

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

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

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

10 (a) Owners of public water supplies, their authorized
11 representative, or legal custodians, shall submit plans and
12 specifications to the Agency and obtain written approval before
13 construction of any proposed public water supply
14 installations, changes, or additions is started. Plans and
15 specifications shall be complete and of sufficient detail to
16 show all proposed construction, changes, or additions that may
17 affect sanitary quality, mineral quality, or adequacy of the
18 public water supply; and, where necessary, said plans and
19 specifications shall be accompanied by supplemental data as may
20 be required by the Agency to permit a complete review thereof.

21 (b) All new public water supplies established after October
22 1, 1999 shall demonstrate technical, financial, and managerial
23 capacity as a condition for issuance of a construction or

1 operation permit by the Agency or its designee. The
2 demonstration shall be consistent with the technical,
3 financial, and managerial provisions of the federal Safe
4 Drinking Water Act (P.L. 93-523), as now or hereafter amended.
5 The Agency is authorized to adopt rules in accordance with the
6 Illinois Administrative Procedure Act to implement the
7 purposes of this subsection. Such rules must take into account
8 the need for the facility, facility size, sophistication of
9 treatment of the water supply, and financial requirements
10 needed for operation of the facility.

11 (c) Except as otherwise provided under Board rules, owners
12 and operators of community water systems must maintain all
13 records, reports, and other documents related to the operation
14 of the community water system for a minimum of 10 years.
15 Documents required to be maintained under this subsection (c)
16 include, but are not limited to, all billing records and other
17 documents related to the purchase of water from other community
18 water systems. Documents required to be maintained under this
19 subsection (c) must be maintained on the premises of the
20 community water system, or at a convenient location near its
21 premises, and must be made available to the Agency for
22 inspection and copying during normal business hours.

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

24 (415 ILCS 5/18.1 new)

25 Sec. 18.1. Public Notice.

1 (a) If any of the actions listed in paragraph (1) or (2) of
2 this subsection (a) occur in relation to the ownership or
3 operation of a community water system, the Agency shall, within
4 2 days after the action, provide public notice of the action by
5 issuing a press release and posting the press release on the
6 Agency's website:

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

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

11 (b) Within 5 days after the occurrence of any action that
12 is listed in paragraph (1) or (2) of subsection (a) of this
13 Section and that is related to the ownership or operation of a
14 community water system, the Agency must provide notice of the
15 action to the owner and the operator of the community water
16 system and the owners and operators of all connected community
17 water systems. The notice must be printed on Agency letterhead
18 and describe the action being taken and the basis for the
19 action. Within 5 business days after receiving such notice from
20 the Agency under this subsection (b), the owner or operator of
21 the community water system and the owners or operators of all
22 connected community water systems must send, to all residents
23 and owners of premises connected to the affected community
24 water system or portion thereof designated by the Agency: (i) a
25 copy of the notice by first-class mail or by e-mail; or (ii)
26 notification, in a form approved by the Agency, via first-class

1 postcard, text message, or telephone; except that notices to
2 institutional residents, including, but not limited to,
3 residents of school dormitories, nursing homes, and assisted
4 care facilities, may be made to the owners and operators of
5 those institutions, and the owners or operators of those
6 institutions shall notify their residents in the same manner as
7 prescribed in this subsection for owners and operators of
8 community water systems. If the manner for notice selected by
9 the owner or operator of the community water system does not
10 include a written copy of the notice provided by the Agency,
11 the owner or operator shall include a written copy of the
12 notice provided by the Agency in the next water bill sent to
13 the residents and owners of the premises; provided, however, if
14 the water bill is sent on a postcard, no written copy of the
15 notice provided by the Agency is required if the postcard
16 includes the Internet address for the notice posted on the
17 Agency's website. The front of the envelope or postcard in
18 which any such notice is sent to residents and owners of
19 premises connected to the community water system shall carry
20 the following text in at least 18 point font: PUBLIC HEALTH
21 NOTICE - READ IMMEDIATELY. For a postcard, text message, or
22 telephonic communication, the Agency shall specify the minimum
23 information that the owner or operator must include in such
24 methods of notice. Within 7 days after the owner or operator of
25 the community water system sends the notices to all residents
26 and owners of premises connected to the affected community

1 water system, the owner or operator shall provide the Agency
2 with proof that the notices have been sent.

3 (415 ILCS 5/25d-1)

4 Sec. 25d-1. Definitions. For the purposes of this Title,
5 the terms "community water system", "non-community water
6 system", "potable", "private water system", and "semi-private
7 water system" have the meanings ascribed to them in the
8 Illinois Groundwater Protection Act. For the purposes of this
9 Title, the term "soil gas" means the air existing in void
10 spaces in the soil between the groundwater table and the ground
11 surface.

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

13 (415 ILCS 5/25d-2)

14 Sec. 25d-2. Contaminant evaluation. The Agency shall
15 evaluate releases of contaminants whenever it determines that
16 the extent of soil, soil gas, or groundwater contamination may
17 extend beyond the boundary of the site where the release
18 occurred. The Agency shall take appropriate actions in response
19 to the release, which may include, but shall not be limited to,
20 public notices, investigations, administrative orders under
21 Sections 22.2d or 57.12(d) of this Act, and enforcement
22 referrals. Except as provided in Section 25d-3 of this Act, for
23 releases undergoing investigation or remediation under Agency
24 oversight the Agency may determine that no further action is

1 necessary to comply with this Section.

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

3 (415 ILCS 5/25d-3)

4 Sec. 25d-3. Notices.

5 (a) Beginning January 1, 2006, if the Agency determines
6 that:

7 (1) Soil contamination beyond the boundary of the site
8 where the release occurred, soil gas contamination beyond
9 the boundary of the site where the release occurred, or
10 both pose ~~poses~~ a threat of exposure to the public above
11 the appropriate Tier 1 remediation objectives, based on the
12 current use of the off-site property, adopted by the Board
13 under Title XVII of this Act, the Agency shall give notice
14 of the threat to the owner of the contaminated property; or

15 (2) Groundwater contamination poses a threat of
16 exposure to the public above the Class I groundwater
17 quality standards adopted by the Board under this Act and
18 the Groundwater Protection Act, the Agency shall give
19 notice of the threat to the following:

20 (A) for any private, semi-private, or
21 non-community water system, the owners of the
22 properties served by the system; and

23 (B) for any community water system,

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

25 (ii) the residents and owners of premises

1 connected to the affected community water system;
2 and
3 (iii) the residents and owners of premises
4 connected to water systems receiving water from
5 the affected community water system.

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

10 For notices required under subparagraph (B) of paragraph
11 (2) of subsection (a), the Agency shall (i) within 2 days after
12 determining that groundwater contamination poses a threat of
13 exposure to the public above the Class I groundwater quality
14 standards, provide notice of the determination by issuing a
15 press release and posting the press release on the Agency's
16 website and (ii) within 5 days after the determination, provide
17 the owner and operator of the community water system and the
18 owners and operators of all connected community water systems
19 with a notice printed on Agency letterhead that identifies the
20 contaminant posing the threat, the level of contamination
21 found, and possible human health effects associated with
22 exposure to the contaminant. Within 5 business days after
23 receiving a notice from the Agency under this paragraph, the
24 owner or operator of the community water system must send, to
25 all residents and owners of premises connected to the affected
26 community water system: (i) a copy of the notice by first-class

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

1 residents and owners of premises connected to the community
2 water system, the owner or operator shall provide the Agency
3 with proof that the notices have been sent. The notices
4 required under subparagraph (B) of paragraph (2) of subsection
5 (a) shall be provided whether or not the threat of exposure has
6 been eliminated.

7 (b) Beginning January 1, 2006, if any of the following
8 actions occur: (i) the Agency refers a matter for enforcement
9 under Section 43(a) of this Act; (ii) the Agency issues a seal
10 order under Section 34 of this Act; or (iii) the Agency, the
11 United States Environmental Protection Agency (USEPA), or a
12 third party under Agency or USEPA oversight performs an
13 immediate removal under the federal Comprehensive
14 Environmental Response, Compensation, and Liability Act, as
15 amended, then, within 60 days after the action, the Agency must
16 give notice of the action to the owners of all property within
17 2,500 feet of the subject contamination or any closer or
18 farther distance that the Agency deems appropriate under the
19 circumstances. Within 30 days after a request by the Agency,
20 the appropriate officials of the county in which the property
21 is located must provide to the Agency the names and addresses
22 of all property owners to whom the Agency is required to give
23 notice under this subsection (b), these owners being the
24 persons or entities that appear from the authentic tax records
25 of the county.

26 (c) In addition to the notice requirements of subsection

1 (a) of this Section, the ~~The~~ methods by which the Agency gives
2 the notices required under this Section shall be determined in
3 consultation with members of the public and appropriate members
4 of the regulated community and may include, but shall not be
5 limited to, personal notification, public meetings, signs,
6 electronic notification, and print media. For sites at which a
7 responsible party has implemented a community relations plan,
8 the Agency may allow the responsible party to provide
9 Agency-approved notices in lieu of the notices required to be
10 given by the Agency. Notices issued under this Section may
11 contain the following information:

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

14 (2) the identification of the contaminant released or
15 suspected to have been released;

16 (3) information as to whether the contaminant was
17 released or suspected to have been released into the air,
18 land, or water;

19 (4) a brief description of the potential adverse health
20 effects posed by the contaminant;

21 (5) a recommendation that water systems with wells
22 impacted or potentially impacted by the contaminant be
23 appropriately tested; and

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

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

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

18 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

19 Sec. 42. Civil penalties.

20 (a) Except as provided in this Section, any person that
21 violates any provision of this Act or any regulation adopted by
22 the Board, or any permit or term or condition thereof, or that
23 violates any order of the Board pursuant to this Act, shall be
24 liable for a civil penalty of not to exceed \$50,000 for the
25 violation and an additional civil penalty of not to exceed

1 \$10,000 for each day during which the violation continues; such
2 penalties may, upon order of the Board or a court of competent
3 jurisdiction, be made payable to the Environmental Protection
4 Trust Fund, to be used in accordance with the provisions of the
5 Environmental Protection Trust Fund Act.

6 (b) Notwithstanding the provisions of subsection (a) of
7 this Section:

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

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

25 (3) Any person that violates Sections 21(f), 21(g),
26 21(h) or 21(i) of this Act, or any RCRA permit or term or

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

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

17 (4-5) In an administrative citation action under
18 Section 31.1 of this Act, any person found to have violated
19 any provision of subsection (p) of Section 21 of this Act
20 shall pay a civil penalty of \$1,500 for each violation of
21 each such provision, plus any hearing costs incurred by the
22 Board and the Agency, except that the civil penalty amount
23 shall be \$3,000 for each violation of any provision of
24 subsection (p) of Section 21 that is the person's second or
25 subsequent adjudication violation of that provision. The
26 penalties shall be deposited into the Environmental

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

6 (5) Any person who violates subsection 6 of Section
7 39.5 of this Act or any CAAPP permit, or term or condition
8 thereof, or any fee or filing requirement, or any duty to
9 allow or carry out inspection, entry or monitoring
10 activities, or any regulation or order relating to the
11 CAAPP shall be liable for a civil penalty not to exceed
12 \$10,000 per day of violation.

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

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

1 Agency pursuant to Section 25b-6 of this Act; and the penalty
2 shall be paid to the Agency. The daily accrual of penalties
3 shall cease as of January 1 of the following year. All
4 penalties collected by the Agency pursuant to this subsection
5 shall be deposited into the Environmental Protection Permit and
6 Inspection Fund.

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

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

17 (e) The State's Attorney of the county in which the
18 violation occurred, or the Attorney General, may, at the
19 request of the Agency or on his own motion, institute a civil
20 action for an injunction, prohibitory or mandatory, to restrain
21 violations of this Act, any rule or regulation adopted under
22 this Act, any permit or term or condition of a permit, or any
23 Board order, or to require such other actions as may be
24 necessary to address violations of this Act, any rule or
25 regulation adopted under this Act, any permit or term or
26 condition of a permit, or any Board order.

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

14 Any funds collected under this subsection (f) in which the
15 Attorney General has prevailed shall be deposited in the
16 Hazardous Waste Fund created in Section 22.2 of this Act. Any
17 funds collected under this subsection (f) in which a State's
18 Attorney has prevailed shall be retained by the county in which
19 he serves.

20 (g) All final orders imposing civil penalties pursuant to
21 this Section shall prescribe the time for payment of such
22 penalties. If any such penalty is not paid within the time
23 prescribed, interest on such penalty at the rate set forth in
24 subsection (a) of Section 1003 of the Illinois Income Tax Act,
25 shall be paid for the period from the date payment is due until
26 the date payment is received. However, if the time for payment

1 is stayed during the pendency of an appeal, interest shall not
2 accrue during such stay.

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

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

9 (2) the presence or absence of due diligence on the
10 part of the respondent in attempting to comply with
11 requirements of this Act and regulations thereunder or to
12 secure relief therefrom as provided by this Act;

13 (3) any economic benefits accrued by the respondent
14 because of delay in compliance with requirements, in which
15 case the economic benefits shall be determined by the
16 lowest cost alternative for achieving compliance;

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

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

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

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

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

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

22 (1) that the non-compliance was discovered through an
23 environmental audit or a compliance management system
24 documented by the regulated entity as reflecting the
25 regulated entity's due diligence in preventing, detecting,
26 and correcting violations;

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

4 (3) that the non-compliance was discovered and
5 disclosed prior to:

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

8 (ii) notice of a citizen suit;

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

12 (iv) the reporting of the non-compliance by an
13 employee of the person without that person's
14 knowledge; or

15 (v) imminent discovery of the non-compliance by
16 the Agency;

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

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

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

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

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

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

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

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

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

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

22 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)
23 Sec. 44. Criminal acts; penalties.

24 (a) Except as otherwise provided in this Section, it shall
25 be a Class A misdemeanor to violate this Act or regulations

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

12 (b) Calculated Criminal Disposal of Hazardous Waste.

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

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

1 (c) Criminal Disposal of Hazardous Waste.

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

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

10 (d) Unauthorized Use of Hazardous Waste.

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

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

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

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

24 (D) transports by vehicle any hazardous waste
25 without having in each vehicle credentials issued to

1 the transporter by the transporter's base state
2 pursuant to procedures established under the Uniform
3 Program.

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

14 (e) Unlawful Delivery of Hazardous Waste.

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

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

24 (3) For purposes of this Section, "deliver" or
25 "delivery" means the actual, constructive, or attempted

1 transfer of possession of hazardous waste, with or without
2 consideration, whether or not there is an agency
3 relationship.

4 (f) Reckless Disposal of Hazardous Waste.

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

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

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

20 (1) A person commits the offense of Concealment of
21 Criminal Disposal of Hazardous Waste when he conceals,
22 without lawful justification, the disposal of hazardous
23 waste with the knowledge that such hazardous waste has been
24 disposed of in violation of this Act.

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

7 (h) Violations; False Statements.

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

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

22 (3) Any person who knowingly destroys, alters or
23 conceals any record required to be made by this Act in
24 connection with the disposal, treatment, storage, or
25 transportation of hazardous waste, commits a Class 4

1 felony. A second or any subsequent offense after a
2 conviction hereunder is a Class 3 felony.

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

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

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

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

26 (8) Any person who knowingly makes a false, fictitious,

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

13 (i) Verification.

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

22 (2) Each request for money from the Underground Storage
23 Tank Fund shall contain an affirmation that the facts are
24 true and are made under penalty of perjury as defined in
25 Section 32-2 of the Criminal Code of 1961. It is perjury

1 for a person to sign any request that contains a false
2 material statement that he does not believe to be true.

3 (j) Violations of Other Provisions.

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

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

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

7 (C) any term or condition of any Underground
8 Injection Control (UIC) permit;

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

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

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

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

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

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

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

25 (K) a provision of the Procedures for Asbestos

1 Emission Control in subsection (c) of Section 61.145 of
2 Title 40 of the Code of Federal Regulations; or

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

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

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

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

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

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

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

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

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

26 (G) any provision of any regulation, standard, or

1 filing requirement under Section 39.5 of this Act.

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

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

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

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

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

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

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

1 violation.

2 (k) Criminal operation of a hazardous waste or PCB
3 incinerator.

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

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

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

25 (3) For the purpose of this subsection (k), the term

1 "hazardous waste or PCB incinerator" means a pollution
2 control facility at which either hazardous waste or PCBs,
3 or both, are incinerated. "PCBs" means any substance or
4 mixture of substances that contains one or more
5 polychlorinated biphenyls in detectable amounts.

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

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

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

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

1 (p) Criminal Disposal of Waste.

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

4 (A) if required to have a permit under subsection
5 (d) of Section 21 of this Act, knowingly conducts a
6 waste-storage, waste-treatment, or waste-disposal
7 operation in a quantity that exceeds 250 cubic feet of
8 waste without a permit; or

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

11 (2) (A) A person who is convicted of a violation of
12 item (A) of subdivision (1) of this subsection is guilty of
13 a Class 4 felony for a first offense and, in addition to
14 any other penalties provided by law, is subject to a fine
15 not to exceed \$25,000 for each day of violation. A person
16 who is convicted of a violation of item (A) of subdivision
17 (1) of this subsection is guilty of a Class 3 felony for a
18 second or subsequent offense and, in addition to any other
19 penalties provided by law, is subject to a fine not to
20 exceed \$50,000 for each day of violation.

21 (B) A person who is convicted of a violation of
22 item (B) of subdivision (1) of this subsection is
23 guilty of a Class A misdemeanor. However, a person who
24 is convicted of a second or subsequent violation of
25 item (B) of subdivision (1) of this subsection for the
26 open dumping of waste in a quantity that exceeds 250

1 cubic feet is guilty of a Class 4 felony and, in
2 addition to any other penalties provided by law, is
3 subject to a fine not to exceed \$5,000 for each day of
4 violation.

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

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