

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Environmental Protection Act is amended by changing Section 31 as follows:

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

Sec. 31. Notice; complaint; hearing.

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

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

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

(C) an explanation by the Agency of the actions that the Agency believes may resolve the alleged violations, including an estimate of a reasonable time period for the person complained against to complete the suggested resolution; and

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

(2) A written response to the violations alleged shall be submitted to the Agency, by certified mail, within 45 days after receipt of notice by the person complained against, unless the Agency agrees to an extension. The written response shall include:

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

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

(C) a request for a meeting with appropriate Agency

personnel if a meeting is desired by the person complained against.

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

(4) A meeting requested pursuant to subdivision (2) of this subsection (a) shall be held without a representative of the Office of the Illinois Attorney General or the State's Attorney of the county in which the alleged violation occurred, within 60 days after receipt of notice by the person complained against, unless the Agency agrees to a postponement. At the meeting, the Agency shall provide an opportunity for the person complained against to respond to each alleged violation, suggested resolution, and suggested implementation time frame, and to suggest alternate resolutions.

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

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

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

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

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

(7) Within 30 days after the Agency's receipt of a written response submitted by the person complained against pursuant to subdivision (2) of this subsection (a) if a meeting is not requested or pursuant to subdivision (5) of this subsection (a) if a meeting is held, or within

a later time period as agreed to by the Agency and the person complained against, the Agency shall issue and serve, by certified mail, upon the person complained against (i) a proposed Compliance Commitment Agreement or (ii) a notice that one or more violations cannot be resolved without the involvement of the Office of the Attorney General or the State's Attorney of the county in which the alleged violation occurred and that no proposed Compliance Commitment Agreement will be issued by the Agency for those violations. The Agency shall include terms and conditions in the proposed Compliance Commitment Agreement that are, in its discretion, necessary to bring the person complained against into compliance with the Act, any rule adopted under the Act, any permit granted by the Agency, or any condition of such a permit. The Agency shall take into consideration the proposed terms for the proposed Compliance Commitment Agreement that were provided under subdivision (a) (2) (B) or (a) (5) (B) of this Section by the person complained against.

(7.5) Within 30 days after the receipt of the Agency's proposed Compliance Commitment Agreement by the person complained against, the person shall either (i) agree to and sign the proposed Compliance Commitment Agreement provided by the Agency and submit the signed Compliance Commitment Agreement to the Agency by certified mail or (ii) notify the Agency in writing by certified mail of the

person's rejection of the proposed Compliance Commitment Agreement. If the person complained against fails to respond to the proposed Compliance Commitment Agreement within 30 days as required under this paragraph, the proposed Compliance Commitment Agreement is deemed rejected by operation of law. Any Compliance Commitment Agreement entered into under item (i) of this paragraph may be amended subsequently in writing by mutual agreement between the Agency and the signatory to the Compliance Commitment Agreement, the signatory's legal representative, or the signatory's agent.

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

(7.7) Within 30 days after a Compliance Commitment Agreement takes effect or is amended in accordance with paragraph (7.5), the Agency shall publish a copy of the final executed Compliance Commitment Agreement on the Agency's website. The Agency shall maintain an Internet database of all Compliance Commitment Agreements entered

on or after the effective date of this amendatory Act of the 100th General Assembly. At a minimum, the database shall be searchable by the following categories: the county in which the facility that is subject to the Compliance Commitment Agreement is located; the date of final execution of the Compliance Commitment Agreement; the name of the respondent; and the media involved, including air, water, land, or public water supply.

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

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

the written response.

(10) If the person complained against complies with the terms of a Compliance Commitment Agreement accepted pursuant to this subsection (a), the Agency shall not refer the alleged violations which are the subject of the Compliance Commitment Agreement to the Office of the Illinois Attorney General or the State's Attorney of the county in which the alleged violation occurred. However, nothing in this subsection is intended to preclude the Agency from continuing negotiations with the person complained against or from proceeding pursuant to the provisions of subsection (b) of this Section for alleged violations that remain the subject of disagreement between the Agency and the person complained against following fulfillment of the requirements of this subsection (a).

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

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

(b) For alleged violations that remain the subject of



disagreement between the Agency and the person complained against following fulfillment of the requirements of subsection (a) of this Section, and for alleged violations of the terms or conditions of a Compliance Commitment Agreement entered into under subdivision (a) (7.5) of this Section as well as the alleged violations that are the subject of the Compliance Commitment Agreement, and as a precondition to the Agency's referral or request to the Office of the Illinois Attorney General or the State's Attorney of the county in which the alleged violation occurred for legal representation regarding an alleged violation that may be addressed pursuant to subsection (c) or (d) of this Section or pursuant to Section 42 of this Act, the Agency shall issue and serve, by certified mail, upon the person complained against a written notice informing that person that the Agency intends to pursue legal action. Such notice shall notify the person complained against of the violations to be alleged and offer the person an opportunity to meet with appropriate Agency personnel in an effort to resolve any alleged violations that could lead to the filing of a formal complaint. The meeting with Agency personnel shall be held within 30 days after receipt of notice served pursuant to this subsection upon the person complained against, unless the Agency agrees to a postponement or the person notifies the Agency that he or she will not appear at a meeting within the 30-day time period. Nothing in this subsection is intended to preclude the Agency from following the provisions

of subsection (c) or (d) of this Section or from requesting the legal representation of the Office of the Illinois Attorney General or the State's Attorney of the county in which the alleged violations occurred for alleged violations which remain the subject of disagreement between the Agency and the person complained against after the provisions of this subsection are fulfilled.

(c) (1) For alleged violations which remain the subject of disagreement between the Agency and the person complained against following waiver pursuant to subdivision (10) of subsection (a) of this Section or fulfillment of the requirements of subsections (a) and (b) of this Section, the Office of the Illinois Attorney General or the State's Attorney of the county in which the alleged violation occurred shall issue and serve upon the person complained against a written notice, together with a formal complaint, which shall specify the provision of the Act, rule, regulation, permit, or term or condition thereof under which such person is said to be in violation and a statement of the manner in and the extent to which such person is said to violate the Act, rule, regulation, permit, or term or condition thereof and shall require the person so complained against to answer the charges of such formal complaint at a hearing before the Board at a time not less than 21 days after the date of notice by the Board, except as provided in Section 34 of this Act. Such

complaint shall be accompanied by a notification to the defendant that financing may be available, through the Illinois Environmental Facilities Financing Act, to correct such violation. A copy of such notice of such hearings shall also be sent to any person that has complained to the Agency respecting the respondent within the six months preceding the date of the complaint, and to any person in the county in which the offending activity occurred that has requested notice of enforcement proceedings; 21 days notice of such hearings shall also be published in a newspaper of general circulation in such county. The respondent may file a written answer, and at such hearing the rules prescribed in Sections 32 and 33 of this Act shall apply. In the case of actual or threatened acts outside Illinois contributing to environmental damage in Illinois, the extraterritorial service-of-process provisions of Sections 2-208 and 2-209 of the Code of Civil Procedure shall apply.

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

(2) Notwithstanding the provisions of subdivision (1)

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

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

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

(B) the Agency believes that the violation poses a

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

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

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

(e) In hearings before the Board under this Title the burden shall be on the Agency or other complainant to show

either that the respondent has caused or threatened to cause air or water pollution or that the respondent has violated or threatens to violate any provision of this Act or any rule or regulation of the Board or permit or term or condition thereof. If such proof has been made, the burden shall be on the respondent to show that compliance with the Board's regulations would impose an arbitrary or unreasonable hardship.

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

(Source: P.A. 97-519, eff. 8-23-11.)

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