

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 3.145 as follows:

6 (415 ILCS 5/3.145) (was 415 ILCS 5/3.05)

7 Sec. 3.145. Community water supply; non-community water
8 supply.

9 "Community water supply" means a public water supply which
10 serves or is intended to serve at least 15 service connections
11 used by residents or regularly serves at least 25 residents.

12 "Non-community water supply" means a public water supply
13 that is not a community water supply.

14 The requirements of this Act shall not apply to
15 non-community water supplies, except for purposes of: -

16 (1) the Agency's implementation of the Safe Drinking
17 Water Act under subsection (1) of Section 4 of this Act;

18 (2) the Board's adoption of rules under subsection (c)
19 of Section 5 that expressly pertain to non-community water
20 supplies or all public water supplies and the Board's
21 adoption of amendments to those rules; and

22 (3) any provisions of this Act or rules adopted by the
23 Board under this Act that are referenced in, or applicable

1 to non-community water supplies under, the Illinois
2 Groundwater Protection Act or rules adopted under the
3 Illinois Groundwater Protection Act by the Department of
4 Public Health.

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

6 Section 10. The Illinois Groundwater Protection Act is
7 amended by changing Section 9 as follows:

8 (415 ILCS 55/9) (from Ch. 111 1/2, par. 7459)

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

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

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

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

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

24 (4.5) "Non-transient, non-community water system"

1 means a non-community water system that regularly serves
2 the same 25 or more persons at least 6 months per year.

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

7 (6) "Public water system" means a system for the
8 provision to the public of water for human consumption
9 through pipes or other constructed conveyances, if the
10 system has at least 15 service connections or regularly
11 serves an average of at least 25 individuals daily at
12 least 60 days per year. A public water system is either a
13 community water system (CWS) or a non-community water
14 system (non-CWS). The term "public water system" includes
15 any collection, treatment, storage or distribution
16 facilities under control of the operator of such system
17 and used primarily in connection with such system and any
18 collection or pretreatment storage facilities not under
19 such control which are used primarily in connection with
20 such system.

21 (7) "Semi-private water system" means a water supply
22 which is not a public water system, yet which serves a
23 segment of the public other than an owner-occupied single
24 family dwelling.

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

1 (b) No non-community water system may be constructed,
2 altered, or extended until plans, specifications, and other
3 information relative to such system are submitted to and
4 reviewed by the Department for conformance with the rules
5 promulgated under this Section, and until a permit for such
6 activity is issued by the Department. As part of the permit
7 application, all new non-transient, non-community water
8 systems must demonstrate technical, financial, and managerial
9 capacity consistent with the federal Safe Drinking Water Act.

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

13 (d) The Department shall promulgate rules for the
14 construction and operation of all non-community and
15 semi-private water systems. Such rules shall include but need
16 not be limited to: the establishment of maximum contaminant
17 levels no more stringent than federally established standards
18 where such standards exist; the maintenance of records; the
19 establishment of requirements for the submission and frequency
20 of submission of water samples by suppliers of water to
21 determine the water quality; and the capacity demonstration
22 requirements to ensure compliance with technical, financial,
23 and managerial capacity provisions of the federal Safe
24 Drinking Water Act.

25 (e) Borings, water monitoring wells, and wells subject to
26 this Act shall, at a minimum, be abandoned and plugged in

1 accordance with the requirements of Sections 16 and 19 of the
2 Illinois Oil and Gas Act, and such rules as are promulgated
3 thereunder. Nothing herein shall preclude the Department from
4 adopting plugging and abandonment requirements which are more
5 stringent than the rules of the Department of Natural
6 Resources where necessary to protect the public health.

7 (f) The Department shall inspect all non-community water
8 systems for the purpose of determining compliance with the
9 provisions of this Section and the regulations promulgated
10 hereunder.

11 (g) The Department may inspect semi-private and private
12 water systems for the purpose of determining compliance with
13 the provisions of this Section and the regulations promulgated
14 hereunder.

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

19 (i) The Department may conduct inspections to investigate
20 the construction or water quality of non-community or
21 semi-private water systems, or the construction of private
22 water systems. Upon request of the owner or user, the
23 Department may also conduct investigations of the water
24 quality of private water systems.

25 (j) The supplier of water for a private, semi-private, or
26 non-community water system shall allow the Department and its

1 authorized agents access to such premises at all reasonable
2 times for the purpose of inspection.

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

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

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

19 (n) The provisions of the Illinois Administrative
20 Procedure Act, are hereby expressly adopted and shall apply to
21 all administrative rules and procedures of the Department of
22 Public Health under this Section, except that in case of
23 conflict between the Illinois Administrative Procedure Act and
24 this Section the provisions of this Section shall control; and
25 except that Section 5-35 of the Illinois Administrative
26 Procedure Act relating to procedures for rulemaking shall not

1 apply to the adoption of any rule required by federal law in
2 connection with which the Department is precluded by law from
3 exercising any discretion.

4 (o) All final administrative decisions of the Department
5 issued pursuant to this Section shall be subject to judicial
6 review pursuant to the provisions of the Administrative Review
7 Law and the rules adopted pursuant thereto. The term
8 "administrative decision" is defined as in Section 3-101 of
9 the Code of Civil Procedure.

10 (p) The Director, after notice and opportunity for hearing
11 to the applicant, may deny, suspend, or revoke a permit in any
12 case in which he or she finds that there has been a substantial
13 failure to comply with the provisions of this Section or the
14 standards, rules and regulations established by virtue thereof
15 and may impose an administrative penalty of \$1,000 for each
16 violation. Each day's violation constitutes a separate
17 offense.

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

23 The hearing shall be conducted by the Director or by an
24 individual designated in writing by the Director as Hearing
25 Officer to conduct the hearing. On the basis of any such
26 hearing, or upon default of the applicant, the Director shall

1 make a determination specifying his or her findings and
2 conclusions. A copy of such determination shall be sent by
3 certified mail or served personally upon the applicant.

4 (q) The procedure governing hearings authorized by this
5 Section shall be in accordance with rules promulgated by the
6 Department. A full and complete record shall be kept of all
7 proceedings, including the notice of hearing, complaint and
8 all other documents in the nature of pleadings, written
9 motions filed in the proceedings, and the report and orders of
10 the Director and Hearing Officer. All testimony shall be
11 reported but need not be transcribed unless review of the
12 decision is sought pursuant to the Administrative Review Law.
13 Copies of the transcript may be obtained by any interested
14 party on payment of the cost of preparing such copies. The
15 Director or Hearing Officer shall, upon his or her own motion
16 or on the written request of any party to the proceeding, issue
17 subpoenas requiring the attendance and the giving of testimony
18 by witnesses, and subpoenas duces tecum requiring the
19 production of books, papers, records or memoranda. All
20 subpoenas and subpoenas duces tecum issued under the terms of
21 this Section may be served by any person of legal age. The fees
22 of witnesses for attendance and travel shall be the same as the
23 fees of witnesses before the circuit courts of this State,
24 such fees to be paid when the witness is excused from further
25 attendance. When the witness is subpoenaed at the instance of
26 the Director or Hearing Officer, such fees shall be paid in the

1 same manner as other expenses of the Department, and when the
2 witness is subpoenaed at the instance of any other party to any
3 such proceeding, the Department may require that the cost of
4 service of the subpoena or subpoena duces tecum and the fee of
5 the witness be borne by the party at whose instance the witness
6 is summoned. In such case, the Department, in its discretion,
7 may require a deposit to cover the cost of such service and
8 witness fees. A subpoena or subpoena duces tecum so issued
9 shall be served in the same manner as a subpoena issued by a
10 circuit court.

11 (r) Any circuit court of this State, upon the application
12 of the Director or upon the application of any other party to
13 the proceeding, may, in its discretion, compel the attendance
14 of witnesses, the production of books, papers, records or
15 memoranda and the giving of testimony before the Director or
16 Hearing Officer conducting an investigation or holding a
17 hearing authorized by this Section, by an attachment for
18 contempt or otherwise, in the same manner as production of
19 evidence may be compelled before the court.

20 (s) The Director or Hearing Officer, or any party in an
21 investigation or hearing before the Department, may cause the
22 depositions of witnesses within the State to be taken in the
23 manner prescribed by law for like depositions in civil actions
24 in courts of this State, and to that end compel the attendance
25 of witnesses and the production of books, papers, records, or
26 memoranda.

1 (t) Any person who violates this Section or any rule or
2 regulation adopted by the Department, or who violates any
3 determination or order of the Department under this Section,
4 shall be guilty of a Class A misdemeanor, ~~and~~ shall be fined a
5 sum not less than \$100, and shall be liable for a civil penalty
6 of at least \$1,000 for each violation. Each day's violation
7 constitutes a separate offense. The State's Attorney of the
8 county in which the violation occurs, or the Attorney General
9 of the State of Illinois, may bring such actions in the name of
10 the People of the State of Illinois; or may in addition to
11 other remedies provided in this Section, bring action for an
12 injunction to restrain such violation, or to enjoin the
13 operation of any establishment.

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

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

24 (w) This Section shall not apply to any water supply which
25 is connected to a community water supply which is regulated
26 under the Environmental Protection Act, except as provided in

1 Section 9.1.

2 (Source: P.A. 92-369, eff. 8-15-01; 92-652, eff. 7-11-02.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.