

1 AN ACT in relation to groundwater.

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

4 Section 5. The Illinois Groundwater Protection Act is
5 amended by changing Section 9 as follows:

6 (415 ILCS 55/9) (from Ch. 111 1/2, par. 7459)

7 Sec. 9. (a) As used in this Section, unless the context
8 clearly requires otherwise:

9 (1) "Community water system" means a public water
10 system which serves at least 15 service connections used
11 by residents or regularly serves at least 25 residents
12 for at least 60 days per year.

13 (2) "Contaminant" means any physical, chemical,
14 biological, or radiological substance or matter in water.

15 (3) "Department" means the Illinois Department of
16 Public Health.

17 (4) "Non-community water system" means a public
18 water system which is not a community water system, and
19 has at least 15 service connections used by nonresidents,
20 or regularly serves 25 or more nonresident individuals
21 daily for at least 60 days per year.

22 (4.5) "Non-transient, non-community water system"
23 means a non-community water system that regularly serves
24 the same 25 or more persons at least 6 months per year.

25 (5) "Private water system" means any supply which
26 provides water for drinking, culinary, and sanitary
27 purposes and serves an owner-occupied single family
28 dwelling.

29 (6) "Public water system" means a system for the
30 provision to the public of water for human consumption
31 through pipes or other constructed conveyances, if the

1 system has at least 15 service connections or regularly
2 serves an average of at least 25 individuals daily at
3 least 60 days per year. A public water system is either
4 a community water system (CWS) or a non-community water
5 system (non-CWS). The term "public water system" includes
6 any collection, treatment, storage or distribution
7 facilities under control of the operator of such system
8 and used primarily in connection with such system and any
9 collection or pretreatment storage facilities not under
10 such control which are used primarily in connection with
11 such system.

12 (7) "Semi-private water system" means a water
13 supply which is not a public water system, yet which
14 serves a segment of the public other than an
15 owner-occupied single family dwelling.

16 (8) "Supplier of water" means any person who owns
17 or operates a water system.

18 (b) No non-community water system may be constructed,
19 altered, or extended until plans, specifications, and other
20 information relative to such system are submitted to and
21 reviewed by the Department for conformance with the rules
22 promulgated under this Section, and until a permit for such
23 activity is issued by the Department. As part of the permit
24 application, all new non-transient, non-community water
25 systems must demonstrate technical, financial, and managerial
26 capacity consistent with the federal Safe Drinking Water Act.

27 (c) All private and semi-private water systems shall be
28 constructed in accordance with the rules promulgated by the
29 Department under this Section.

30 (d) The Department shall promulgate rules for the
31 construction and operation of all non-community and
32 semi-private water systems. Such rules shall include but
33 need not be limited to: the establishment of maximum
34 contaminant levels no more stringent than federally

1 established standards where such standards exist; the
2 maintenance of records; the establishment of requirements for
3 the submission and frequency of submission of water samples
4 by suppliers of water to determine the water quality; and the
5 capacity demonstration requirements to ensure compliance with
6 technical, financial, and managerial capacity provisions of
7 the federal Safe Drinking Water Act.

8 (e) Borings, water monitoring wells, and wells subject
9 to this Act shall, at a minimum, be abandoned and plugged in
10 accordance with the requirements of Sections 16 and 19 of the
11 Illinois Oil and Gas Act, and such rules as are promulgated
12 thereunder. Nothing herein shall preclude the Department
13 from adopting plugging and abandonment requirements which are
14 more stringent than the rules of the Department of Natural
15 Resources where necessary to protect the public health.

16 (f) The Department shall inspect all non-community water
17 systems for the purpose of determining compliance with the
18 provisions of this Section and the regulations promulgated
19 hereunder.

20 (g) The Department may inspect semi-private and private
21 water systems for the purpose of determining compliance with
22 the provisions of this Section and the regulations
23 promulgated hereunder.

24 (h) The supplier of water shall be given written notice
25 of all violations of this Section or the rules promulgated
26 hereunder and all such violations shall be corrected in a
27 manner and time specified by the Department.

28 (i) The Department may conduct inspections to
29 investigate the construction or water quality of
30 non-community or semi-private water systems, or the
31 construction of private water systems. Upon request of the
32 owner or user, the Department may also conduct investigations
33 of the water quality of private water systems.

34 (j) The supplier of water for a private, semi-private,

1 or non-community water system shall allow the Department and
2 its authorized agents access to such premises at all
3 reasonable times for the purpose of inspection.

4 (k) The Department may designate full-time county or
5 multiple-county health departments as its agents to
6 facilitate the implementation of this Section.

7 (l) The Department shall promulgate and publish rules
8 necessary for the enforcement of this Section.

9 (m) Whenever a non-community or semi-private water
10 system fails to comply with an applicable maximum contaminant
11 level at the point of use, the supplier of water shall give
12 public notification by the conspicuous posting of notice of
13 such failure as long as the failure continues. The notice
14 shall be written in a manner reasonably designed to fully
15 inform users of the system that a drinking water regulation
16 has been violated, and shall disclose all material facts. All
17 non-transient, non-community water systems must demonstrate
18 technical, financial, and managerial capacity consistent with
19 the federal Safe Drinking Water Act.

20 (n) The provisions of the Illinois Administrative
21 Procedure Act, are hereby expressly adopted and shall apply
22 to all administrative rules and procedures of the Department
23 of Public Health under this Section, except that in case of
24 conflict between the Illinois Administrative Procedure Act
25 and this Section the provisions of this Section shall
26 control; and except that Section 5-35 of the Illinois
27 Administrative Procedure Act relating to procedures for
28 rulemaking shall not apply to the adoption of any rule
29 required by federal law in connection with which the
30 Department is precluded by law from exercising any
31 discretion.

32 (o) All final administrative decisions of the Department
33 issued pursuant to this Section shall be subject to judicial
34 review pursuant to the provisions of the Administrative

1 Review Law and the rules adopted pursuant thereto. The term
2 "administrative decision" is defined as in Section 3-101 of
3 the Code of Civil Procedure.

4 (p) The Director, after notice and opportunity for
5 hearing to the applicant, may deny, suspend, or revoke a
6 permit in any case in which he or she finds that there has
7 been a substantial failure to comply with the provisions of
8 this Section or the standards, rules and regulations
9 established by virtue thereof.

10 Such notice shall be effected by certified mail or by
11 personal service setting forth the particular reasons for the
12 proposed action and fixing a date, not less than 15 days from
13 the date of such mailing or service, at which time the
14 applicant shall be given an opportunity to request hearing.

15 The hearing shall be conducted by the Director or by an
16 individual designated in writing by the Director as Hearing
17 Officer to conduct the hearing. On the basis of any such
18 hearing, or upon default of the applicant, the Director shall
19 make a determination specifying his or her findings and
20 conclusions. A copy of such determination shall be sent by
21 certified mail or served personally upon the applicant.

22 (q) The procedure governing hearings authorized by this
23 Section shall be in accordance with rules promulgated by the
24 Department. A full and complete record shall be kept of all
25 proceedings, including the notice of hearing, complaint and
26 all other documents in the nature of pleadings, written
27 motions filed in the proceedings, and the report and orders
28 of the Director and Hearing Officer. All testimony shall be
29 reported but need not be transcribed unless review of the
30 decision is sought pursuant to the Administrative Review Law.
31 Copies of the transcript may be obtained by any interested
32 party on payment of the cost of preparing such copies. The
33 Director or Hearing Officer shall, upon his or her own motion
34 or on the written request of any party to the proceeding,

1 issue subpoenas requiring the attendance and the giving of
2 testimony by witnesses, and subpoenas duces tecum requiring
3 the production of books, papers, records or memoranda. All
4 subpoenas and subpoenas duces tecum issued under the terms of
5 this Section may be served by any person of legal age. The
6 fees of witnesses for attendance and travel shall be the same
7 as the fees of witnesses before the circuit courts of this
8 State, such fees to be paid when the witness is excused from
9 further attendance. When the witness is subpoenaed at the
10 instance of the Director or Hearing Officer, such fees shall
11 be paid in the same manner as other expenses of the
12 Department, and when the witness is subpoenaed at the
13 instance of any other party to any such proceeding, the
14 Department may require that the cost of service of the
15 subpoena or subpoena duces tecum and the fee of the witness
16 be borne by the party at whose instance the witness is
17 summoned. In such case, the Department, in its discretion,
18 may require a deposit to cover the cost of such service and
19 witness fees. A subpoena or subpoena duces tecum so issued
20 shall be served in the same manner as a subpoena issued by a
21 circuit court.

22 (r) Any circuit court of this State, upon the
23 application of the Director or upon the application of any
24 other party to the proceeding, may, in its discretion, compel
25 the attendance of witnesses, the production of books, papers,
26 records or memoranda and the giving of testimony before the
27 Director or Hearing Officer conducting an investigation or
28 holding a hearing authorized by this Section, by an
29 attachment for contempt or otherwise, in the same manner as
30 production of evidence may be compelled before the court.

31 (s) The Director or Hearing Officer, or any party in an
32 investigation or hearing before the Department, may cause the
33 depositions of witnesses within the State to be taken in the
34 manner prescribed by law for like depositions in civil

1 actions in courts of this State, and to that end compel the
2 attendance of witnesses and the production of books, papers,
3 records, or memoranda.

4 (t) Any person who violates this Section or any rule or
5 regulation adopted by the Department, or who violates any
6 determination or order of the Department under this Section,
7 shall be guilty of a Class A misdemeanor and shall be fined a
8 sum not less than \$100. Each day's violation constitutes a
9 separate offense. The State's Attorney of the county in
10 which the violation occurs, or the Attorney General of the
11 State of Illinois, may bring such actions in the name of the
12 People of the State of Illinois; or may in addition to other
13 remedies provided in this Section, bring action for an
14 injunction to restrain such violation, or to enjoin the
15 operation of any establishment.

16 (u) The State of Illinois, and all of its agencies,
17 institutions, offices and subdivisions shall comply with all
18 requirements, prohibitions and other provisions of this
19 Section and regulations adopted thereunder.

20 (v) No agency of the State shall authorize, permit or
21 license the construction or operation of any potential route,
22 potential primary source, or potential secondary source, as
23 those terms are defined in the Environmental Protection Act,
24 in violation of any provision of this Section or the
25 regulations adopted hereunder.

26 (w) This Section shall not apply to any water supply
27 which is connected to a community water supply which is
28 regulated under the Environmental Protection Act.

29 (x) Before any property upon which there exists a well
30 containing water that is used for drinking by the inhabitants
31 of the property can be sold, the owner must have the water in
32 the well tested for groundwater contaminants. If the well
33 water does not meet the Board's Groundwater Quality
34 Standards, the owner of the property shall so notify the

1 Department and the prospective buyer of the property. This
2 subsection (x) applies regardless of whether there is a
3 dwelling or other structure on the property.

4 (Source: P.A. 92-369, eff. 8-15-01.)

5 Section 99. Effective date. This Act takes effect
6 January 1, 2003.