



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1841

Introduced 2/5/2025, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

415 ILCS 5/31

from Ch. 111 1/2, par. 1031

Amends the Environmental Protection Act. Provides an exception for alleged violations which remain the subject of disagreement between the Agency and the person complained against following waiver pursuant to certain provisions or fulfillment of the requirements of certain provisions if the person so complained against has made a reasonable effort to remedy the violation, as determined by the Agency. Provides that any violation from January 1, 2023, until January 1, 2024, brought by the Office of the Attorney General shall be reviewed within 30 days of the effective date of the amendatory Act for compliance with the changes made by the amendatory Act if the violation occurred in a municipality with a population larger than 900, but smaller than 1,100. Effective immediately.

LRB104 10648 BDA 20725 b

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 Section 31 as follows:

6 (415 ILCS 5/31) (from Ch. 111 1/2, par. 1031)

7 Sec. 31. Notice; complaint; hearing.

8 (a) (1) Within 180 days after becoming aware of an alleged
9 violation of this Act, any rule adopted under this Act, a
10 permit granted by the Agency, or a condition of such a permit,
11 the Agency shall issue and serve, by certified mail, upon the
12 person complained against a written notice informing that
13 person that the Agency has evidence of the alleged violation.
14 At a minimum, the written notice shall contain:

15 (A) a notification to the person complained against of
16 the requirement to submit a written response addressing
17 the violations alleged and the option to meet with
18 appropriate agency personnel to resolve any alleged
19 violations that could lead to the filing of a formal
20 complaint;

21 (B) a detailed explanation by the Agency of the
22 violations alleged;

23 (C) an explanation by the Agency of the actions that

1 the Agency believes may resolve the alleged violations,
2 including an estimate of a reasonable time period for the
3 person complained against to complete the suggested
4 resolution; and

5 (D) an explanation of any alleged violation that the
6 Agency believes cannot be resolved without the involvement
7 of the Office of the Illinois Attorney General or the
8 State's Attorney of the county in which the alleged
9 violation occurred and the basis for the Agency's belief.

10 (2) A written response to the violations alleged shall be
11 submitted to the Agency, by certified mail, within 45 days
12 after receipt of notice by the person complained against, or
13 within an extended time period as agreed to by the Agency and
14 person complained against. The written response shall include:

15 (A) information in rebuttal, explanation, or
16 justification of each alleged violation;

17 (B) if the person complained against desires to enter
18 into a Compliance Commitment Agreement, proposed terms for
19 a Compliance Commitment Agreement that includes specified
20 times for achieving each commitment and which may consist
21 of a statement indicating that the person complained
22 against believes that compliance has been achieved; and

23 (C) a request for a meeting with appropriate Agency
24 personnel if a meeting is desired by the person complained
25 against.

26 (3) If the person complained against fails to respond in

1 accordance with the requirements of subdivision (2) of this
2 subsection (a), the failure to respond shall be considered a
3 waiver of the requirements of this subsection (a) and nothing
4 in this Section shall preclude the Agency from proceeding
5 pursuant to subsection (b) of this Section.

6 (4) A meeting requested pursuant to subdivision (2) of
7 this subsection (a) shall be held without a representative of
8 the Office of the Illinois Attorney General or the State's
9 Attorney of the county in which the alleged violation
10 occurred, within 60 days after receipt of notice by the person
11 complained against, or within an extended time period as
12 agreed to by the Agency and person complained against. At the
13 meeting, the Agency shall provide an opportunity for the
14 person complained against to respond to each alleged
15 violation, suggested resolution, and suggested implementation
16 time frame, and to suggest alternate resolutions.

17 (5) If a meeting requested pursuant to subdivision (2) of
18 this subsection (a) is held, the person complained against
19 shall, within 21 days following the meeting or within an
20 extended time period as agreed to by the Agency and person
21 complained against, submit by certified mail to the Agency a
22 written response to the alleged violations. The written
23 response shall include:

24 (A) additional information in rebuttal, explanation,
25 or justification of each alleged violation;

26 (B) if the person complained against desires to enter

1 into a Compliance Commitment Agreement, proposed terms for
2 a Compliance Commitment Agreement that includes specified
3 times for achieving each commitment and which may consist
4 of a statement indicating that the person complained
5 against believes that compliance has been achieved; and

6 (C) a statement indicating that, should the person
7 complained against so wish, the person complained against
8 chooses to rely upon the initial written response
9 submitted pursuant to subdivision (2) of this subsection

10 (a).

11 (6) If the person complained against fails to respond in
12 accordance with the requirements of subdivision (5) of this
13 subsection (a), the failure to respond shall be considered a
14 waiver of the requirements of this subsection (a) and nothing
15 in this Section shall preclude the Agency from proceeding
16 pursuant to subsection (b) of this Section.

17 (7) Within 30 days after the Agency's receipt of a written
18 response submitted by the person complained against pursuant
19 to subdivision (2) of this subsection (a) if a meeting is not
20 requested or pursuant to subdivision (5) of this subsection
21 (a) if a meeting is held, or within a later time period as
22 agreed to by the Agency and the person complained against, the
23 Agency shall issue and serve, by certified mail, upon the
24 person complained against (i) a proposed Compliance Commitment
25 Agreement or (ii) a notice that one or more violations cannot
26 be resolved without the involvement of the Office of the

1 Attorney General or the State's Attorney of the county in
2 which the alleged violation occurred and that no proposed
3 Compliance Commitment Agreement will be issued by the Agency
4 for those violations. The Agency shall include terms and
5 conditions in the proposed Compliance Commitment Agreement
6 that are, in its discretion, necessary to bring the person
7 complained against into compliance with the Act, any rule
8 adopted under the Act, any permit granted by the Agency, or any
9 condition of such a permit. The Agency shall take into
10 consideration the proposed terms for the proposed Compliance
11 Commitment Agreement that were provided under subdivision
12 (a) (2) (B) or (a) (5) (B) of this Section by the person
13 complained against.

14 (7.5) Within 30 days after the receipt of the Agency's
15 proposed Compliance Commitment Agreement by the person
16 complained against, or within a later time period not to
17 exceed an additional 30 days as agreed to by the Agency and the
18 person complained against, the person shall either (i) agree
19 to and sign the proposed Compliance Commitment Agreement
20 provided by the Agency and submit the signed Compliance
21 Commitment Agreement to the Agency by certified mail or (ii)
22 notify the Agency in writing by certified mail of the person's
23 rejection of the proposed Compliance Commitment Agreement. If
24 the person complained against fails to respond to the proposed
25 Compliance Commitment Agreement within 30 days as required
26 under this paragraph, the proposed Compliance Commitment

1 Agreement is deemed rejected by operation of law. Any
2 Compliance Commitment Agreement entered into under item (i) of
3 this paragraph may be amended subsequently in writing by
4 mutual agreement between the Agency and the signatory to the
5 Compliance Commitment Agreement, the signatory's legal
6 representative, or the signatory's agent.

7 (7.6) No person shall violate the terms or conditions of a
8 Compliance Commitment Agreement entered into under subdivision
9 (a) (7.5) of this Section. Successful completion of a
10 Compliance Commitment Agreement or an amended Compliance
11 Commitment Agreement shall be a factor to be weighed, in favor
12 of the person completing the Agreement, by the Office of the
13 Illinois Attorney General in determining whether to file a
14 complaint for the violations that were the subject of the
15 Agreement.

16 (7.7) Within 30 days after a Compliance Commitment
17 Agreement takes effect or is amended in accordance with
18 paragraph (7.5), the Agency shall publish a copy of the final
19 executed Compliance Commitment Agreement on the Agency's
20 website. The Agency shall maintain an Internet database of all
21 Compliance Commitment Agreements entered on or after August
22 24, 2018 (the effective date of Public Act 100-1080). At a
23 minimum, the database shall be searchable by the following
24 categories: the county in which the facility that is subject
25 to the Compliance Commitment Agreement is located; the date of
26 final execution of the Compliance Commitment Agreement; the

1 name of the respondent; and the media involved, including air,
2 water, land, or public water supply.

3 (8) Nothing in this subsection (a) is intended to require
4 the Agency to enter into Compliance Commitment Agreements for
5 any alleged violation that the Agency believes cannot be
6 resolved without the involvement of the Office of the Attorney
7 General or the State's Attorney of the county in which the
8 alleged violation occurred, for, among other purposes, the
9 imposition of statutory penalties.

10 (9) The Agency's failure to respond within 30 days of
11 receipt to a written response submitted pursuant to
12 subdivision (2) of this subsection (a) if a meeting is not
13 requested or pursuant to subdivision (5) of this subsection
14 (a) if a meeting is held, or within the time period otherwise
15 agreed to in writing by the Agency and the person complained
16 against, shall be deemed an acceptance by the Agency of the
17 proposed terms of the Compliance Commitment Agreement for the
18 violations alleged in the written notice issued under
19 subdivision (1) of this subsection (a) as contained within the
20 written response.

21 (10) If the person complained against complies with the
22 terms of a Compliance Commitment Agreement accepted pursuant
23 to this subsection (a), the Agency shall not refer the alleged
24 violations which are the subject of the Compliance Commitment
25 Agreement to the Office of the Illinois Attorney General or
26 the State's Attorney of the county in which the alleged

1 violation occurred. However, nothing in this subsection is
2 intended to preclude the Agency from continuing negotiations
3 with the person complained against or from proceeding pursuant
4 to the provisions of subsection (b) of this Section for
5 alleged violations that remain the subject of disagreement
6 between the Agency and the person complained against following
7 fulfillment of the requirements of this subsection (a).

8 (11) Nothing in this subsection (a) is intended to
9 preclude the person complained against from submitting to the
10 Agency, by certified mail, at any time, notification that the
11 person complained against consents to waiver of the
12 requirements of subsections (a) and (b) of this Section.

13 (12) The Agency shall have the authority to adopt rules
14 for the administration of this subsection (a). The rules shall
15 be adopted in accordance with the provisions of the Illinois
16 Administrative Procedure Act.

17 (b) For alleged violations that remain the subject of
18 disagreement between the Agency and the person complained
19 against following fulfillment of the requirements of
20 subsection (a) of this Section, and for alleged violations of
21 the terms or conditions of a Compliance Commitment Agreement
22 entered into under subdivision (a)(7.5) of this Section as
23 well as the alleged violations that are the subject of the
24 Compliance Commitment Agreement, and as a precondition to the
25 Agency's referral or request to the Office of the Illinois
26 Attorney General or the State's Attorney of the county in

1 which the alleged violation occurred for legal representation
2 regarding an alleged violation that may be addressed pursuant
3 to subsection (c) or (d) of this Section or pursuant to Section
4 42 of this Act, the Agency shall issue and serve, by certified
5 mail, upon the person complained against a written notice
6 informing that person that the Agency intends to pursue legal
7 action. Such notice shall notify the person complained against
8 of the violations to be alleged and offer the person an
9 opportunity to meet with appropriate Agency personnel in an
10 effort to resolve any alleged violations that could lead to
11 the filing of a formal complaint. The meeting with Agency
12 personnel shall be held within 30 days after receipt of notice
13 served pursuant to this subsection upon the person complained
14 against, unless the Agency agrees to a postponement or the
15 person notifies the Agency that he or she will not appear at a
16 meeting within the 30-day time period. Nothing in this
17 subsection is intended to preclude the Agency from following
18 the provisions of subsection (c) or (d) of this Section or from
19 requesting the legal representation of the Office of the
20 Illinois Attorney General or the State's Attorney of the
21 county in which the alleged violations occurred for alleged
22 violations which remain the subject of disagreement between
23 the Agency and the person complained against after the
24 provisions of this subsection are fulfilled.

25 (c)(1) For alleged violations which remain the subject of
26 disagreement between the Agency and the person complained

1 against following waiver pursuant to subdivision (10) of
2 subsection (a) of this Section or fulfillment of the
3 requirements of subsections (a) and (b) of this Section, the
4 Office of the Illinois Attorney General or the State's
5 Attorney of the county in which the alleged violation occurred
6 shall issue and serve upon the person complained against a
7 written notice, together with a formal complaint, which shall
8 specify the provision of the Act, rule, regulation, permit, or
9 term or condition thereof under which such person is said to be
10 in violation and a statement of the manner in and the extent to
11 which such person is said to violate the Act, rule,
12 regulation, permit, or term or condition thereof and shall
13 require the person so complained against to answer the charges
14 of such formal complaint at a hearing before the Board at a
15 time not less than 21 days after the date of notice by the
16 Board, except as provided in Section 34 of this Act and unless
17 the person so complained against has made a reasonable effort
18 to remedy the violation, as determined by the Agency. Such
19 complaint shall be accompanied by a notification to the
20 defendant that financing may be available, through the
21 Illinois Environmental Facilities Financing Act, to correct
22 such violation. A copy of such notice of such hearings shall
23 also be sent to any person who has complained to the Agency
24 respecting the respondent within the six months preceding the
25 date of the complaint, and to any person in the county in which
26 the offending activity occurred that has requested notice of

1 enforcement proceedings; 21 days notice of such hearings shall
2 also be published in a newspaper of general circulation in
3 such county. The respondent may file a written answer, and at
4 such hearing the rules prescribed in Sections 32 and 33 of this
5 Act shall apply. In the case of actual or threatened acts
6 outside Illinois contributing to environmental damage in
7 Illinois, the extraterritorial service-of-process provisions
8 of Sections 2-208 and 2-209 of the Code of Civil Procedure
9 shall apply.

10 Notwithstanding any provision of this Act to the contrary,
11 any violation or alleged violation from January 1, 2023, until
12 January 1, 2024, brought by the Office of the Attorney General
13 shall be reviewed within 30 days of the effective date of this
14 amendatory Act of the 104th General Assembly for compliance
15 with the changes to this paragraph made by this amendatory Act
16 of the 104th General Assembly if the violation occurred in a
17 municipality with a population larger than 900, but smaller
18 than 1,100.

19 With respect to notices served pursuant to this subsection
20 (c)(1) that involve hazardous material or wastes in any
21 manner, the Agency shall annually publish a list of all such
22 notices served. The list shall include the date the
23 investigation commenced, the date notice was sent, the date
24 the matter was referred to the Attorney General, if
25 applicable, and the current status of the matter.

26 (2) Notwithstanding the provisions of subdivision (1) of

1 this subsection (c), whenever a complaint has been filed on
2 behalf of the Agency or by the People of the State of Illinois,
3 the parties may file with the Board a stipulation and proposal
4 for settlement accompanied by a request for relief from the
5 requirement of a hearing pursuant to subdivision (1). Unless
6 the Board, in its discretion, concludes that a hearing will be
7 held, the Board shall cause notice of the stipulation,
8 proposal and request for relief to be published and sent in the
9 same manner as is required for hearing pursuant to subdivision
10 (1) of this subsection. The notice shall include a statement
11 that any person may file a written demand for hearing within 21
12 days after receiving the notice. If any person files a timely
13 written demand for hearing, the Board shall deny the request
14 for relief from a hearing and shall hold a hearing in
15 accordance with the provisions of subdivision (1).

16 (3) Notwithstanding the provisions of subdivision (1) of
17 this subsection (c), if the Agency becomes aware of a
18 violation of this Act arising from, or as a result of,
19 voluntary pollution prevention activities, the Agency shall
20 not proceed with the written notice required by subsection (a)
21 of this Section unless:

22 (A) the person fails to take corrective action or
23 eliminate the reported violation within a reasonable time;
24 or

25 (B) the Agency believes that the violation poses a
26 substantial and imminent danger to the public health or

1 welfare or the environment. For the purposes of this item
2 (B), "substantial and imminent danger" means a danger with
3 a likelihood of serious or irreversible harm.

4 (d)(1) Any person may file with the Board a complaint,
5 meeting the requirements of subsection (c) of this Section,
6 against any person allegedly violating this Act, any rule or
7 regulation adopted under this Act, any permit or term or
8 condition of a permit, or any Board order. The complainant
9 shall immediately serve a copy of such complaint upon the
10 person or persons named therein. Unless the Board determines
11 that such complaint is duplicative or frivolous, it shall
12 schedule a hearing and serve written notice thereof upon the
13 person or persons named therein, in accord with subsection (c)
14 of this Section.

15 (2) Whenever a complaint has been filed by a person other
16 than the Attorney General or the State's Attorney, the parties
17 may file with the Board a stipulation and proposal for
18 settlement accompanied by a request for relief from the
19 hearing requirement of subdivision (c)(1) of this Section.
20 Unless the Board, in its discretion, concludes that a hearing
21 should be held, no hearing on the stipulation and proposal for
22 settlement is required.

23 (e) In hearings before the Board under this Title the
24 burden shall be on the Agency or other complainant to show
25 either that the respondent has caused or threatened to cause
26 air or water pollution or that the respondent has violated or

1 threatens to violate any provision of this Act or any rule or
2 regulation of the Board or permit or term or condition
3 thereof. If such proof has been made, the burden shall be on
4 the respondent to show that compliance with the Board's
5 regulations would impose an arbitrary or unreasonable
6 hardship.

7 (f) The provisions of this Section shall not apply to
8 administrative citation actions commenced under Section 31.1
9 of this Act.

10 (Source: P.A. 103-168, eff. 6-30-23; 103-605, eff. 7-1-24.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.