

1 AMENDMENT TO SENATE BILL 1379

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

5 "Section 5. The Illinois Procurement Code is amended by
6 adding Section 50-12 as follows:

7 (30 ILCS 500/50-12 new)

8 Sec. 50-12. Environmental Protection Act violations.

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

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

1 that person or business.

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

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

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

12 Sec. 39. Issuance of permits; procedures.

13 (a) When the Board has by regulation required a permit
14 for the construction, installation, or operation of any type
15 of facility, equipment, vehicle, vessel, or aircraft, the
16 applicant shall apply to the Agency for such permit and it
17 shall be the duty of the Agency to issue such a permit upon
18 proof by the applicant that the facility, equipment, vehicle,
19 vessel, or aircraft will not cause a violation of this Act or
20 of regulations hereunder. The Agency shall adopt such
21 procedures as are necessary to carry out its duties under
22 this Section. In making its determinations on permit
23 applications under this Section granting-permits the Agency
24 may consider prior adjudications of noncompliance with this
25 Act by the applicant that involved a release of a contaminant
26 into the environment. In granting permits, the Agency may
27 impose reasonable conditions specifically related to the
28 applicant's past compliance history with this Act as
29 necessary to correct, detect, or prevent noncompliance. The
30 Agency may impose such other conditions as may be necessary
31 to accomplish the purposes of this Act, and as are not
32 inconsistent with the regulations promulgated by the Board

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

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

11 (ii) the provision of the regulations, promulgated
12 under this Act, which may be violated if the permit were
13 granted;

14 (iii) the specific type of information, if any,
15 which the Agency deems the applicant did not provide the
16 Agency; and

17 (iv) a statement of specific reasons why the Act
18 and the regulations might not be met if the permit were
19 granted.

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

1 The Agency shall publish notice of all final permit
2 determinations for development permits for MSWLF units and
3 for significant permit modifications for lateral expansions
4 for existing MSWLF units one time in a newspaper of general
5 circulation in the county in which the unit is or is proposed
6 to be located.

7 After January 1, 1994 and until July 1, 1998, operating
8 permits issued under this Section by the Agency for sources
9 of air pollution permitted to emit less than 25 tons per year
10 of any combination of regulated air pollutants, as defined in
11 Section 39.5 of this Act, shall be required to be renewed
12 only upon written request by the Agency consistent with
13 applicable provisions of this Act and regulations promulgated
14 hereunder. Such operating permits shall expire 180 days
15 after the date of such a request. The Board shall revise its
16 regulations for the existing State air pollution operating
17 permit program consistent with this provision by January 1,
18 1994.

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

32 (b) The Agency may issue NPDES permits exclusively under
33 this subsection for the discharge of contaminants from point
34 sources into navigable waters, all as defined in the Federal

1 Water Pollution Control Act, as now or hereafter amended,
2 within the jurisdiction of the State, or into any well.

3 All NPDES permits shall contain those terms and
4 conditions, including but not limited to schedules of
5 compliance, which may be required to accomplish the purposes
6 and provisions of this Act.

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

14 The Agency may include, among such conditions, effluent
15 limitations and other requirements established under this
16 Act, Board regulations, the Federal Water Pollution Control
17 Act, as now or hereafter amended, and regulations pursuant
18 thereto, and schedules for achieving compliance therewith at
19 the earliest reasonable date.

20 The Agency shall adopt filing requirements and procedures
21 which are necessary and appropriate for the issuance of NPDES
22 permits, and which are consistent with the Act or regulations
23 adopted by the Board, and with the Federal Water Pollution
24 Control Act, as now or hereafter amended, and regulations
25 pursuant thereto.

26 The Agency, subject to any conditions which may be
27 prescribed by Board regulations, may issue NPDES permits to
28 allow discharges beyond deadlines established by this Act or
29 by regulations of the Board without the requirement of a
30 variance, subject to the Federal Water Pollution Control Act,
31 as now or hereafter amended, and regulations pursuant
32 thereto.

33 (c) Except for those facilities owned or operated by
34 sanitary districts organized under the Metropolitan Water

1 Reclamation District Act, no permit for the development or
2 construction of a new pollution control facility may be
3 granted by the Agency unless the applicant submits proof to
4 the Agency that the location of the facility has been
5 approved by the County Board of the county if in an
6 unincorporated area, or the governing body of the
7 municipality when in an incorporated area, in which the
8 facility is to be located in accordance with Section 39.2 of
9 this Act.

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

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

1 the governing body of that adjacent municipality rather than
2 the county board of the county in which the proposed site is
3 located; and for the purposes of that local siting review,
4 any references in this Act to the county board shall be
5 deemed to mean the governing body of that adjacent
6 municipality; provided, however, that the provisions of this
7 paragraph shall not apply to any proposed site which was, on
8 April 1, 1993, owned in whole or in part by another
9 municipality.

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

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

1 Except for those facilities owned or operated by sanitary
2 districts organized under the Metropolitan Water Reclamation
3 District Act, and except for new pollution control facilities
4 governed by Section 39.2, and except for fossil fuel mining
5 facilities, the granting of a permit under this Act shall not
6 relieve the applicant from meeting and securing all necessary
7 zoning approvals from the unit of government having zoning
8 jurisdiction over the proposed facility.

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

22 The Agency may issue a permit for a municipal waste
23 transfer station without requiring approval pursuant to
24 Section 39.2 provided that the following demonstration is
25 made:

26 (1) the municipal waste transfer station was in
27 existence on or before January 1, 1979 and was in
28 continuous operation from January 1, 1979 to January 1,
29 1993;

30 (2) the operator submitted a permit application to
31 the Agency to develop and operate the municipal waste
32 transfer station during April of 1994;

33 (3) the operator can demonstrate that the county
34 board of the county, if the municipal waste transfer

1 station is in an unincorporated area, or the governing
2 body of the municipality, if the station is in an
3 incorporated area, does not object to resumption of the
4 operation of the station; and

5 (4) the site has local zoning approval.

6 (d) The Agency may issue RCRA permits exclusively under
7 this subsection to persons owning or operating a facility for
8 the treatment, storage, or disposal of hazardous waste as
9 defined under this Act.

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

22 In the case of a permit to operate a hazardous waste or
23 PCB incinerator as defined in subsection (k) of Section 44,
24 the Agency shall require, as a condition of the permit, that
25 the operator of the facility perform such analyses of the
26 waste to be incinerated as may be necessary and appropriate
27 to ensure the safe operation of the incinerator.

28 The Agency shall adopt filing requirements and procedures
29 which are necessary and appropriate for the issuance of RCRA
30 permits, and which are consistent with the Act or regulations
31 adopted by the Board, and with the Resource Conservation and
32 Recovery Act of 1976 (P.L. 94-580), as amended, and
33 regulations pursuant thereto.

34 The applicant shall make available to the public for

1 inspection all documents submitted by the applicant to the
2 Agency in furtherance of an application, with the exception
3 of trade secrets, at the office of the county board or
4 governing body of the municipality. Such documents may be
5 copied upon payment of the actual cost of reproduction during
6 regular business hours of the local office. The Agency shall
7 issue a written statement concurrent with its grant or denial
8 of the permit explaining the basis for its decision.

9 (e) The Agency may issue UIC permits exclusively under
10 this subsection to persons owning or operating a facility for
11 the underground injection of contaminants as defined under
12 this Act.

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

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

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

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

3 (f) In making any determination pursuant to Section 9.1
4 of this Act:

5 (1) The Agency shall have authority to make the
6 determination of any question required to be determined
7 by the Clean Air Act, as now or hereafter amended, this
8 Act, or the regulations of the Board, including the
9 determination of the Lowest Achievable Emission Rate,
10 Maximum Achievable Control Technology, or Best Available
11 Control Technology, consistent with the Board's
12 regulations, if any.

13 (2) The Agency shall, after conferring with the
14 applicant, give written notice to the applicant of its
15 proposed decision on the application including the terms
16 and conditions of the permit to be issued and the facts,
17 conduct or other basis upon which the Agency will rely to
18 support its proposed action.

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

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

34 (h) A hazardous waste stream may not be deposited in a

1 permitted hazardous waste site unless specific authorization
2 is obtained from the Agency by the generator and disposal
3 site owner and operator for the deposit of that specific
4 hazardous waste stream. The Agency may grant specific
5 authorization for disposal of hazardous waste streams only
6 after the generator has reasonably demonstrated that,
7 considering technological feasibility and economic
8 reasonableness, the hazardous waste cannot be reasonably
9 recycled for reuse, nor incinerated or chemically, physically
10 or biologically treated so as to neutralize the hazardous
11 waste and render it nonhazardous. In granting authorization
12 under this Section, the Agency may impose such conditions as
13 may be necessary to accomplish the purposes of the Act and
14 are consistent with this Act and regulations promulgated by
15 the Board hereunder. If the Agency refuses to grant
16 authorization under this Section, the applicant may appeal as
17 if the Agency refused to grant a permit, pursuant to the
18 provisions of subsection (a) of Section 40 of this Act. For
19 purposes of this subsection (h), the term "generator" has the
20 meaning given in Section 3.205 of this Act, unless: (1) the
21 hazardous waste is treated, incinerated, or partially
22 recycled for reuse prior to disposal, in which case the last
23 person who treats, incinerates, or partially recycles the
24 hazardous waste prior to disposal is the generator; or (2)
25 the hazardous waste is from a response action, in which case
26 the person performing the response action is the generator.
27 This subsection (h) does not apply to any hazardous waste
28 that is restricted from land disposal under 35 Ill. Adm. Code
29 728.

30 (i) Before issuing any RCRA permit or any permit for a
31 waste storage site, sanitary landfill, waste disposal site,
32 waste transfer station, waste treatment facility, waste
33 incinerator, or any waste-transportation operation, the
34 Agency shall conduct an evaluation of the prospective owner's

1 or operator's prior experience in waste management
2 operations. The Agency may deny such a permit if the
3 prospective owner or operator or any employee or officer of
4 the prospective owner or operator has a history of:

5 (1) repeated violations of federal, State, or local
6 laws, regulations, standards, or ordinances in the
7 operation of waste management facilities or sites; or

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

11 (3) proof of gross carelessness or incompetence in
12 handling, storing, processing, transporting or disposing
13 of waste.

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

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

31 (l) No permit shall be issued by the Agency under this
32 Act for construction or operation of any facility or site
33 located within the boundaries of any setback zone established
34 pursuant to this Act, where such construction or operation is

1 prohibited.

2 (m) The Agency may issue permits to persons owning or
3 operating a facility for composting landscape waste. In
4 granting such permits, the Agency may impose such conditions
5 as may be necessary to accomplish the purposes of this Act,
6 and as are not inconsistent with applicable regulations
7 promulgated by the Board. Except as otherwise provided in
8 this Act, a bond or other security shall not be required as a
9 condition for the issuance of a permit. If the Agency denies
10 any permit pursuant to this subsection, the Agency shall
11 transmit to the applicant within the time limitations of this
12 subsection specific, detailed statements as to the reasons
13 the permit application was denied. Such statements shall
14 include but not be limited to the following:

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

17 (2) the specific regulations promulgated pursuant
18 to this Act that may be violated if the permit were
19 granted;

20 (3) the specific information, if any, the Agency
21 deems the applicant did not provide in its application to
22 the Agency; and

23 (4) a statement of specific reasons why the Act and
24 the regulations might be violated if the permit were
25 granted.

26 If no final action is taken by the Agency within 90 days
27 after the filing of the application for permit, the applicant
28 may deem the permit issued. Any applicant for a permit may
29 waive the 90 day limitation by filing a written statement
30 with the Agency.

31 The Agency shall issue permits for such facilities upon
32 receipt of an application that includes a legal description
33 of the site, a topographic map of the site drawn to the scale
34 of 200 feet to the inch or larger, a description of the

1 operation, including the area served, an estimate of the
2 volume of materials to be processed, and documentation that:

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

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

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

16 (4) the design of the facility will prevent any
17 compost material from being placed within 5 feet of the
18 water table, will adequately control runoff from the
19 site, and will collect and manage any leachate that is
20 generated on the site;

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

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

32 The Agency shall issue renewable permits of not longer
33 than 10 years in duration for the composting of landscape
34 wastes, as defined in Section 3.155 of this Act, based on the

1 above requirements.

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

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

11 (o) (Blank.)

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

31 When a permit applicant submits information to the Agency
32 to supplement a permit application being reviewed by the
33 Agency, the applicant shall not be required to reissue the
34 notice under this subsection.

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

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

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

21 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

22 Sec. 42. Civil penalties.

23 (a) Except as provided in this Section, any person that
24 violates any provision of this Act or any regulation adopted
25 by the Board, or any permit or term or condition thereof, or
26 that violates any determination or order of the Board
27 pursuant to this Act, shall be liable to a civil penalty of
28 not to exceed \$50,000 for the violation and an additional
29 civil penalty of not to exceed \$10,000 for each day during
30 which the violation continues; such penalties may, upon order
31 of the Board or a court of competent jurisdiction, be made
32 payable to the Environmental Protection Trust Fund, to be
33 used in accordance with the provisions of the Environmental

1 Protection Trust Fund Act.

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

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

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

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

28 (4) In an administrative citation action under
29 Section 31.1 of this Act, any person found to have
30 violated any provision of subsection (o) of Section 21 of
31 this Act shall pay a civil penalty of \$500 for each
32 violation of each such provision, plus any hearing costs
33 incurred by the Board and the Agency. Such penalties
34 shall be made payable to the Environmental Protection

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

6 (4-5) In an administrative citation action under
7 Section 31.1 of this Act, any person found to have
8 violated any provision of subsection (p) of Section 21 of
9 this Act shall pay a civil penalty of \$1,500 for a first
10 offense and \$3,000 for a second or subsequent offense,
11 plus any hearing costs incurred by the Board and the
12 Agency. The penalties shall be deposited into the
13 Environmental Protection Trust Fund, to be used in
14 accordance with the provisions of the Environmental
15 Protection Trust Fund Act; except that if a unit of local
16 government issued the administrative citation, 50% of the
17 civil penalty shall be payable to the unit of local
18 government.

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

26 (b.5) In lieu of the penalties set forth in subsections
27 (a) and (b) of this Section, any person who fails to file, in
28 a timely manner, toxic chemical release forms with the Agency
29 pursuant to Section 25b-2 of this Act shall be liable for a
30 civil penalty of \$100 per day for each day the forms are
31 late, not to exceed a maximum total penalty of \$6,000. This
32 daily penalty shall begin accruing on the thirty-first day
33 after the date that the person receives the warning notice
34 issued by the Agency pursuant to Section 25b-6 of this Act;

1 and the penalty shall be paid to the Agency. The daily
2 accrual of penalties shall cease as of January 1 of the
3 following year. All penalties collected by the Agency
4 pursuant to this subsection shall be deposited into the
5 Environmental Protection Permit and Inspection Fund.

6 (c) Any person that violates this Act, or an order or
7 other determination of the Board under this Act and causes
8 the death of fish or aquatic life shall, in addition to the
9 other penalties provided by this Act, be liable to pay to the
10 State an additional sum for the reasonable value of the fish
11 or aquatic life destroyed. Any money so recovered shall be
12 placed in the Wildlife and Fish Fund in the State Treasury.

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

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

19 (f) The State's Attorney of the county in which the
20 violation occurred, or the Attorney General, shall bring such
21 actions in the name of the people of the State of Illinois.
22 Without limiting any other authority which may exist for the
23 awarding of attorney's fees and costs, the Board or a court
24 of competent jurisdiction may award costs and reasonable
25 attorney's fees, including the reasonable costs of expert
26 witnesses and consultants, to the State's Attorney or the
27 Attorney General in a case where he has prevailed against a
28 person who has committed a wilful, knowing or repeated
29 violation of the Act.

30 Any funds collected under this subsection (f) in which
31 the Attorney General has prevailed shall be deposited in the
32 Hazardous Waste Fund created in Section 22.2 of this Act. Any
33 funds collected under this subsection (f) in which a State's
34 Attorney has prevailed shall be retained by the county in

1 which he serves.

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

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

- 16 (1) the duration and gravity of the violation;
- 17 (2) the presence or absence of due diligence on the
18 part of the respondent ~~violate~~r in attempting to comply
19 with requirements of this Act and regulations thereunder
20 or to secure relief therefrom as provided by this Act;
- 21 (3) any economic benefits accrued by the respondent
22 ~~violate~~r because of delay in compliance with
23 requirements, in which case the economic benefits shall
24 be determined by the lowest cost alternative for
25 achieving compliance;
- 26 (4) the amount of monetary penalty which will serve
27 to deter further violations by the respondent ~~violate~~r
28 and to otherwise aid in enhancing voluntary compliance
29 with this Act by the respondent ~~violate~~r and other
30 persons similarly subject to the Act; and
- 31 (5) the number, proximity in time, and gravity of
32 previously adjudicated violations of this Act by the
33 respondent; ~~violate~~r-
- 34 (6) whether the respondent voluntarily

1 self-disclosed, in accordance with subsection (i) of this
2 Section, the non-compliance to the Agency; and

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

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

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

25 (1) that the non-compliance was discovered through
26 an environmental audit, as defined in Section 52.2 of
27 this Act, and the person waives the environmental audit
28 privileges as provided in that Section with respect to
29 that non-compliance;

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

33 (3) that the non-compliance was discovered and
34 disclosed prior to:

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

3 (ii) notice of a citizen suit;

4 (iii) the filing of a complaint by a citizen,
5 the Illinois Attorney General, or the State's
6 Attorney of the county in which the violation
7 occurred;

8 (iv) the reporting of the non-compliance by an
9 employee of the person without that person's
10 knowledge; or

11 (v) imminent discovery of the non-compliance
12 by the Agency;

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

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

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

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

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

29 (9) that the non-compliance was identified
30 voluntarily and not through a monitoring, sampling, or
31 auditing procedure that is required by statute, rule,
32 permit, judicial or administrative order, or consent
33 agreement.

34 If a person can establish all of the elements under this

1 subsection except the element set forth in paragraph (1) of
2 this subsection, the person is entitled to a 75% reduction in
3 the portion of the penalty that is not based upon the
4 economic benefit of non-compliance.

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