



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0100

Introduced 1/27/2011, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

See Index

Amends the Industrial Hygienists Licensure Act. Provides that the Industrial Hygiene Examining Board shall meet at the call of the Director of the Environmental Protection Agency. Amends the Environmental Protection Act. Requires the Community Water Supply Testing Council to meet at the call of the Chairperson of the Council or the Director (rather than twice each year). Removes provisions requiring the Environmental Protection Agency to seek and obtain the concurrence of the Council before setting certain fees. Authorizes the Illinois Pollution Control Board (rather than the Agency) to make certain decisions concerning the operation of landscape waste composting facilities on farms. Removes provisions concerning the Uniform State Hazardous Materials Transportation Registration and Permit Programs. Provides that no person shall use, or cause or allow the use of, any site subject to an environmental covenant created under the Uniform Environmental Covenants Act in a manner that is inconsistent with the activity and use limitations imposed under the environmental covenant. Provides that the terms "activity and use limitations" and "environmental covenant" have the meanings ascribed to them in the Uniform Environmental Covenants Act. Creates 2 new criminal offenses: criminal damage to a public water supply and aggravated criminal damage to a public water supply. Removes provisions requiring State agencies to report environmental problems and remediation efforts to the Agency. Repeals a provision requiring the Environmental Protection Agency to publish a toxic chemical report containing information on, among other things, toxic chemical discharges. Effective immediately.

LRB097 00454 JDS 40472 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Industrial Hygienists Licensure Act is
5 amended by changing Section 35 as follows:

6 (225 ILCS 52/35)

7 Sec. 35. Industrial Hygiene Examining Board.

8 (1) The Director shall appoint an Industrial Hygiene
9 Examining Board consisting of 5 persons who shall serve in an
10 advisory capacity to the Director. The Board shall be composed
11 of 4 certified or licensed industrial hygienists, one of whom
12 shall serve as the chairperson, and one member of the public
13 who is not regulated under this Act or a similar Act and who
14 clearly represent consumer interests.

15 (2) Members shall serve for a term of 4 years and until
16 their successors are appointed and qualified, except for the
17 initial appointments. Of the initial appointments one member
18 shall be appointed for one year, one shall be appointed to
19 serve 2 years, one shall be appointed to serve 3 years, and 2
20 shall be appointed to serve for 4 years, and until their
21 successors are appointed and qualified. No member shall be
22 reappointed if that reappointment would cause that person's
23 service on the Board to be longer than 8 successive years.

1 Appointments to fill vacancies for the unexpired portion of a
2 vacated term shall be made in the same manner as original
3 appointments. Initial terms shall begin 30 days after the
4 effective date of this Act.

5 (3) The Director may terminate the appointment of any
6 member for cause set forth in writing which, in the opinion of
7 the Director, justifies termination.

8 (4) The Director shall consider the recommendation of the
9 Board on all matters and questions relating to this Act.

10 (5) The Board is charged with the duties and
11 responsibilities of recommending to the Director the adoption
12 of all policies, procedures, and rules which may be required or
13 deemed advisable in order to perform the duties and functions
14 conferred on the Board, the Director, and the Department to
15 carry out the provisions of this Act.

16 (6) The Board shall meet at the call of the Director.

17 (Source: P.A. 88-414.)

18 Section 10. The Environmental Protection Act is amended by
19 changing Sections 17.7, 21, 22.2, 44, and 47 and adding Section
20 22.50a as follows:

21 (415 ILCS 5/17.7) (from Ch. 111 1/2, par. 1017.7)

22 Sec. 17.7. Community water supply testing fee.

23 (a) The Agency shall collect an annual nonrefundable
24 testing fee from each community water supply for participating

1 in the laboratory fee program for analytical services to
2 determine compliance with contaminant levels specified in
3 State or federal drinking water regulations. A community water
4 supply may commit to participation in the laboratory fee
5 program. If the community water supply makes such a commitment,
6 it shall commit for a period consistent with the participation
7 requirements established by the Agency and the Community Water
8 Supply Testing Council (Council). If a community water supply
9 elects not to participate, it must annually notify the Agency
10 in writing of its decision not to participate in the laboratory
11 fee program.

12 (b) The Agency, ~~with the concurrence of the Council,~~ shall
13 determine the fee for participating in the laboratory fee
14 program for analytical services. The Agency, ~~with the~~
15 ~~concurrence of the Council,~~ may establish multi-year
16 participation requirements for community water supplies and
17 establish fees accordingly. The Agency shall base its annual
18 fee determination upon the actual and anticipated costs for
19 testing under State and federal drinking water regulations and
20 the associated administrative costs of the Agency and the
21 Council. ~~By October 1 of each year, the Agency shall submit its~~
22 ~~fee determination and supporting documentation for the~~
23 ~~forthcoming year to the Council. Before the following January~~
24 ~~1, the Council shall hold at least one regular meeting to~~
25 ~~consider the Agency's determination. If the Council concurs~~
26 ~~with the Agency's determination, it shall thereupon take~~

1 ~~effect. The Agency and the Council may establish procedures for~~
2 ~~resolution of disputes in the event the Council does not concur~~
3 ~~with the Agency's fee determination.~~

4 (c) Community water supplies that choose not to participate
5 in the laboratory fee program or do not pay the fees shall have
6 the duty to analyze all drinking water samples as required by
7 State or federal safe drinking water regulations established
8 after the federal Safe Drinking Water Act Amendments of 1986.

9 (d) There is hereby created in the State Treasury an
10 interest-bearing special fund to be known as the Community
11 Water Supply Laboratory Fund. All fees collected by the Agency
12 under this Section shall be deposited into this Fund and shall
13 be used for no other purpose except those established in this
14 Section. In addition to any monies appropriated from the
15 General Revenue Fund, monies in the Fund shall be appropriated
16 to the Agency in amounts deemed necessary for laboratory
17 testing of samples from community water supplies, and for the
18 associated administrative expenses of the Agency and the
19 Council.

20 (e) The Agency is authorized to adopt reasonable and
21 necessary rules for the administration of this Section. The
22 Agency shall submit the proposed rules for review by the
23 Council before submission of the rulemaking for the First
24 Notice under Section 5-40 of the Illinois Administrative
25 Procedure Act.

26 (f) The Director shall establish a Community Water Supply

1 Testing Council, consisting of 5 persons who are elected
2 municipal officials, 5 persons representing community water
3 supplies, one person representing the engineering profession,
4 one person representing investor-owned utilities, one person
5 representing the Illinois Association of Environmental
6 Laboratories, and 2 persons representing municipalities and
7 community water supplies on a statewide basis, all appointed by
8 the Director. Beginning in 1994, the Director shall appoint the
9 following to the Council: (i) 2 elected municipal officials, 2
10 community water supply representatives, and 1 investor-owned
11 utility representative, each for a one-year term; (ii) 2
12 elected municipal officials and 2 community water supply
13 representatives, each for a 2 year term; and (iii) one elected
14 municipal official, one community water supply representative,
15 one person representing the engineering profession, and 2
16 persons representing municipalities and community water
17 supplies on a statewide basis, each for a 3 year term. As soon
18 as possible after the effective date of this amendatory Act of
19 the 92nd General Assembly, the Director shall appoint one
20 person representing the Illinois Association of Environmental
21 Laboratories to a term of 3 years. Thereafter, the Director
22 shall appoint successors in each position to 3 year terms. In
23 case of a vacancy, the Director may appoint a successor to fill
24 the remaining term of the vacancy. Members of the Council shall
25 serve until a successor is appointed by the Director. The
26 Council shall select from its members a chairperson and such

1 other officers as it deems necessary. The Council shall meet at
2 the call of the Director or the Chairperson of the Council ~~held~~
3 ~~at least 2 regular meetings each year.~~ The Agency shall provide
4 the Council with such supporting services as the Director and
5 the Chairperson may designate, and members shall be reimbursed
6 for ordinary and necessary expenses incurred in the performance
7 of their duties. The Council shall have the following duties:

8 (1) ~~to consider any fee determinations submitted by the~~
9 ~~Agency pursuant to subsection (b) of this Section, and to~~
10 hold regular and special meetings at a time and place
11 designated by the Director or the Chairperson of the
12 Council;

13 (2) to consider appropriate means for long-term
14 financial support of water supply testing, and to make
15 recommendations to the Agency regarding a preferred
16 approach;

17 (3) to review and evaluate the financial implications
18 of current and future federal requirements for monitoring
19 of public water supplies;

20 (4) to review and evaluate management and financial
21 audit reports related to the testing program, and to make
22 recommendations regarding the Agency's efforts to
23 implement the fee system and testing provided for by this
24 Section;

25 (5) to require an external audit as may be deemed
26 necessary by the Council; and

1 (6) to conduct such other activities as may be deemed
2 appropriate by the Director.

3 (Source: P.A. 92-147, eff. 7-24-01.)

4 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

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

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

7 (b) Abandon, dump, or deposit any waste upon the public
8 highways or other public property, except in a sanitary
9 landfill approved by the Agency pursuant to regulations adopted
10 by the Board.

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

14 (d) Conduct any waste-storage, waste-treatment, or
15 waste-disposal operation:

16 (1) without a permit granted by the Agency or in
17 violation of any conditions imposed by such permit,
18 including periodic reports and full access to adequate
19 records and the inspection of facilities, as may be
20 necessary to assure compliance with this Act and with
21 regulations and standards adopted thereunder; provided,
22 however, that, except for municipal solid waste landfill
23 units that receive waste on or after October 9, 1993, no
24 permit shall be required for (i) any person conducting a
25 waste-storage, waste-treatment, or waste-disposal

1 operation for wastes generated by such person's own
2 activities which are stored, treated, or disposed within
3 the site where such wastes are generated, or (ii) a
4 facility located in a county with a population over 700,000
5 as of January 1, 2000, operated and located in accordance
6 with Section 22.38 of this Act, and used exclusively for
7 the transfer, storage, or treatment of general
8 construction or demolition debris, provided that the
9 facility was receiving construction or demolition debris
10 on the effective date of this amendatory Act of the 96th
11 General Assembly;

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

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

1 limited to information regarding: the name and address of
2 the location of the operation; the type of operation; the
3 types and amounts of waste stored, treated or disposed of
4 on an annual basis; the remaining capacity of the
5 operation; and the remaining expected life of the
6 operation.

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

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

14 (e) Dispose, treat, store or abandon any waste, or
15 transport any waste into this State for disposal, treatment,
16 storage or abandonment, except at a site or facility which
17 meets the requirements of this Act and of regulations and
18 standards thereunder.

19 (f) Conduct any hazardous waste-storage, hazardous
20 waste-treatment or hazardous waste-disposal operation:

21 (1) without a RCRA permit for the site issued by the
22 Agency under subsection (d) of Section 39 of this Act, or
23 in violation of any condition imposed by such permit,
24 including periodic reports and full access to adequate
25 records and the inspection of facilities, as may be
26 necessary to assure compliance with this Act and with

1 regulations and standards adopted thereunder; or

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

4 (3) in violation of any RCRA permit filing requirement
5 established under standards adopted by the Board under this
6 Act; or

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

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

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

20 (1) without registering with and obtaining a special
21 waste hauling permit from the Agency in accordance with the
22 regulations adopted by the Board under this Act ~~Uniform~~
23 ~~Program implemented under subsection (1-5) of Section~~
24 ~~22.2~~; or

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

1 (h) Conduct any hazardous waste-recycling or hazardous
2 waste-reclamation or hazardous waste-reuse operation in
3 violation of any regulations, standards or permit requirements
4 adopted by the Board under this Act.

5 (i) Conduct any process or engage in any act which produces
6 hazardous waste in violation of any regulations or standards
7 adopted by the Board under subsections (a) and (c) of Section
8 22.4 of this Act.

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

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

2 (l) Locate a hazardous waste disposal site above an active
3 or inactive shaft or tunneled mine or within 2 miles of an
4 active fault in the earth's crust. In counties of population
5 less than 225,000 no hazardous waste disposal site shall be
6 located (1) within 1 1/2 miles of the corporate limits as
7 defined on June 30, 1978, of any municipality without the
8 approval of the governing body of the municipality in an
9 official action; or (2) within 1000 feet of an existing private
10 well or the existing source of a public water supply measured
11 from the boundary of the actual active permitted site and
12 excluding existing private wells on the property of the permit
13 applicant. The provisions of this subsection do not apply to
14 publicly-owned sewage works or the disposal or utilization of
15 sludge from publicly-owned sewage works.

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

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

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

- 1 (1) refuse in standing or flowing waters;
- 2 (2) leachate flows entering waters of the State;
- 3 (3) leachate flows exiting the landfill confines (as
4 determined by the boundaries established for the landfill
5 by a permit issued by the Agency);
- 6 (4) open burning of refuse in violation of Section 9 of
7 this Act;
- 8 (5) uncovered refuse remaining from any previous
9 operating day or at the conclusion of any operating day,
10 unless authorized by permit;
- 11 (6) failure to provide final cover within time limits
12 established by Board regulations;
- 13 (7) acceptance of wastes without necessary permits;
- 14 (8) scavenging as defined by Board regulations;
- 15 (9) deposition of refuse in any unpermitted portion of
16 the landfill;
- 17 (10) acceptance of a special waste without a required
18 manifest;
- 19 (11) failure to submit reports required by permits or
20 Board regulations;
- 21 (12) failure to collect and contain litter from the
22 site by the end of each operating day;
- 23 (13) failure to submit any cost estimate for the site
24 or any performance bond or other security for the site as
25 required by this Act or Board rules.

26 The prohibitions specified in this subsection (o) shall be

1 enforceable by the Agency either by administrative citation
2 under Section 31.1 of this Act or as otherwise provided by this
3 Act. The specific prohibitions in this subsection do not limit
4 the power of the Board to establish regulations or standards
5 applicable to sanitary landfills.

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

9 (1) litter;

10 (2) scavenging;

11 (3) open burning;

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

13 (5) proliferation of disease vectors;

14 (6) standing or flowing liquid discharge from the dump
15 site;

16 (7) deposition of:

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

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

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

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

4 (1) conducting a landscape waste composting operation
5 for landscape wastes generated by such person's own
6 activities which are stored, treated or disposed of within
7 the site where such wastes are generated; or

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

10 (3) operating a landscape waste composting facility on
11 a farm, if the facility meets all of the following
12 criteria:

13 (A) the composting facility is operated by the
14 farmer on property on which the composting material is
15 utilized, and the composting facility constitutes no
16 more than 2% of the property's total acreage, except
17 that the Board Agency may allow a higher percentage for
18 individual sites where the owner or operator has
19 demonstrated to the Board Agency that the site's soil
20 characteristics or crop needs require a higher rate;

21 (B) the property on which the composting facility
22 is located, and any associated property on which the
23 compost is used, is principally and diligently devoted
24 to the production of agricultural crops and is not
25 owned, leased or otherwise controlled by any waste
26 hauler or generator of nonagricultural compost

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

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

13 (D) the owner or operator, by January 1, 1990 (or
14 the January 1 following commencement of operation,
15 whichever is later) and January 1 of each year
16 thereafter, (i) registers the site with the Agency,
17 (ii) reports to the Agency on the volume of composting
18 material received and used at the site, (iii) certifies
19 to the Agency that the site complies with the
20 requirements set forth in subparagraphs (A), (B) and
21 (C) of this paragraph (q) (3), and (iv) certifies to the
22 Agency that all composting material was placed more
23 than 200 feet from the nearest potable water supply
24 well, was placed outside the boundary of the 10-year
25 floodplain or on a part of the site that is
26 floodproofed, was placed at least 1/4 mile from the

1 nearest residence (other than a residence located on
2 the same property as the facility) and there are not
3 more than 10 occupied non-farm residences within 1/2
4 mile of the boundaries of the site on the date of
5 application, and was placed more than 5 feet above the
6 water table.

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

13 (r) Cause or allow the storage or disposal of coal
14 combustion waste unless:

15 (1) such waste is stored or disposed of at a site or
16 facility for which a permit has been obtained or is not
17 otherwise required under subsection (d) of this Section; or

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

22 (3) such waste is stored or disposed of at a site or
23 facility which is operating under NPDES and Subtitle D
24 permits issued by the Agency pursuant to regulations
25 adopted by the Board for mine-related water pollution and
26 permits issued pursuant to the Federal Surface Mining

1 Control and Reclamation Act of 1977 (P.L. 95-87) or the
2 rules and regulations thereunder or any law or rule or
3 regulation adopted by the State of Illinois pursuant
4 thereto, and the owner or operator of the facility agrees
5 to accept the waste; and either

6 (i) such waste is stored or disposed of in
7 accordance with requirements applicable to refuse
8 disposal under regulations adopted by the Board for
9 mine-related water pollution and pursuant to NPDES and
10 Subtitle D permits issued by the Agency under such
11 regulations; or

12 (ii) the owner or operator of the facility
13 demonstrates all of the following to the Agency, and
14 the facility is operated in accordance with the
15 demonstration as approved by the Agency: (1) the
16 disposal area will be covered in a manner that will
17 support continuous vegetation, (2) the facility will
18 be adequately protected from wind and water erosion,
19 (3) the pH will be maintained so as to prevent
20 excessive leaching of metal ions, and (4) adequate
21 containment or other measures will be provided to
22 protect surface water and groundwater from
23 contamination at levels prohibited by this Act, the
24 Illinois Groundwater Protection Act, or regulations
25 adopted pursuant thereto.

26 Notwithstanding any other provision of this Title, the

1 disposal of coal combustion waste pursuant to item (2) or (3)
2 of this subdivision (r) shall be exempt from the other
3 provisions of this Title V, and notwithstanding the provisions
4 of Title X of this Act, the Agency is authorized to grant
5 experimental permits which include provision for the disposal
6 of wastes from the combustion of coal and other materials
7 pursuant to items (2) and (3) of this subdivision (r).

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

12 (t) Cause or allow a lateral expansion of a municipal solid
13 waste landfill unit on or after October 9, 1993, without a
14 permit modification, granted by the Agency, that authorizes the
15 lateral expansion.

16 (u) Conduct any vegetable by-product treatment, storage,
17 disposal or transportation operation in violation of any
18 regulation, standards or permit requirements adopted by the
19 Board under this Act. However, no permit shall be required
20 under this Title V for the land application of vegetable
21 by-products conducted pursuant to Agency permit issued under
22 Title III of this Act to the generator of the vegetable
23 by-products. In addition, vegetable by-products may be
24 transported in this State without a special waste hauling
25 permit, and without the preparation and carrying of a manifest.

26 (v) (Blank).

1 (w) Conduct any generation, transportation, or recycling
2 of construction or demolition debris, clean or general, or
3 uncontaminated soil generated during construction, remodeling,
4 repair, and demolition of utilities, structures, and roads that
5 is not commingled with any waste, without the maintenance of
6 documentation identifying the hauler, generator, place of
7 origin of the debris or soil, the weight or volume of the
8 debris or soil, and the location, owner, and operator of the
9 facility where the debris or soil was transferred, disposed,
10 recycled, or treated. This documentation must be maintained by
11 the generator, transporter, or recycler for 3 years. This
12 subsection (w) shall not apply to (1) a permitted pollution
13 control facility that transfers or accepts construction or
14 demolition debris, clean or general, or uncontaminated soil for
15 final disposal, recycling, or treatment, (2) a public utility
16 (as that term is defined in the Public Utilities Act) or a
17 municipal utility, (3) the Illinois Department of
18 Transportation, or (4) a municipality or a county highway
19 department, with the exception of any municipality or county
20 highway department located within a county having a population
21 of over 3,000,000 inhabitants or located in a county that is
22 contiguous to a county having a population of over 3,000,000
23 inhabitants; but it shall apply to an entity that contracts
24 with a public utility, a municipal utility, the Illinois
25 Department of Transportation, or a municipality or a county
26 highway department. The terms "generation" and "recycling" as

1 used in this subsection do not apply to clean construction or
2 demolition debris when (i) used as fill material below grade
3 outside of a setback zone if covered by sufficient
4 uncontaminated soil to support vegetation within 30 days of the
5 completion of filling or if covered by a road or structure,
6 (ii) solely broken concrete without protruding metal bars is
7 used for erosion control, or (iii) milled asphalt or crushed
8 concrete is used as aggregate in construction of the shoulder
9 of a roadway. The terms "generation" and "recycling", as used
10 in this subsection, do not apply to uncontaminated soil that is
11 not commingled with any waste when (i) used as fill material
12 below grade or contoured to grade, or (ii) used at the site of
13 generation.

14 (Source: P.A. 96-611, eff. 8-24-09.)

15 (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

16 Sec. 22.2. Hazardous waste; fees; liability.

17 (a) There are hereby created within the State Treasury 2
18 special funds to be known respectively as the "Hazardous Waste
19 Fund" and the "Hazardous Waste Research Fund", constituted from
20 the fees collected pursuant to this Section. In addition to the
21 fees collected under this Section, the Hazardous Waste Fund
22 shall include other moneys made available from any source for
23 deposit into the Fund.

24 (b) (1) On and after January 1, 1989, the Agency shall
25 collect from the owner or operator of each of the following

1 sites a fee in the amount of:

2 (A) 9 cents per gallon or \$18.18 per cubic yard, if
3 the hazardous waste disposal site is located off the
4 site where such waste was produced. The maximum amount
5 payable under this subdivision (A) with respect to the
6 hazardous waste generated by a single generator and
7 deposited in monofills is \$30,000 per year. If, as a
8 result of the use of multiple monofills, waste fees in
9 excess of the maximum are assessed with respect to a
10 single waste generator, the generator may apply to the
11 Agency for a credit.

12 (B) 9 cents or \$18.18 per cubic yard, if the
13 hazardous waste disposal site is located on the site
14 where such waste was produced, provided however the
15 maximum amount of fees payable under this paragraph (B)
16 is \$30,000 per year for each such hazardous waste
17 disposal site.

18 (C) If the hazardous waste disposal site is an
19 underground injection well, \$6,000 per year if not more
20 than 10,000,000 gallons per year are injected, \$15,000
21 per year if more than 10,000,000 gallons but not more
22 than 50,000,000 gallons per year are injected, and
23 \$27,000 per year if more than 50,000,000 gallons per
24 year are injected.

25 (D) 3 cents per gallon or \$6.06 per cubic yard of
26 hazardous waste received for treatment at a hazardous

1 waste treatment site, if the hazardous waste treatment
2 site is located off the site where such waste was
3 produced and if such hazardous waste treatment site is
4 owned, controlled and operated by a person other than
5 the generator of such waste. After treatment at such
6 hazardous waste treatment site, the waste shall not be
7 subject to any other fee imposed by this subsection
8 (b). For purposes of this subsection (b), the term
9 "treatment" is defined as in Section 3.505 but shall
10 not include recycling, reclamation or reuse.

11 (2) The General Assembly shall annually appropriate to
12 the Fund such amounts as it deems necessary to fulfill the
13 purposes of this Act.

14 (3) The Agency shall have the authority to accept,
15 receive, and administer on behalf of the State any moneys
16 made available to the State from any source for the
17 purposes of the Hazardous Waste Fund set forth in
18 subsection (d) of this Section.

19 (4) Of the amount collected as fees provided for in
20 this Section, the Agency shall manage the use of such funds
21 to assure that sufficient funds are available for match
22 towards federal expenditures for response action at sites
23 which are listed on the National Priorities List; provided,
24 however, that this shall not apply to additional monies
25 appropriated to the Fund by the General Assembly, nor shall
26 it apply in the event that the Director finds that revenues

1 in the Hazardous Waste Fund must be used to address
2 conditions which create or may create an immediate danger
3 to the environment or public health or to the welfare of
4 the people of the State of Illinois.

5 (5) Notwithstanding the other provisions of this
6 subsection (b), sludge from a publicly-owned sewage works
7 generated in Illinois, coal mining wastes and refuse
8 generated in Illinois, bottom boiler ash, flyash and flue
9 gas desulphurization sludge from public utility electric
10 generating facilities located in Illinois, and bottom
11 boiler ash and flyash from all incinerators which process
12 solely municipal waste shall not be subject to the fee.

13 (6) For the purposes of this subsection (b), "monofill"
14 means a facility, or a unit at a facility, that accepts
15 only wastes bearing the same USEPA hazardous waste
16 identification number, or compatible wastes as determined
17 by the Agency.

18 (c) The Agency shall establish procedures, not later than
19 January 1, 1984, relating to the collection of the fees
20 authorized by this Section. Such procedures shall include, but
21 not be limited to: (1) necessary records identifying the
22 quantities of hazardous waste received or disposed; (2) the
23 form and submission of reports to accompany the payment of fees
24 to the Agency; and (3) the time and manner of payment of fees
25 to the Agency, which payments shall be not more often than
26 quarterly.

1 (d) Beginning July 1, 1996, the Agency shall deposit all
2 such receipts in the State Treasury to the credit of the
3 Hazardous Waste Fund, except as provided in subsection (e) of
4 this Section. All monies in the Hazardous Waste Fund shall be
5 used by the Agency for the following purposes:

6 (1) Taking whatever preventive or corrective action is
7 necessary or appropriate, in circumstances certified by
8 the Director, including but not limited to removal or
9 remedial action whenever there is a release or substantial
10 threat of a release of a hazardous substance or pesticide;
11 provided, the Agency shall expend no more than \$1,000,000
12 on any single incident without appropriation by the General
13 Assembly.

14 (2) To meet any requirements which must be met by the
15 State in order to obtain federal funds pursuant to the
16 Comprehensive Environmental Response, Compensation and
17 Liability Act of 1980, (P.L. 96-510).

18 (3) In an amount up to 30% of the amount collected as
19 fees provided for in this Section, for use by the Agency to
20 conduct groundwater protection activities, including
21 providing grants to appropriate units of local government
22 which are addressing protection of underground waters
23 pursuant to the provisions of this Act.

24 (4) To fund the development and implementation of the
25 model pesticide collection program under Section 19.1 of
26 the Illinois Pesticide Act.

1 (5) To the extent the Agency has received and deposited
2 monies in the Fund other than fees collected under
3 subsection (b) of this Section, to pay for the cost of
4 Agency employees for services provided in reviewing the
5 performance of response actions pursuant to Title XVII of
6 this Act.

7 (6) In an amount up to 15% of the fees collected
8 annually under subsection (b) of this Section, for use by
9 the Agency for administration of the provisions of this
10 Section.

11 (e) The Agency shall deposit 10% of all receipts collected
12 under subsection (b) of this Section, but not to exceed
13 \$200,000 per year, in the State Treasury to the credit of the
14 Hazardous Waste Research Fund established by this Act. Pursuant
15 to appropriation, all monies in such Fund shall be used by the
16 University of Illinois for the purposes set forth in this
17 subsection.

18 The University of Illinois may enter into contracts with
19 business, industrial, university, governmental or other
20 qualified individuals or organizations to assist in the
21 research and development intended to recycle, reduce the volume
22 of, separate, detoxify or reduce the hazardous properties of
23 hazardous wastes in Illinois. Monies in the Fund may also be
24 used by the University of Illinois for technical studies,
25 monitoring activities, and educational and research activities
26 which are related to the protection of underground waters.

1 Monies in the Hazardous Waste Research Fund may be used to
2 administer the Illinois Health and Hazardous Substances
3 Registry Act. Monies in the Hazardous Waste Research Fund shall
4 not be used for any sanitary landfill or the acquisition or
5 construction of any facility. This does not preclude the
6 purchase of equipment for the purpose of public demonstration
7 projects. The University of Illinois shall adopt guidelines for
8 cost sharing, selecting, and administering projects under this
9 subsection.

10 (f) Notwithstanding any other provision or rule of law, and
11 subject only to the defenses set forth in subsection (j) of
12 this Section, the following persons shall be liable for all
13 costs of removal or remedial action incurred by the State of
14 Illinois or any unit of local government as a result of a
15 release or substantial threat of a release of a hazardous
16 substance or pesticide:

17 (1) the owner and operator of a facility or vessel from
18 which there is a release or substantial threat of release
19 of a hazardous substance or pesticide;

20 (2) any person who at the time of disposal, transport,
21 storage or treatment of a hazardous substance or pesticide
22 owned or operated the facility or vessel used for such
23 disposal, transport, treatment or storage from which there
24 was a release or substantial threat of a release of any
25 such hazardous substance or pesticide;

26 (3) any person who by contract, agreement, or otherwise

1 has arranged with another party or entity for transport,
2 storage, disposal or treatment of hazardous substances or
3 pesticides owned, controlled or possessed by such person at
4 a facility owned or operated by another party or entity
5 from which facility there is a release or substantial
6 threat of a release of such hazardous substances or
7 pesticides; and

8 (4) any person who accepts or accepted any hazardous
9 substances or pesticides for transport to disposal,
10 storage or treatment facilities or sites from which there
11 is a release or a substantial threat of a release of a
12 hazardous substance or pesticide.

13 Any monies received by the State of Illinois pursuant to
14 this subsection (f) shall be deposited in the State Treasury to
15 the credit of the Hazardous Waste Fund.

16 In accordance with the other provisions of this Section,
17 costs of removal or remedial action incurred by a unit of local
18 government may be recovered in an action before the Board
19 brought by the unit of local government under subsection (i) of
20 this Section. Any monies so recovered shall be paid to the unit
21 of local government.

22 (g) (1) No indemnification, hold harmless, or similar
23 agreement or conveyance shall be effective to transfer from
24 the owner or operator of any vessel or facility or from any
25 person who may be liable for a release or substantial
26 threat of a release under this Section, to any other person

1 the liability imposed under this Section. Nothing in this
2 Section shall bar any agreement to insure, hold harmless or
3 indemnify a party to such agreements for any liability
4 under this Section.

5 (2) Nothing in this Section, including the provisions
6 of paragraph (g) (1) of this Section, shall bar a cause of
7 action that an owner or operator or any other person
8 subject to liability under this Section, or a guarantor,
9 has or would have, by reason of subrogation or otherwise
10 against any person.

11 (h) For purposes of this Section:

12 (1) The term "facility" means:

13 (A) any building, structure, installation,
14 equipment, pipe or pipeline including but not limited
15 to any pipe into a sewer or publicly owned treatment
16 works, well, pit, pond, lagoon, impoundment, ditch,
17 landfill, storage container, motor vehicle, rolling
18 stock, or aircraft; or

19 (B) any site or area where a hazardous substance
20 has been deposited, stored, disposed of, placed, or
21 otherwise come to be located.

22 (2) The term "owner or operator" means:

23 (A) any person owning or operating a vessel or
24 facility;

25 (B) in the case of an abandoned facility, any
26 person owning or operating the abandoned facility or

1 any person who owned, operated, or otherwise
2 controlled activities at the abandoned facility
3 immediately prior to such abandonment;

4 (C) in the case of a land trust as defined in
5 Section 2 of the Land Trustee as Creditor Act, the
6 person owning the beneficial interest in the land
7 trust;

8 (D) in the case of a fiduciary (other than a land
9 trustee), the estate, trust estate, or other interest
10 in property held in a fiduciary capacity, and not the
11 fiduciary. For the purposes of this Section,
12 "fiduciary" means a trustee, executor, administrator,
13 guardian, receiver, conservator or other person
14 holding a facility or vessel in a fiduciary capacity;

15 (E) in the case of a "financial institution",
16 meaning the Illinois Housing Development Authority and
17 that term as defined in Section 2 of the Illinois
18 Banking Act, that has acquired ownership, operation,
19 management, or control of a vessel or facility through
20 foreclosure or under the terms of a security interest
21 held by the financial institution or under the terms of
22 an extension of credit made by the financial
23 institution, the financial institution only if the
24 financial institution takes possession of the vessel
25 or facility and the financial institution exercises
26 actual, direct, and continual or recurrent managerial

1 control in the operation of the vessel or facility that
2 causes a release or substantial threat of a release of
3 a hazardous substance or pesticide resulting in
4 removal or remedial action;

5 (F) In the case of an owner of residential
6 property, the owner if the owner is a person other than
7 an individual, or if the owner is an individual who
8 owns more than 10 dwelling units in Illinois, or if the
9 owner, or an agent, representative, contractor, or
10 employee of the owner, has caused, contributed to, or
11 allowed the release or threatened release of a
12 hazardous substance or pesticide. The term
13 "residential property" means single family residences
14 of one to 4 dwelling units, including accessory land,
15 buildings, or improvements incidental to those
16 dwellings that are exclusively used for the
17 residential use. For purposes of this subparagraph
18 (F), the term "individual" means a natural person, and
19 shall not include corporations, partnerships, trusts,
20 or other non-natural persons.

21 (G) In the case of any facility, title or control
22 of which was conveyed due to bankruptcy, foreclosure,
23 tax delinquency, abandonment, or similar means to a
24 unit of State or local government, any person who
25 owned, operated, or otherwise controlled activities at
26 the facility immediately beforehand.

1 (H) The term "owner or operator" does not include a
2 unit of State or local government which acquired
3 ownership or control through bankruptcy, tax
4 delinquency, abandonment, or other circumstances in
5 which the government acquires title by virtue of its
6 function as sovereign. The exclusion provided under
7 this paragraph shall not apply to any State or local
8 government which has caused or contributed to the
9 release or threatened release of a hazardous substance
10 from the facility, and such a State or local government
11 shall be subject to the provisions of this Act in the
12 same manner and to the same extent, both procedurally
13 and substantively, as any nongovernmental entity,
14 including liability under Section 22.2(f).

15 (i) The costs and damages provided for in this Section may
16 be imposed by the Board in an action brought before the Board
17 in accordance with Title VIII of this Act, except that Section
18 33(c) of this Act shall not apply to any such action.

19 (j)(1) There shall be no liability under this Section for a
20 person otherwise liable who can establish by a preponderance of
21 the evidence that the release or substantial threat of release
22 of a hazardous substance and the damages resulting therefrom
23 were caused solely by:

24 (A) an act of God;

25 (B) an act of war;

26 (C) an act or omission of a third party other than an

1 employee or agent of the defendant, or other than one whose
2 act or omission occurs in connection with a contractual
3 relationship, existing directly or indirectly, with the
4 defendant (except where the sole contractual arrangement
5 arises from a published tariff and acceptance for carriage
6 by a common carrier by rail), if the defendant establishes
7 by a preponderance of the evidence that (i) he exercised
8 due care with respect to the hazardous substance concerned,
9 taking into consideration the characteristics of such
10 hazardous substance, in light of all relevant facts and
11 circumstances, and (ii) he took precautions against
12 foreseeable acts or omissions of any such third party and
13 the consequences that could foreseeably result from such
14 acts or omissions; or

15 (D) any combination of the foregoing paragraphs.

16 (2) There shall be no liability under this Section for any
17 release permitted by State or federal law.

18 (3) There shall be no liability under this Section for
19 damages as a result of actions taken or omitted in the course
20 of rendering care, assistance, or advice in accordance with
21 this Section or the National Contingency Plan pursuant to the
22 Comprehensive Environmental Response, Compensation and
23 Liability Act of 1980 (P.L. 96-510) or at the direction of an
24 on-scene coordinator appointed under such plan, with respect to
25 an incident creating a danger to public health or welfare or
26 the environment as a result of any release of a hazardous

1 substance or a substantial threat thereof. This subsection
2 shall not preclude liability for damages as the result of gross
3 negligence or intentional misconduct on the part of such
4 person. For the purposes of the preceding sentence, reckless,
5 willful, or wanton misconduct shall constitute gross
6 negligence.

7 (4) There shall be no liability under this Section for any
8 person (including, but not limited to, an owner of residential
9 property who applies a pesticide to the residential property or
10 who has another person apply a pesticide to the residential
11 property) for response costs or damages as the result of the
12 storage, handling and use, or recommendation for storage,
13 handling and use, of a pesticide consistent with:

14 (A) its directions for storage, handling and use as
15 stated in its label or labeling;

16 (B) its warnings and cautions as stated in its label or
17 labeling; and

18 (C) the uses for which it is registered under the
19 Federal Insecticide, Fungicide and Rodenticide Act and the
20 Illinois Pesticide Act.

21 (4.5) There shall be no liability under subdivision (f)(1)
22 of this Section for response costs or damages as the result of
23 a release of a pesticide from an agrichemical facility site if
24 the Agency has received notice from the Department of
25 Agriculture pursuant to Section 19.3 of the Illinois Pesticide
26 Act, the owner or operator of the agrichemical facility is

1 proceeding with a corrective action plan under the Agrichemical
2 Facility Response Action Program implemented under that
3 Section, and the Agency has provided a written endorsement of a
4 corrective action plan.

5 (4.6) There shall be no liability under subdivision (f)(1)
6 of this Section for response costs or damages as the result of
7 a substantial threat of a release of a pesticide from an
8 agrichemical facility site if the Agency has received notice
9 from the Department of Agriculture pursuant to Section 19.3 of
10 the Illinois Pesticide Act and the owner or operator of the
11 agrichemical facility is proceeding with a corrective action
12 plan under the Agrichemical Facility Response Action Program
13 implemented under that Section.

14 (5) Nothing in this subsection (j) shall affect or modify
15 in any way the obligations or liability of any person under any
16 other provision of this Act or State or federal law, including
17 common law, for damages, injury, or loss resulting from a
18 release or substantial threat of a release of any hazardous
19 substance or for removal or remedial action or the costs of
20 removal or remedial action of such hazardous substance.

21 (6) (A) The term "contractual relationship", for the
22 purpose of this subsection includes, but is not limited to,
23 land contracts, deeds or other instruments transferring title
24 or possession, unless the real property on which the facility
25 concerned is located was acquired by the defendant after the
26 disposal or placement of the hazardous substance on, in, or at

1 the facility, and one or more of the circumstances described in
2 clause (i), (ii), or (iii) of this paragraph is also
3 established by the defendant by a preponderance of the
4 evidence:

5 (i) At the time the defendant acquired the facility the
6 defendant did not know and had no reason to know that any
7 hazardous substance which is the subject of the release or
8 threatened release was disposed of on, in or at the
9 facility.

10 (ii) The defendant is a government entity which
11 acquired the facility by escheat, or through any other
12 involuntary transfer or acquisition, or through the
13 exercise of eminent domain authority by purchase or
14 condemnation.

15 (iii) The defendant acquired the facility by
16 inheritance or bequest.

17 In addition to establishing the foregoing, the defendant
18 must establish that he has satisfied the requirements of
19 subparagraph (C) of paragraph (1) of this subsection (j).

20 (B) To establish the defendant had no reason to know, as
21 provided in clause (i) of subparagraph (A) of this paragraph,
22 the defendant must have undertaken, at the time of acquisition,
23 all appropriate inquiry into the previous ownership and uses of
24 the property consistent with good commercial or customary
25 practice in an effort to minimize liability. For purposes of
26 the preceding sentence, the court shall take into account any

1 specialized knowledge or experience on the part of the
2 defendant, the relationship of the purchase price to the value
3 of the property if uncontaminated, commonly known or reasonably
4 ascertainable information about the property, the obviousness
5 of the presence or likely presence of contamination at the
6 property, and the ability to detect such contamination by
7 appropriate inspection.

8 (C) Nothing in this paragraph (6) or in subparagraph (C) of
9 paragraph (1) of this subsection shall diminish the liability
10 of any previous owner or operator of such facility who would
11 otherwise be liable under this Act. Notwithstanding this
12 paragraph (6), if the defendant obtained actual knowledge of
13 the release or threatened release of a hazardous substance at
14 such facility when the defendant owned the real property and
15 then subsequently transferred ownership of the property to
16 another person without disclosing such knowledge, such
17 defendant shall be treated as liable under subsection (f) of
18 this Section and no defense under subparagraph (C) of paragraph
19 (1) of this subsection shall be available to such defendant.

20 (D) Nothing in this paragraph (6) shall affect the
21 liability under this Act of a defendant who, by any act or
22 omission, caused or contributed to the release or threatened
23 release of a hazardous substance which is the subject of the
24 action relating to the facility.

25 (E) (i) Except as provided in clause (ii) of this
26 subparagraph (E), a defendant who has acquired real property

1 shall have established a rebuttable presumption against all
2 State claims and a conclusive presumption against all private
3 party claims that the defendant has made all appropriate
4 inquiry within the meaning of subdivision (6)(B) of this
5 subsection (j) if the defendant proves that immediately prior
6 to or at the time of the acquisition:

7 (I) the defendant obtained a Phase I Environmental
8 Audit of the real property that meets or exceeds the
9 requirements of this subparagraph (E), and the Phase I
10 Environmental Audit did not disclose the presence or likely
11 presence of a release or a substantial threat of a release
12 of a hazardous substance or pesticide at, on, to, or from
13 the real property; or

14 (II) the defendant obtained a Phase II Environmental
15 Audit of the real property that meets or exceeds the
16 requirements of this subparagraph (E), and the Phase II
17 Environmental Audit did not disclose the presence or likely
18 presence of a release or a substantial threat of a release
19 of a hazardous substance or pesticide at, on, to, or from
20 the real property.

21 (ii) No presumption shall be created under clause (i) of
22 this subparagraph (E), and a defendant shall be precluded from
23 demonstrating that the defendant has made all appropriate
24 inquiry within the meaning of subdivision (6)(B) of this
25 subsection (j), if:

26 (I) the defendant fails to obtain all Environmental

1 Audits required under this subparagraph (E) or any such
2 Environmental Audit fails to meet or exceed the
3 requirements of this subparagraph (E);

4 (II) a Phase I Environmental Audit discloses the
5 presence or likely presence of a release or a substantial
6 threat of a release of a hazardous substance or pesticide
7 at, on, to, or from real property, and the defendant fails
8 to obtain a Phase II Environmental Audit;

9 (III) a Phase II Environmental Audit discloses the
10 presence or likely presence of a release or a substantial
11 threat of a release of a hazardous substance or pesticide
12 at, on, to, or from the real property;

13 (IV) the defendant fails to maintain a written
14 compilation and explanatory summary report of the
15 information reviewed in the course of each Environmental
16 Audit under this subparagraph (E); or

17 (V) there is any evidence of fraud, material
18 concealment, or material misrepresentation by the
19 defendant of environmental conditions or of related
20 information discovered during the course of an
21 Environmental Audit.

22 (iii) For purposes of this subparagraph (E), the term
23 "environmental professional" means an individual (other than a
24 practicing attorney) who, through academic training,
25 occupational experience, and reputation (such as engineers,
26 industrial hygienists, or geologists) can objectively conduct

1 one or more aspects of an Environmental Audit and who either:

2 (I) maintains at the time of the Environmental Audit
3 and for at least one year thereafter at least \$500,000 of
4 environmental consultants' professional liability
5 insurance coverage issued by an insurance company licensed
6 to do business in Illinois; or

7 (II) is an Illinois licensed professional engineer or
8 an Illinois licensed industrial hygienist.

9 An environmental professional may employ persons who are
10 not environmental professionals to assist in the preparation of
11 an Environmental Audit if such persons are under the direct
12 supervision and control of the environmental professional.

13 (iv) For purposes of this subparagraph (E), the term "real
14 property" means any interest in any parcel of land, and
15 includes, but is not limited to, buildings, fixtures, and
16 improvements.

17 (v) For purposes of this subparagraph (E), the term "Phase
18 I Environmental Audit" means an investigation of real property,
19 conducted by environmental professionals, to discover the
20 presence or likely presence of a release or a substantial
21 threat of a release of a hazardous substance or pesticide at,
22 on, to, or from real property, and whether a release or a
23 substantial threat of a release of a hazardous substance or
24 pesticide has occurred or may occur at, on, to, or from the
25 real property. Until such time as the United States
26 Environmental Protection Agency establishes standards for

1 making appropriate inquiry into the previous ownership and uses
2 of the facility pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii), the
3 investigation shall comply with the procedures of the American
4 Society for Testing and Materials, including the document known
5 as Standard E1527-97, entitled "Standard Procedures for
6 Environmental Site Assessment: Phase 1 Environmental Site
7 Assessment Process". Upon their adoption, the standards
8 promulgated by USEPA pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii)
9 shall govern the performance of Phase I Environmental Audits.
10 In addition to the above requirements, the Phase I
11 Environmental Audit shall include a review of recorded land
12 title records for the purpose of determining whether the real
13 property is subject to an environmental land use restriction
14 such as a No Further Remediation Letter, Environmental Land Use
15 Control, or Highway Authority Agreement.

16 (vi) For purposes of subparagraph (E), the term "Phase II
17 Environmental Audit" means an investigation of real property,
18 conducted by environmental professionals, subsequent to a
19 Phase I Environmental Audit. If the Phase I Environmental Audit
20 discloses the presence or likely presence of a hazardous
21 substance or a pesticide or a release or a substantial threat
22 of a release of a hazardous substance or pesticide:

23 (I) In or to soil, the defendant, as part of the Phase
24 II Environmental Audit, shall perform a series of soil
25 borings sufficient to determine whether there is a presence
26 or likely presence of a hazardous substance or pesticide

1 and whether there is or has been a release or a substantial
2 threat of a release of a hazardous substance or pesticide
3 at, on, to, or from the real property.

4 (II) In or to groundwater, the defendant, as part of
5 the Phase II Environmental Audit, shall: review
6 information regarding local geology, water well locations,
7 and locations of waters of the State as may be obtained
8 from State, federal, and local government records,
9 including but not limited to the United States Geological
10 Survey, the State Geological Survey of the University of
11 Illinois, and the State Water Survey of the University of
12 Illinois; and perform groundwater monitoring sufficient to
13 determine whether there is a presence or likely presence of
14 a hazardous substance or pesticide, and whether there is or
15 has been a release or a substantial threat of a release of
16 a hazardous substance or pesticide at, on, to, or from the
17 real property.

18 (III) On or to media other than soil or groundwater,
19 the defendant, as part of the Phase II Environmental Audit,
20 shall perform an investigation sufficient to determine
21 whether there is a presence or likely presence of a
22 hazardous substance or pesticide, and whether there is or
23 has been a release or a substantial threat of a release of
24 a hazardous substance or pesticide at, on, to, or from the
25 real property.

26 (vii) The findings of each Environmental Audit prepared

1 under this subparagraph (E) shall be set forth in a written
2 audit report. Each audit report shall contain an affirmation by
3 the defendant and by each environmental professional who
4 prepared the Environmental Audit that the facts stated in the
5 report are true and are made under a penalty of perjury as
6 defined in Section 32-2 of the Criminal Code of 1961. It is
7 perjury for any person to sign an audit report that contains a
8 false material statement that the person does not believe to be
9 true.

10 (viii) The Agency is not required to review, approve, or
11 certify the results of any Environmental Audit. The performance
12 of an Environmental Audit shall in no way entitle a defendant
13 to a presumption of Agency approval or certification of the
14 results of the Environmental Audit.

15 The presence or absence of a disclosure document prepared
16 under the Responsible Property Transfer Act of 1988 shall not
17 be a defense under this Act and shall not satisfy the
18 requirements of subdivision (6)(A) of this subsection (j).

19 (7) No person shall be liable under this Section for
20 response costs or damages as the result of a pesticide release
21 if the Agency has found that a pesticide release occurred based
22 on a Health Advisory issued by the U.S. Environmental
23 Protection Agency or an action level developed by the Agency,
24 unless the Agency notified the manufacturer of the pesticide
25 and provided an opportunity of not less than 30 days for the
26 manufacturer to comment on the technical and scientific

1 justification supporting the Health Advisory or action level.

2 (8) No person shall be liable under this Section for
3 response costs or damages as the result of a pesticide release
4 that occurs in the course of a farm pesticide collection
5 program operated under Section 19.1 of the Illinois Pesticide
6 Act, unless the release results from gross negligence or
7 intentional misconduct.

8 (k) If any person who is liable for a release or
9 substantial threat of release of a hazardous substance or
10 pesticide fails without sufficient cause to provide removal or
11 remedial action upon or in accordance with a notice and request
12 by the Agency or upon or in accordance with any order of the
13 Board or any court, such person may be liable to the State for
14 punitive damages in an amount at least equal to, and not more
15 than 3 times, the amount of any costs incurred by the State of
16 Illinois as a result of such failure to take such removal or
17 remedial action. The punitive damages imposed by the Board
18 shall be in addition to any costs recovered from such person
19 pursuant to this Section and in addition to any other penalty
20 or relief provided by this Act or any other law.

21 Any monies received by the State pursuant to this
22 subsection (k) shall be deposited in the Hazardous Waste Fund.

23 (l) Beginning January 1, 1988, the Agency shall annually
24 collect a \$250 fee for each Special Waste Hauling Permit
25 Application and, in addition, shall collect a fee of \$20 for
26 each waste hauling vehicle identified in the annual permit

1 application and for each vehicle which is added to the permit
2 during the annual period. The Agency shall deposit 85% of such
3 fees collected under this subsection in the State Treasury to
4 the credit of the Hazardous Waste Research Fund; and shall
5 deposit the remaining 15% of such fees collected in the State
6 Treasury to the credit of the Environmental Protection Permit
7 and Inspection Fund. The majority of such receipts which are
8 deposited in the Hazardous Waste Research Fund pursuant to this
9 subsection shall be used by the University of Illinois for
10 activities which relate to the protection of underground
11 waters. ~~Persons engaged in the offsite transportation of~~
12 ~~hazardous waste by highway and participating in the Uniform~~
13 ~~Program under subsection (1-5) are not required to file a~~
14 ~~Special Waste Hauling Permit Application.~~

15 (1-5) (Blank). ~~(1) As used in this subsection:~~

16 ~~"Base state" means the state selected by a transporter~~
17 ~~according to the procedures established under the Uniform~~
18 ~~Program.~~

19 ~~"Base state agreement" means an agreement between~~
20 ~~participating states electing to register or permit~~
21 ~~transporters.~~

22 ~~"Participating state" means a state electing to~~
23 ~~participate in the Uniform Program by entering into a base~~
24 ~~state agreement.~~

25 ~~"Transporter" means a person engaged in the offsite~~
26 ~~transportation of hazardous waste by highway.~~

1 ~~"Uniform application" means the uniform registration~~
2 ~~and permit application form prescribed under the Uniform~~
3 ~~Program.~~

4 ~~"Uniform Program" means the Uniform State Hazardous~~
5 ~~Materials Transportation Registration and Permit Program~~
6 ~~established in the report submitted and amended pursuant to~~
7 ~~49 U.S.C. Section 5119(b), as implemented by the Agency~~
8 ~~under this subsection.~~

9 ~~"Vehicle" means any self propelled motor vehicle,~~
10 ~~except a truck tractor without a trailer, designed or used~~
11 ~~for the transportation of hazardous waste subject to the~~
12 ~~hazardous waste manifesting requirements of 40 U.S.C.~~
13 ~~Section 6923(a)(3).~~

14 ~~(2) Beginning July 1, 1998, the Agency shall implement~~
15 ~~the Uniform State Hazardous Materials Transportation~~
16 ~~Registration and Permit Program. On and after that date, no~~
17 ~~person shall engage in the offsite transportation of~~
18 ~~hazardous waste by highway without registering and~~
19 ~~obtaining a permit under the Uniform Program. A transporter~~
20 ~~with its principal place of business in Illinois shall~~
21 ~~register with and obtain a permit from the Agency. A~~
22 ~~transporter that designates another participating state in~~
23 ~~the Uniform Program as its base state shall likewise~~
24 ~~register with and obtain a permit from that state before~~
25 ~~transporting hazardous waste in Illinois.~~

26 ~~(3) Beginning July 1, 1998, the Agency shall annually~~

1 ~~collect no more than a \$250 processing and audit fee from~~
2 ~~each transporter of hazardous waste who has filed a uniform~~
3 ~~application and, in addition, the Agency shall annually~~
4 ~~collect an apportioned vehicle registration fee of \$20. The~~
5 ~~amount of the apportioned vehicle registration fee shall be~~
6 ~~calculated consistent with the procedures established~~
7 ~~under the Uniform Program.~~

8 ~~All moneys received by the Agency from the collection~~
9 ~~of fees pursuant to the Uniform Program shall be deposited~~
10 ~~into the Hazardous Waste Transporter account hereby~~
11 ~~created within the Environmental Protection Permit and~~
12 ~~Inspection Fund. Moneys remaining in the account at the~~
13 ~~close of the fiscal year shall not lapse to the General~~
14 ~~Revenue Fund. The State Treasurer may receive money or~~
15 ~~other assets from any source for deposit into the account.~~
16 ~~The Agency may expend moneys from the account, upon~~
17 ~~appropriation, for the implementation of the Uniform~~
18 ~~Program, including the costs to the Agency of fee~~
19 ~~collection and administration. In addition, funds not~~
20 ~~expended for the implementation of the Uniform Program may~~
21 ~~be utilized for emergency response and cleanup activities~~
22 ~~related to hazardous waste transportation that are~~
23 ~~initiated by the Agency.~~

24 ~~Whenever the amount of the Hazardous Waste Transporter~~
25 ~~account exceeds by 115% the amount annually appropriated by the~~
26 ~~General Assembly, the Agency shall credit participating~~

1 ~~transporters an amount, proportionately based on the amount of~~
2 ~~the vehicle fee paid, equal to the excess in the account, and~~
3 ~~shall determine the need to reduce the amount of the fee~~
4 ~~charged transporters in the subsequent fiscal year by the~~
5 ~~amount of the credit.~~

6 ~~(4) (A) The Agency may propose and the Board shall adopt~~
7 ~~rules as necessary to implement and enforce the Uniform~~
8 ~~Program. The Agency is authorized to enter into agreements~~
9 ~~with other agencies of this State as necessary to carry out~~
10 ~~administrative functions or enforcement of the Uniform~~
11 ~~Program.~~

12 ~~(B) The Agency shall recognize a Uniform Program~~
13 ~~registration as valid for one year from the date a notice~~
14 ~~of registration form is issued and a permit as valid for 3~~
15 ~~years from the date issued or until a transporter fails to~~
16 ~~renew its registration, whichever occurs first.~~

17 ~~(C) The Agency may inspect or examine any motor vehicle~~
18 ~~or facility operated by a transporter, including papers,~~
19 ~~books, records, documents, or other materials to determine~~
20 ~~if a transporter is complying with the Uniform Program. The~~
21 ~~Agency may also conduct investigations and audits as~~
22 ~~necessary to determine if a transporter is entitled to a~~
23 ~~permit or to make suspension or revocation determinations~~
24 ~~consistent with the standards of the Uniform Program.~~

25 ~~(5) The Agency may enter into agreements with federal~~
26 ~~agencies, national repositories, or other participating~~

1 ~~states as necessary to allow for the reciprocal~~
2 ~~registration and permitting of transporters pursuant to~~
3 ~~the Uniform Program. The agreements may include procedures~~
4 ~~for determining a base state, the collection and~~
5 ~~distribution of registration fees, dispute resolution, the~~
6 ~~exchange of information for reporting and enforcement~~
7 ~~purposes, and other provisions necessary to fully~~
8 ~~implement, administer, and enforce the Uniform Program.~~

9 (m) (Blank).

10 (n) (Blank).

11 (Source: P.A. 95-728, eff. 7-1-08 - See Sec. 999.)

12 (415 ILCS 5/22.50a new)

13 Sec. 22.50a. Compliance with environmental covenants. No
14 person shall use, or cause or allow the use of, any site
15 subject to an environmental covenant created under the Uniform
16 Environmental Covenants Act in a manner that is inconsistent
17 with the activity and use limitations imposed under the
18 environmental covenant. For purposes of this Section, the terms
19 "activity and use limitations" and "environmental covenant"
20 shall mean "activity and use limitations" and "environmental
21 covenant" as those terms are defined in the Uniform
22 Environmental Covenants Act.

23 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

24 Sec. 44. Criminal acts; penalties.

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

14 (b) Calculated Criminal Disposal of Hazardous Waste.

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

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

1 offense.

2 (c) Criminal Disposal of Hazardous Waste.

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

6 (2) Criminal Disposal of Hazardous Waste is a Class 3
7 felony. In addition to any other penalties prescribed by
8 law, a person convicted of the offense of Criminal Disposal
9 of Hazardous Waste is subject to a fine not to exceed
10 \$250,000 for each day of such offense.

11 (d) Unauthorized Use of Hazardous Waste.

12 (1) A person commits the offense of Unauthorized Use of
13 Hazardous Waste when he, being required to have a permit,
14 registration, or license under this Act or any other law
15 regulating the treatment, transportation, or storage of
16 hazardous waste, knowingly:

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

19 (B) treats, transports, or stores any hazardous
20 waste in violation of the terms and conditions of such
21 permit or license;

22 (C) transports any hazardous waste to a facility
23 which does not have a permit or license required under
24 this Act; or

1 (D) transports by vehicle any hazardous waste
2 without having in each vehicle credentials issued to
3 the transporter by the transporter's base state
4 pursuant to procedures established under the Uniform
5 Program.

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

16 (e) Unlawful Delivery of Hazardous Waste.

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

21 (2) Unlawful Delivery of Hazardous Waste is a Class 3
22 felony. In addition to any other penalties prescribed by
23 law, a person convicted of the offense of Unlawful Delivery
24 of Hazardous Waste is subject to a fine not to exceed
25 \$250,000 for each such violation.

1 (3) For purposes of this Section, "deliver" or
2 "delivery" means the actual, constructive, or attempted
3 transfer of possession of hazardous waste, with or without
4 consideration, whether or not there is an agency
5 relationship.

6 (f) Reckless Disposal of Hazardous Waste.

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

16 (2) Reckless Disposal of Hazardous Waste is a Class 4
17 felony. In addition to any other penalties prescribed by
18 law, a person convicted of the offense of Reckless Disposal
19 of Hazardous Waste is subject to a fine not to exceed
20 \$50,000 for each day of such offense.

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

22 (1) A person commits the offense of Concealment of
23 Criminal Disposal of Hazardous Waste when he conceals,
24 without lawful justification, the disposal of hazardous

1 waste with the knowledge that such hazardous waste has been
2 disposed of in violation of this Act.

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

9 (h) Violations; False Statements.

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

16 (2) Any person who knowingly makes a false material
17 statement or representation in any label, manifest,
18 record, report, permit or license, or other document filed,
19 maintained or used for the purpose of compliance with this
20 Act in connection with the generation, disposal,
21 treatment, storage, or transportation of hazardous waste
22 commits a Class 4 felony. A second or any subsequent
23 offense after conviction hereunder is a Class 3 felony.

24 (3) Any person who knowingly destroys, alters or
25 conceals any record required to be made by this Act in

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

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

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

19 (6) A person who knowingly and falsely certifies under
20 Section 22.48 that an industrial process waste or pollution
21 control waste is not special waste commits a Class 4 felony
22 for a first offense and commits a Class 3 felony for a
23 second or subsequent offense.

24 (7) In addition to any other penalties prescribed by
25 law, a person convicted of violating this subsection (h) is
26 subject to a fine not to exceed \$50,000 for each day of

1 such violation.

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

15 (i) Verification.

16 (1) Each application for a permit or license to dispose
17 of, transport, treat, store or generate hazardous waste
18 under this Act shall contain an affirmation that the facts
19 are true and are made under penalty of perjury as defined
20 in Section 32-2 of the Criminal Code of 1961. It is perjury
21 for a person to sign any such application for a permit or
22 license which contains a false material statement, which he
23 does not believe to be true.

24 (2) Each request for money from the Underground Storage
25 Tank Fund shall contain an affirmation that the facts are

1 true and are made under penalty of perjury as defined in
2 Section 32-2 of the Criminal Code of 1961. It is perjury
3 for a person to sign any request that contains a false
4 material statement that he does not believe to be true.

5 (j) Violations of Other Provisions.

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

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

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

9 (C) any term or condition of any Underground
10 Injection Control (UIC) permit;

11 (D) any filing requirement, regulation, or order
12 relating to the State Underground Injection Control
13 (UIC) program;

14 (E) any provision of any regulation, standard, or
15 filing requirement under subsection (b) of Section 13
16 of this Act;

17 (F) any provision of any regulation, standard, or
18 filing requirement under subsection (b) of Section 39
19 of this Act;

20 (G) any National Pollutant Discharge Elimination
21 System (NPDES) permit issued under this Act or any term
22 or condition of such permit;

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

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

25 (J) any provision of any regulation, standard or

1 filing requirement under Section 39.5 of this Act;

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

5 (L) the standard for waste disposal for
6 manufacturing, fabricating, demolition, renovation,
7 and spraying operations in Section 61.150 of Title 40
8 of the Code of Federal Regulations.

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

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

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

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

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

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

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

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

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

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

5 (A) make any false statement, representation, or
6 certification in an application form, or form
7 pertaining to, a National Pollutant Discharge
8 Elimination System (NPDES) permit;

9 (B) render inaccurate any monitoring device or
10 record required by the Agency or Board in connection
11 with any such permit or with any discharge which is
12 subject to the provisions of subsection (f) of Section
13 12 of this Act;

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

17 (D) render inaccurate any monitoring device or
18 record required by the Agency or Board in connection
19 with any CAAPP permit or with any emission which is
20 subject to the provisions of Section 39.5 of this Act;
21 or

22 (E) violate subsection 6 of Section 39.5 of this
23 Act or any CAAPP permit, or term or condition thereof,
24 or any fee or filing requirement.

25 (5) A person convicted of a violation of subdivision
26 (4) of this subsection commits a Class A misdemeanor, and

1 in addition to any other penalties provided by law is
2 subject to a fine not to exceed \$10,000 for each day of
3 violation.

4 (k) Criminal operation of a hazardous waste or PCB
5 incinerator.

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

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

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

1 the offense.

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

8 (l) It shall be the duty of all State and local law
9 enforcement officers to enforce this Act and the regulations
10 adopted hereunder, and all such officers shall have authority
11 to issue citations for such violations.

12 (m) Any action brought under this Section shall be brought
13 by the State's Attorney of the county in which the violation
14 occurred, or by the Attorney General, and shall be conducted in
15 accordance with the applicable provisions of the Code of
16 Criminal Procedure of 1963.

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

22 (o) In addition to any other penalties provided under this

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

7 (p) Criminal Disposal of Waste.

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

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

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

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

13 (1) A person commits the offense of Criminal Damage to
14 a Public Water Supply when, without lawful justification,
15 he knowingly alters, damages, or otherwise tampers with the
16 equipment or property of a public water supply, or
17 knowingly introduces a contaminant into the distribution
18 system of a public water supply so as to cause, threaten,
19 or allow the distribution of water from any public water
20 supply of such quality or quantity as to be injurious to
21 human health or the environment.

22 (2) Criminal Damage to a Public Water Supply is a Class
23 4 felony. In addition to any other penalties prescribed by
24 law, a person convicted of the offense of Criminal Damage
25 to a Public Water Supply is subject to a fine not to exceed

1 \$250,000 for each day of such offense.

2 (r) Aggravated Criminal Damage to a Public Water Supply.

3 (1) A person commits the offense of Aggravated Criminal
4 Damage to a Public Water Supply when, without lawful
5 justification, he commits Criminal Damage to a Public Water
6 Supply while knowing that he thereby places another person
7 in danger of serious illness or great bodily harm, or
8 creates an immediate or long-term danger to public health
9 or the environment.

10 (2) Aggravated Criminal Damage to a Public Water Supply
11 is a Class 2 felony. In addition to any other penalties
12 prescribed by law, a person convicted of the offense of
13 Aggravated Criminal Damage to a Public Water Supply is
14 subject to a fine not to exceed \$500,000 for each day of
15 such offense.

16 (Source: P.A. 96-603, eff. 8-24-09.)

17 (415 ILCS 5/47) (from Ch. 111 1/2, par. 1047)

18 Sec. 47. (a) The State of Illinois and all its agencies,
19 institutions, officers and subdivisions shall comply with all
20 requirements, prohibitions, and other provisions of the Act and
21 of regulations adopted thereunder.

22 (b) (Blank). ~~Each state agency or institution shall~~
23 ~~annually assess the environmental problems created by its~~
24 ~~operations and the extent to which its operations are in~~

1 ~~violation of this Act or of regulations adopted thereunder, and~~
2 ~~shall report to the Environmental Protection Agency on or~~
3 ~~before December 1 of each year as to the findings of such~~
4 ~~assessment, the progress made in eliminating such violations,~~
5 ~~and the steps to be taken in the future to assure compliance.~~

6 (c) (Blank). ~~Each state agency or institution shall submit~~
7 ~~to the Environmental Protection Agency complete plans,~~
8 ~~specifications and cost estimates for any proposed~~
9 ~~installation or facility that may cause a violation of this Act~~
10 ~~or of regulations adopted thereunder by December 1 of each~~
11 ~~year.~~

12 (Source: P.A. 76-2429.)

13 (415 ILCS 5/25b-4 rep.)

14 Section 15. The Environmental Protection Act is amended by
15 repealing Section 25b-4.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 225 ILCS 52/35

4 415 ILCS 5/17.7 from Ch. 111 1/2, par. 1017.7

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

6 415 ILCS 5/22.2 from Ch. 111 1/2, par. 1022.2

7 415 ILCS 5/22.50a new

8 415 ILCS 5/44 from Ch. 111 1/2, par. 1044

9 415 ILCS 5/47 from Ch. 111 1/2, par. 1047

10 415 ILCS 5/25b-4 rep.