil is being accepted for use as fill  
7 material.

8 (E) Screen each load of uncontaminated soil using a  
9 device that is approved by the Agency and detects volatile  
10 organic compounds. Such a device may include, but is not  
11 limited to, a photo ionization detector or a flame  
12 ionization detector. All screening devices shall be  
13 operated and maintained in accordance with the  
14 manufacturer's specifications. Unacceptable soil must be  
15 rejected from the fill operation.

16 (F) Document all activities required under subdivision  
17 (d)(2) of this Section. Documentation of any chemical  
18 analysis must include, but is not limited to, (i) a copy of  
19 the lab analysis, (ii) accreditation status of the  
20 laboratory performing the analysis, and (iii)  
21 certification by an authorized agent of the laboratory that  
22 the analysis has been performed in accordance with the  
23 Agency's rules for the accreditation of environmental  
24 laboratories and the scope of accreditation.

25 (3) Owners and operators of uncontaminated soil fill  
26 operations must maintain all documentation required under

1 subdivision (d)(2) of this Section for a minimum of 3 years  
2 following the receipt of each load of uncontaminated soil,  
3 except that documentation relating to an appeal, litigation, or  
4 other disputed claim must be maintained until at least 3 years  
5 after the date of the final disposition of the appeal,  
6 litigation, or other disputed claim. Copies of the  
7 documentation must be made available to the Agency and to units  
8 of local government for inspection and copying during normal  
9 business hours. The Agency may prescribe forms and formats for  
10 the documentation required under subdivision (d)(2) of this  
11 Section.

12 Chemical analysis conducted under subdivision (d)(2) of  
13 this Section must be conducted in accordance with the  
14 requirements of 35 Ill. Adm. Code 742, as amended, and "Test  
15 Methods for Evaluating Solid Waste, Physical/Chemical  
16 Methods", USEPA Publication No. SW-846, as amended.

17 (415 ILCS 5/22.51b new)

18 Sec. 22.51b. Fees for permitted facilities accepting clean  
19 construction or demolition debris or uncontaminated soil.

20 (a) The Agency shall assess and collect a fee from the  
21 owner or operator of each clean construction or demolition  
22 debris fill operation that is permitted or required to be  
23 permitted by the Agency. The fee assessed and collected under  
24 this subsection shall be 20 cents per cubic yard of clean  
25 construction or demolition debris or uncontaminated soil

1 accepted by the clean construction or demolition debris fill  
2 operation, or, alternatively, the owner or operator may weigh  
3 the quantity of the clean construction or demolition debris or  
4 uncontaminated soil with a device for which certification has  
5 been obtained under the Weights and Measures Act and pay a fee  
6 of 14 cents per ton of clean construction or demolition debris  
7 or uncontaminated soil. The fee shall apply to construction or  
8 demolition debris or uncontaminated soil if (i) the clean  
9 construction or demolition debris fill operation is located off  
10 the site where the clean construction or demolition debris or  
11 uncontaminated soil was generated and (ii) the clean  
12 construction or demolition debris fill operation is owned,  
13 controlled, and operated by a person other than the generator  
14 of the clean construction or demolition debris or  
15 uncontaminated soil.

16 (b) The Agency shall establish rules relating to the  
17 collection of the fees authorized by subsection (a) of this  
18 Section. These rules shall include, but are not limited to, the  
19 following:

20 (1) Records identifying the quantities of clean  
21 construction or demolition debris and uncontaminated soil  
22 received.

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

25 (3) The time and manner of payment of fees to the  
26 Agency, which payments shall not be more often than

1 quarterly.

2 (c) Fees collected under this Section shall be in addition  
3 to any other fees collected under any other Section.

4 (d) The Agency shall not refund any fee paid to it under  
5 this Section.

6 (e) The Agency shall deposit all fees collected under this  
7 subsection into the Environmental Protection Permit and  
8 Inspection Fund. Pursuant to appropriation, all moneys  
9 collected under this Section shall be used by the Agency for  
10 the implementation of this Section and for permit and  
11 inspection activities.

12 (f) A unit of local government, as defined in the Local  
13 Solid Waste Disposal Act, in which a clean construction or  
14 demolition debris fill operation is located and which has  
15 entered into a delegation agreement with the Agency pursuant to  
16 subsection (r) of Section 4 of this Act for inspection,  
17 investigation, or enforcement functions related to clean  
18 construction or demolition debris fill operations may  
19 establish a fee, tax, or surcharge with regard to clean  
20 construction or demolition debris or uncontaminated soil  
21 accepted by clean construction or demolition debris fill  
22 operations. All fees, taxes, and surcharges collected under  
23 this subsection shall be used for inspection, investigation,  
24 and enforcement functions performed by the unit of local  
25 government pursuant to the delegation agreement with the  
26 Agency. Fees, taxes, and surcharges established under this

1 subsection (f) shall not exceed a total of 10 cents per cubic  
2 yard of clean construction or demolition debris or  
3 uncontaminated soil accepted by the clean construction or  
4 demolition debris fill operation, unless the owner or operator  
5 weighs the quantity of the clean construction or demolition  
6 debris or uncontaminated soil with a device for which  
7 certification has been obtained under the Weights and Measures  
8 Act, in which case the fee shall not exceed 7 cents per ton of  
9 clean construction or demolition debris or uncontaminated  
10 soil.

11 (g) For the purposes of this Section:

12 (1) The term "uncontaminated soil" shall have the same  
13 meaning as uncontaminated soil under Section 3.160 of this  
14 Act.

15 (2) The term "clean construction or demolition debris  
16 fill operation" shall have the same meaning as clean  
17 construction or demolition debris fill operation under  
18 Section 22.51 of this Act.

19 (415 ILCS 5/31.1) (from Ch. 111 1/2, par. 1031.1)

20 Sec. 31.1. Administrative citation.

21 (a) The prohibitions specified in subsections (o) and (p)  
22 of Section 21 and subsection (k) of Section 55 of this Act  
23 shall be enforceable either by administrative citation under  
24 this Section or as otherwise provided by this Act. Violations  
25 of Section 22.51 and 22.51a of this Act shall be enforceable

1 either by administrative citation under this Section or as  
2 otherwise provided by this Act.

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

16 (1) a statement specifying the provisions of  
17 subsection (o) or (p) of Section 21, Section 22.51, Section  
18 22.51a, or subsection (k) of Section 55 of which the person  
19 was observed to be in violation;

20 (2) a copy of the inspection report in which the Agency  
21 or local government recorded the violation, which report  
22 shall include the date and time of inspection, and weather  
23 conditions prevailing during the inspection;

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

26 (4) instructions for contesting the administrative

1 citation findings pursuant to this Section, including  
2 notification that the person has 35 days within which to  
3 file a petition for review before the Board to contest the  
4 administrative citation; and

5 (5) an affidavit by the personnel observing the  
6 violation, attesting to their material actions and  
7 observations.

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

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

19 (2) If a petition for review is filed before the Board to  
20 contest an administrative citation issued under subsection (b)  
21 of this Section, the Agency or unit of local government shall  
22 appear as a complainant at a hearing before the Board to be  
23 conducted pursuant to Section 32 of this Act at a time not less  
24 than 21 days after notice of such hearing has been sent by the  
25 Board to the Agency or unit of local government and the person  
26 named in the citation. In such hearings, the burden of proof

1 shall be on the Agency or unit of local government. If, based  
2 on the record, the Board finds that the alleged violation  
3 occurred, it shall adopt a final order which shall include the  
4 administrative citation and findings of violation as alleged in  
5 the citation, and shall impose the penalty specified in  
6 subdivision (b) (4) or (b) (4-5) of Section 42. However, if the  
7 Board finds that the person appealing the citation has shown  
8 that the violation resulted from uncontrollable circumstances,  
9 the Board shall adopt a final order which makes no finding of  
10 violation and which imposes no penalty.

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

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

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

24 (Source: P.A. 96-737, eff. 8-25-09.)

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, Section

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

16        (5) Any person who violates subsection 6 of Section  
17 39.5 of this Act or any CAAPP permit, or term or condition  
18 thereof, or any fee or filing requirement, or any duty to  
19 allow or carry out inspection, entry or monitoring  
20 activities, or any regulation or order relating to the  
21 CAAPP shall be liable for a civil penalty not to exceed  
22 \$10,000 per day of violation.

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

1 for each of the premises connected to the affected  
2 community water system.

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

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

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

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

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

24           Any funds collected under this subsection (f) in which the  
25 Attorney General has prevailed shall be deposited in the  
26 Hazardous Waste Fund created in Section 22.2 of this Act. Any

1 funds collected under this subsection (f) in which a State's  
2 Attorney has prevailed shall be retained by the county in which  
3 he serves.

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

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

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

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

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

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

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

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

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

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

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

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

11           (2) that the non-compliance was disclosed in writing  
12 within 30 days of the date on which the person discovered  
13 it;

14           (3) that the non-compliance was discovered and  
15 disclosed prior to:

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

18           (ii) notice of a citizen suit;

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

22           (iv) the reporting of the non-compliance by an  
23 employee of the person without that person's  
24 knowledge; or

25           (v) imminent discovery of the non-compliance by  
26 the Agency;



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

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

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

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

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

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

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

25           (j) In addition to an other remedy or penalty that may  
26 apply, whether civil or criminal, any person who violates

1 Section 22.52 of this Act shall be liable for an additional  
2 civil penalty of up to 3 times the gross amount of any  
3 pecuniary gain resulting from the violation.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-603, eff. 8-24-09;  
5 96-737, eff. 8-25-09; revised 9-15-09.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.