

1 AN ACT concerning environmental protection.

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 and by adding Section 9.1 as
6 follows:

7 (415 ILCS 55/9) (from Ch. 111 1/2, par. 7459)

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

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

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

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

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

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

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

30 (6) "Public water system" means a system for the
31 provision to the public of water for human consumption

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

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

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

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

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

31 (d) The Department shall promulgate rules for the
32 construction and operation of all non-community and
33 semi-private water systems. Such rules shall include but
34 need not be limited to: the establishment of maximum

1 contaminant levels no more stringent than federally
2 established standards where such standards exist; the
3 maintenance of records; the establishment of requirements for
4 the submission and frequency of submission of water samples
5 by suppliers of water to determine the water quality; and the
6 capacity demonstration requirements to ensure compliance with
7 technical, financial, and managerial capacity provisions of
8 the federal Safe Drinking Water Act.

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

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

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

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

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

1 (j) The supplier of water for a private, semi-private,
2 or non-community water system shall allow the Department and
3 its authorized agents access to such premises at all
4 reasonable times for the purpose of inspection.

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

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

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

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

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

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

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

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

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

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

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

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

32 (s) The Director or Hearing Officer, or any party in an
33 investigation or hearing before the Department, may cause the
34 depositions of witnesses within the State to be taken in the

1 manner prescribed by law for like depositions in civil
2 actions in courts of this State, and to that end compel the
3 attendance of witnesses and the production of books, papers,
4 records, or memoranda.

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

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

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

27 (w) This Section shall not apply to any water supply
28 which is connected to a community water supply which is
29 regulated under the Environmental Protection Act, except as
30 provided in Section 9.1.

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

32 (415 ILCS 55/9.1 new)

33 Sec. 9.1. Notification of actual or potential

1 contamination.

2 (a) Whenever the Agency identifies any volatile organic
3 compound in excess of the Board's Groundwater Quality
4 Standards or the Safe Drinking Water Act maximum contaminant
5 level while performing its obligations under Section 7 of
6 this Act, Section 13.1 of the Environmental Protection Act,
7 or the federal Safe Drinking Water Act, the Agency shall
8 notify the Department, unless notification has already been
9 provided, and the unit of local government affected.

10 (b) Within 60 days of receipt of notice provided for in
11 subsection (a) of this Section, the Department, or the
12 Department in coordination with the delegated county health
13 department, shall provide notice to the public identifying
14 the contaminants of concern. The notice shall be provided by
15 means of electronic or print media and must be designed to
16 inform the owner of any private water system, semi-private
17 water system, or non-community public water system within an
18 area potentially affected by the identified contamination of
19 the need for the system owner to test the system for possible
20 contamination. The notice shall appear in the media for 3
21 consecutive weeks.

22 (c) A unit of local government shall take any action
23 that it deems appropriate, such as informing any homeowner
24 who potentially could be adversely affected, within a
25 reasonable time after notification by the Agency under
26 subsection (a) of this Section.

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.