

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 the Act, any rule adopted under the Act, a permit
10 granted by the Agency, or a condition of such a permit, the
11 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 unless the Agency agrees to an
15 extension. The written response shall include:

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

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

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

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

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

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

26 (A) additional information in rebuttal, explanation,

1 or justification of each alleged violation;

2 (B) if the person complained against desires to enter
3 into a Compliance Commitment Agreement, proposed terms for
4 a Compliance Commitment Agreement that includes specified
5 times for achieving each commitment and which may consist
6 of a statement indicating that the person complained
7 against believes that compliance has been achieved; and

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

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

19 (7) Within 30 days after the Agency's receipt of a written
20 response submitted by the person complained against pursuant
21 to subdivision (2) of this subsection (a) if a meeting is not
22 requested or pursuant to subdivision (5) of this subsection
23 (a) if a meeting is held, or within a later time period as
24 agreed to by the Agency and the person complained against, the
25 Agency shall issue and serve, by certified mail, upon the
26 person complained against (i) a proposed Compliance Commitment

1 Agreement or (ii) a notice that one or more violations cannot
2 be resolved without the involvement of the Office of the
3 Attorney General or the State's Attorney of the county in
4 which the alleged violation occurred and that no proposed
5 Compliance Commitment Agreement will be issued by the Agency
6 for those violations. The Agency shall include terms and
7 conditions in the proposed Compliance Commitment Agreement
8 that are, in its discretion, necessary to bring the person
9 complained against into compliance with the Act, any rule
10 adopted under the Act, any permit granted by the Agency, or any
11 condition of such a permit. The Agency shall take into
12 consideration the proposed terms for the proposed Compliance
13 Commitment Agreement that were provided under subdivision
14 (a) (2) (B) or (a) (5) (B) of this Section by the person
15 complained against.

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

1 Compliance Commitment Agreement within 30 days as required
2 under this paragraph, the proposed Compliance Commitment
3 Agreement is deemed rejected by operation of law. Any
4 Compliance Commitment Agreement entered into under item (i) of
5 this paragraph may be amended subsequently in writing by
6 mutual agreement between the Agency and the signatory to the
7 Compliance Commitment Agreement, the signatory's legal
8 representative, or the signatory's agent.

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

18 (7.7) Within 30 days after a Compliance Commitment
19 Agreement takes effect or is amended in accordance with
20 paragraph (7.5), the Agency shall publish a copy of the final
21 executed Compliance Commitment Agreement on the Agency's
22 website. The Agency shall maintain an Internet database of all
23 Compliance Commitment Agreements entered on or after the
24 effective date of this amendatory Act of the 100th General
25 Assembly. At a minimum, the database shall be searchable by
26 the following categories: the county in which the facility

1 that is subject to the Compliance Commitment Agreement is
2 located; the date of final execution of the Compliance
3 Commitment Agreement; the name of the respondent; and the
4 media involved, including air, water, land, or public water
5 supply.

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

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

24 (10) If the person complained against complies with the
25 terms of a Compliance Commitment Agreement accepted pursuant
26 to this subsection (a), the Agency shall not refer the alleged

1 violations which are the subject of the Compliance Commitment
2 Agreement to the Office of the Illinois Attorney General or
3 the State's Attorney of the county in which the alleged
4 violation occurred. However, nothing in this subsection is
5 intended to preclude the Agency from continuing negotiations
6 with the person complained against or from proceeding pursuant
7 to the provisions of subsection (b) of this Section for
8 alleged violations that remain the subject of disagreement
9 between the Agency and the person complained against following
10 fulfillment of the requirements of this subsection (a).

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

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

20 (b) For alleged violations that remain the subject of
21 disagreement between the Agency and the person complained
22 against following fulfillment of the requirements of
23 subsection (a) of this Section, and for alleged violations of
24 the terms or conditions of a Compliance Commitment Agreement
25 entered into under subdivision (a)(7.5) of this Section as
26 well as the alleged violations that are the subject of the

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

1 provisions of this subsection are fulfilled.

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

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

11 With respect to notices served pursuant to this subsection
12 (c)(1) that involve hazardous material or wastes in any
13 manner, the Agency shall annually publish a list of all such
14 notices served. The list shall include the date the
15 investigation commenced, the date notice was sent, the date
16 the matter was referred to the Attorney General, if
17 applicable, and the current status of the matter.

18 (2) Notwithstanding the provisions of subdivision (1) of
19 this subsection (c), whenever a complaint has been filed on
20 behalf of the Agency or by the People of the State of Illinois,
21 the parties may file with the Board a stipulation and proposal
22 for settlement accompanied by a request for relief from the
23 requirement of a hearing pursuant to subdivision (1). Unless
24 the Board, in its discretion, concludes that a hearing will be
25 held, the Board shall cause notice of the stipulation,
26 proposal and request for relief to be published and sent in the

1 same manner as is required for hearing pursuant to subdivision
2 (1) of this subsection. The notice shall include a statement
3 that any person may file a written demand for hearing within 21
4 days after receiving the notice. If any person files a timely
5 written demand for hearing, the Board shall deny the request
6 for relief from a hearing and shall hold a hearing in
7 accordance with the provisions of subdivision (1).

8 (3) Notwithstanding the provisions of subdivision (1) of
9 this subsection (c), if the Agency becomes aware of a
10 violation of this Act arising from, or as a result of,
11 voluntary pollution prevention activities, the Agency shall
12 not proceed with the written notice required by subsection (a)
13 of this Section unless:

14 (A) the person fails to take corrective action or
15 eliminate the reported violation within a reasonable time;
16 or

17 (B) the Agency believes that the violation poses a
18 substantial and imminent danger to the public health or
19 welfare or the environment. For the purposes of this item
20 (B), "substantial and imminent danger" means a danger with
21 a likelihood of serious or irreversible harm.

22 (d)(1) Any person may file with the Board a complaint,
23 meeting the requirements of subsection (c) of this Section,
24 against any person allegedly violating this Act, any rule or
25 regulation adopted under this Act, any permit or term or
26 condition of a permit, or any Board order. The complainant

1 shall immediately serve a copy of such complaint upon the
2 person or persons named therein. Unless the Board determines
3 that such complaint is duplicative or frivolous, it shall
4 schedule a hearing and serve written notice thereof upon the
5 person or persons named therein, in accord with subsection (c)
6 of this Section.

7 (2) Whenever a complaint has been filed by a person other
8 than the Attorney General or the State's Attorney, the parties
9 may file with the Board a stipulation and proposal for
10 settlement accompanied by a request for relief from the
11 hearing requirement of subdivision (c)(1) of this Section.
12 Unless the Board, in its discretion, concludes that a hearing
13 should be held, no hearing on the stipulation and proposal for
14 settlement is required.

15 (e) In hearings before the Board under this Title the
16 burden shall be on the Agency or other complainant to show
17 either that the respondent has caused or threatened to cause
18 air or water pollution or that the respondent has violated or
19 threatens to violate any provision of this Act or any rule or
20 regulation of the Board or permit or term or condition
21 thereof. If such proof has been made, the burden shall be on
22 the respondent to show that compliance with the Board's
23 regulations would impose an arbitrary or unreasonable
24 hardship.

25 (f) The provisions of this Section shall not apply to
26 administrative citation actions commenced under Section 31.1

1 of this Act.

2 (Source: P.A. 100-1080, eff. 8-24-18.)

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