

1 AN ACT concerning groundwater 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 as follow:

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 piped water for human
31 consumption through pipes or other constructed

1 conveyances, if the system has at least 15 service
2 connections or regularly serves an average of at least 25
3 individuals daily at least 60 days per year. A public
4 water system is either a community water system (CWS) or
5 a non-community water system (non-CWS). The term "public
6 water system" includes any collection, treatment, storage
7 or distribution facilities under control of the operator
8 of such system and used primarily in connection with such
9 system and any collection or pretreatment storage
10 facilities not under such control which are used
11 primarily in connection with 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 (7.5) "Substantial compliance" means having not
17 more than (i) 2 monitoring violations within the past 12
18 months; (ii) one maximum contaminant level violation that
19 extends for at least 2 monitoring periods; (iii) 2
20 treatment technique violations; (iv) one lead or copper
21 Action Level exceedance after initial monitoring; or (v)
22 a combination of any 2 of the above.

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

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

34 (c) All private and semi-private water systems shall be

1 constructed in accordance with the rules promulgated by the
2 Department under this Section.

3 (d) The Department shall promulgate rules for the
4 construction and operation of all non-community and
5 semi-private water systems. Such rules shall include but
6 need not be limited to: the establishment of maximum
7 contaminant levels no more stringent than federally
8 established standards where such standards exist; the
9 maintenance of records; and the establishment of requirements
10 for the submission and frequency of submission of water
11 samples by suppliers of water to determine the water quality;
12 and the capacity demonstration requirements to ensure
13 compliance with technical, financial, and managerial capacity
14 provisions of the federal Safe Drinking Water Act.

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

23 (f) The Department shall inspect all non-community water
24 systems for the purpose of determining compliance with the
25 provisions of this Section and the regulations promulgated
26 hereunder.

27 (g) The Department may inspect semi-private and private
28 water systems for the purpose of determining compliance with
29 the provisions of this Section and the regulations
30 promulgated hereunder.

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

1 (i) The Department may conduct inspections to
2 investigate the construction or water quality of
3 non-community or semi-private water systems, or the
4 construction of private water systems. Upon request of the
5 owner or user, the Department may also conduct investigations
6 of the water quality of private water systems.

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

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

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

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

27 (n) The provisions of the Illinois Administrative
28 Procedure Act, are hereby expressly adopted and shall apply
29 to all administrative rules and procedures of the Department
30 of Public Health under this Section, except that in case of
31 conflict between the Illinois Administrative Procedure Act
32 and this Section the provisions of this Section shall
33 control; and except that Section 5-35 of the Illinois
34 Administrative Procedure Act relating to procedures for

1 rulemaking shall not apply to the adoption of any rule
2 required by federal law in connection with which the
3 Department is precluded by law from exercising any
4 discretion.

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

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

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

22 The hearing shall be conducted by the Director or by an
23 individual designated in writing by the Director as Hearing
24 Officer to conduct the hearing. On the basis of any such
25 hearing, or upon default of the applicant, the Director shall
26 make a determination specifying his or her findings and
27 conclusions. A copy of such determination shall be sent by
28 certified mail or served personally upon the applicant.

29 (q) The procedure governing hearings authorized by this
30 Section shall be in accordance with rules promulgated by the
31 Department. A full and complete record shall be kept of all
32 proceedings, including the notice of hearing, complaint and
33 all other documents in the nature of pleadings, written
34 motions filed in the proceedings, and the report and orders

1 of the Director and Hearing Officer. All testimony shall be
2 reported but need not be transcribed unless review of the
3 decision is sought pursuant to the Administrative Review Law.
4 Copies of the transcript may be obtained by any interested
5 party on payment of the cost of preparing such copies. The
6 Director or Hearing Officer shall, upon his or her own motion
7 or on the written request of any party to the proceeding,
8 issue subpoenas requiring the attendance and the giving of
9 testimony by witnesses, and subpoenas duces tecum requiring
10 the production of books, papers, records or memoranda. All
11 subpoenas and subpoenas duces tecum issued under the terms of
12 this Section may be served by any person of legal age. The
13 fees of witnesses for attendance and travel shall be the same
14 as the fees of witnesses before the circuit courts of this
15 State, such fees to be paid when the witness is excused from
16 further attendance. When the witness is subpoenaed at the
17 instance of the Director or Hearing Officer, such fees shall
18 be paid in the same manner as other expenses of the
19 Department, and when the witness is subpoenaed at the
20 instance of any other party to any such proceeding, the
21 Department may require that the cost of service of the
22 subpoena or subpoena duces tecum and the fee of the witness
23 be borne by the party at whose instance the witness is
24 summoned. In such case, the Department, in its discretion,
25 may require a deposit to cover the cost of such service and
26 witness fees. A subpoena or subpoena duces tecum so issued
27 shall be served in the same manner as a subpoena issued by a
28 circuit court.

29 (r) Any circuit court of this State, upon the
30 application of the Director or upon the application of any
31 other party to the proceeding, may, in its discretion, compel
32 the attendance of witnesses, the production of books, papers,
33 records or memoranda and the giving of testimony before the
34 Director or Hearing Officer conducting an investigation or

1 holding a hearing authorized by this Section, by an
2 attachment for contempt or otherwise, in the same manner as
3 production of evidence may be compelled before the court.

4 (s) The Director or Hearing Officer, or any party in an
5 investigation or hearing before the Department, may cause the
6 depositions of witnesses within the State to be taken in the
7 manner prescribed by law for like depositions in civil
8 actions in courts of this State, and to that end compel the
9 attendance of witnesses and the production of books, papers,
10 records, or memoranda.

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

23 (u) The State of Illinois, and all of its agencies,
24 institutions, offices and subdivisions shall comply with all
25 requirements, prohibitions and other provisions of this
26 Section and regulations adopted thereunder.

27 (v) No agency of the State shall authorize, permit or
28 license the construction or operation of any potential route,
29 potential primary source, or potential secondary source, as
30 those terms are defined in the Environmental Protection Act,
31 in violation of any provision of this Section or the
32 regulations adopted hereunder.

33 (w) This Section shall not apply to any water supply
34 which is connected to a community water supply which is

1 regulated under the Environmental Protection Act.

2 (Source: P.A. 88-45; 89-445, eff. 2-7-96.)

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