

ILLINOIS POLLUTION CONTROL BOARD

June 7, 2001

IN THE MATTER OF:)
)
PROPOSED REGULATED RECHARGE) R00-17
AREA FOR PLEASANT VALLEY PUBLIC) (Rulemaking - Public Water Supply)
WATER DISTRICT, PROPOSED)
AMENDMENTS TO 35 ILL. ADM. CODE)
PART 617)

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal, E.Z. Kezelis, N.J. Melas):

Today the Board adopts for second notice a proposal to create a regulated recharge area for the Pleasant Valley Public Water District (Pleasant Valley), in Peoria County, Illinois. A regulated recharge area is a geographic region where enhanced regulations are imposed by the Board for the purpose of reducing the potential for groundwater contamination, as provided for under Section 17.3 of the Environmental Protection Act (EPAct) (415 ILCS 5/17.3 (2000)). The Pleasant Valley proposal is the first regulated recharge area proposal brought to the Board, and its adoption would create the State's first regulated recharge area.

Today's proposal follows substantially the proposal filed with the Board by the Illinois Environmental Protection Agency (Agency) on February 14, 2000, and adopted by the Board for first notice on August 10, 2000.¹

PROCEDURAL HISTORY

Relationship to Groundwater Protection Act

In September 1987, the Illinois General Assembly adopted Pub. Act 85-863, which includes a variety of provisions designed to enhance the protection of groundwater in Illinois. These provisions contain amendments to the EPAct together with stand-alone legislation at 415 ILCS 55/1 *et seq.* (2000).² Included in these amendments is a program for wellhead protection. A principal aim of the wellhead protection program is to reduce the potential for pollution of water supply wells via regulation of activities at and near the wells.

¹ Proposed Regulated Recharge Area of Pleasant Valley Public Water District, Proposed Amendments to 35 Ill. Adm. Code Part 617 (August 10, 2000), R00-17. First notice publication occurred in the *Illinois Register*, Vol. 24, September 1, 2000, at 13163 *et seq.*

² Both Pub. Act 85-863 in its entirety and the portion of Pub. Act 85-863 found at 415 ILCS 55/1 *et seq.* (2000), are commonly referred to as the "Illinois Groundwater Protection Act." For clarity, only the latter will be identified as the Illinois Groundwater Protection Act (IGPAct) herein.

A regulated recharge area is one of the wellhead protection provisions provided for under the EPAct. Specifically, a regulated recharge area is “a compact geographic area, determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination.” 415 ILCS 5/3.67 (2000). The EPAct provides that more stringent groundwater protection provisions may be applied within such an area. 415 ILCS 5/17.3 and 17.4 (2000).

Pursuant to Section 17.3 of the EPAct (415 ILCS 5/17.3 (2000)), the Agency may propose regulated recharge area regulations to the Board. In the instant case, the Agency developed its proposal in consultation with the Groundwater Advisory Council, an agency and citizen body established under the IGPA to, among other matters, “review, evaluate and make recommendations regarding State laws, regulations and procedures that relate to groundwater protection.” 415 ILCS 55/5(a)(1) (2000); Statement at 14.³ The Agency additionally sought and received advice from the Central Priority Groundwater Protection Planning Region Committee (CRPC), a broad-based local government and citizen group as provided for at Section 17.2 of the EPAct. 415 ILCS 5/17.2(b) (2000). The Agency, the CRPC, and Groundwater Advisory Council, conducted a regulatory development workshop and solicited and obtained additional comments on the proposal from various members of environmental associations and private citizens groups. Statement at 14-16.

Public Hearing

A public hearing was held on May 9, 2000, before Hearing Officer Catherine Glenn in Peoria. Members of the Board and the public attended. The Agency presented the testimony of Richard Cobb, the manager of the groundwater section at the Agency. Bill Compton testified on behalf of the CRPC.

Section 27(b) of the Act requires the Board to request that the Department of Commerce and Community Affairs (DCCA) conduct a study of the economic impact of any proposed rules, and to conduct at least one public hearing on the economic impact of those proposed rules (415 ILCS 5/27(b) (2000)). The Board requested DCCA conduct such a study in a letter dated March 9, 2000. At the May 9, 2000 hearing the Hearing Officer Glenn stated that the Board would rely on a March 10, 2000 DCCA letter stating that DCCA would not conduct economic impact studies on rules pending before the Board. Tr. at 5.

Public Comments

Seven public comments (PCs) have been filed in the period since the Board’s adoption of the first notice proposal.⁴ The comments are PC 2 filed by the Agency on September 27, 2000; PC 3 filed by the Illinois Farm Bureau, Illinois Pork Producers Association, and Illinois Beef Association (Agricultural Organizations) on October 17, 2000; PC 4 filed by the National

³ Citations to the Agency’s Statement of Reasons filed on February 14, 2000, will be cited as “Statement at ___.” Citations to the transcript from the May 9, 2000 hearing will be cited as “Tr. at ___.”

⁴ The Agency filed PC 1 on June 1, 2000, prior to the Board going to first notice.

Solid Wastes Management Association (NSWMA) on October 16, 2000; PC 5 filed by the Agency on February 13, 2001; PC 6 filed by the Agency on March 7, 2001; PC 7 filed by Pleasant Valley on March 12, 2001; and PC 8 filed by the CRPC on March 19, 2001. The substance of these public comments is discussed later in this opinion.

BACKGROUND

Pleasant Valley provides public water supply service to an unincorporated area located south of Peoria in Peoria County, Illinois. The service area is approximately fifteen square miles, including nine square miles in Kickapoo Township, five square miles in Limestone Township, one square mile in Rosefield Township, and 33 acres in Peoria Township. Exh. 1 at 8-9.⁵ The number of service connections within the Pleasant Valley district is approximately 1300. Exh. 1 at 8. Pleasant Valley also sells water to an additional 300 service connections. Exh. 1 at 8. The only groundwater resource in the area capable of supplying the necessary water is located in a small area at the eastern extreme of the Pleasant Valley service area. Statement at 11.

In 1992, Clark Engineers MW, Inc., completed a groundwater protection needs assessment (assessment) for Pleasant Valley. Tr. at 21; Statement at 11. The assessment was completed because Pleasant Valley wanted to determine its protection needs beyond the protection given by existing setback zones from its community water supply wells #2, 3 and 4. Statement at 11, 17. The assessment defined the recharge area of the Pleasant Valley wells, which consists of an area of approximately 182 acres centered on the three wells. Tr. at 56. The assessment concluded that the recharge area was susceptible to groundwater contamination, and recommended that a recharge area protection program be established. Tr. at 22. The assessment determined that the recharge area was unusually susceptible to contamination because of sensitive geology that allows groundwater contaminants to move freely and rapidly towards the Pleasant Valley wellheads. Tr. at 45-46. The assessment further found several industrial and commercial operations within Pleasant Valley's recharge area beyond the maximum setback zone and concluded that a release or accidental spill in the recharge area could result in contamination of Pleasant Valley's water supply. Statement at 11.

On November 4, 1994, the Pleasant Valley Board of Trustees adopted a formal resolution to establish a regulated recharge area. Tr. at 22. Pleasant Valley sent the resolution to the CRPC, so that the CRPC could petition the Agency to develop the proposal to create a recharge area. Tr. at 22. The CRPC held a public hearing in Pleasant Valley in January 1995. Tr. at 23. No objections were made at the hearing. Tr. at 23. On March 28, 1995, the CRPC petitioned the Agency to develop a regulated recharge area proposal to present to the Board. Tr. at 23.

Clark Engineers, the Agency, and Illinois State University performed numerical groundwater flow modeling to develop the specific boundaries for Pleasant Valley's recharge

⁵ Citations to the Exhibits filed with the Agency's proposal will be cited as "Exh. __ at __."

area. Statement at 17. Additionally, advective groundwater flow modeling was performed to evaluate whether the minimum and maximum setback zones adequately protected Pleasant Valley's #2, 3, and 4 wells. Statement at 18. The evaluation affirmed that recharge is occurring beyond the setback zones, and the wells are not adequately protected. Statement at 18.

DISCUSSION OF PROPOSAL

Today's proposal builds upon the groundwater protection provisions already applicable in the Pleasant Valley area pursuant to the EPAct, the IGPAAct, and the Board's groundwater protection regulations (see 35 ILCS 600 *et seq.* (2000)). Concepts established in these laws, such as characterization of potential sources of pollution as "primary" or "secondary," setbacks, etc., continue to apply and are incorporated into the instant proposal.

The proposal is divided into two subparts and two appendices. Subpart A contains general provisions. Should the Board receive additional regulated recharge area proposals, these general provisions could be adopted to apply to any new regulated recharge area. Subpart B contains requirements that are designed specifically for Pleasant Valley. The appendices include a map which defines the boundaries of the proposed regulated recharge area and a copy of the form to be used in registrations of sources and routes.

A discussion of particular provisions of both Subparts A and B follows.

Subpart A

Definitions (Section 617.102)

A large portion of Subpart A is devoted to definitions. These are primarily definitions already in place pursuant to the EPAct, the IGPAAct, or adapted from the Board's other groundwater regulations.

All of the definitions proposed today are identical to those proposed to the Board by the Agency, except for the definition of "Generator (RCRA)." At first notice the Board changed it to be identical to the definition of "Generator (RCRA)" that is found in 35 Ill. Adm. Code 702.110 and 730.103. The Agency had proposed that the definition also include any person "whose act first causes a hazardous waste to become subject to regulation." Because the Board believes that having a consistent definition of "Generator (RCRA)" is appropriate, it has changed this definition accordingly.

Siting Prohibitions (Section 617.120)

An important element in Subpart A is the extension to the regulated recharge area of the prohibition against "new" sitings of activities that are considered under the EPAct and IGPAAct to be of particular concern in wellhead protection. These activities are low-level radioactive waste sites, Class V injection wells, municipal solid waste landfills, and special or hazardous

waste landfills. See 35 Ill. Adm. Code 617.120(a). A definition of “new” is included in Section 617.120(b).

The NSWMA objects to the Board promulgating a rule that prohibits locating a municipal solid waste landfill within a regulated recharge area. PC 4 at 2. It believes that the Board lacks statutory authority to “ban new municipal solid waste landfills from regulated recharge areas.” PC 4 at 4. Specifically, NSWMA argues that such a ban is not an environmental control standard allowed by Section 5(b) of the Act. The NSWMA relies on Village of Lombard v. Pollution Control Board, 66 Ill. 2d 503, 363 N.E.2d 814 (1977), for the proposition that the proposed rule usurps legislative authority. PC 4 at 3.

The NSWMA also argues that Section 39.2(a)(ix) of the Act contemplates a landfill being located within a regulated recharge area. PC 4 at 5. Additionally, the NSWMA argues that the prohibition against landfills conflicts with Sections 14.2 and 14.3 of the Act. PC 4 at 8. The NSWMA also argues that the definition of “new” is flawed. PC 4 at 8-9.

The Board first notes that the Board rejected the NSWMA’s similar claims regarding environmental control standards and legislative authority in Amendments to Requirements for Landscape Waste Compost Facilities, 35 Ill. Adm. Code 830.203(c), 831.107, and 831.109(b)(3) (Oct. 1, 1998), R97-29. Regardless, the Board finds that its general rulemaking authority at Section 27 of the Act permits the Board to adopt regulations that, among other things, “may make different provisions as required by circumstances for different contaminant sources and for different geographical areas.” 415 ILCS 5/27(a) (2000). Further, in Section 17.4 of the Act, in establishing a regulated recharge area regulation the Board shall consider “the adequacy of protection afforded to potable resource groundwater by any applicable setback zones.” 415 ILCS 5/17.4(a)(1) (2000).

The Board further notes that Section 5 of the Act grants the Board broad rulemaking authority. Under that section, the Board “shall determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of the Act.” 415 ILCS 5/5(b) (2000). The proposed rules are an environmental control standard and therefore expressly authorized under Section 5 of the Act. The proposed rules prohibit certain facilities from locating within the recharge area. It is similar to other regulations that the Board has previously adopted. See, *e.g.*, 35 Ill. Adm. Code 803.109(b)(3) (requiring certain composting areas established after January 1, 1999, to be located at least 1/8 mile from health care facilities, pre-school and child care facilities and their associated recreational areas, and primary and secondary school facilities and their associated recreational areas); 35 Ill. Adm. Code 811.302(d) (requiring that certain landfill units be set back 500 feet from occupied dwellings, schools, and hospitals); 35 Ill. Adm. Code 817.309(e) (requiring that steel and foundry industry potentially usable waste landfills be set back 500 feet from occupied dwellings, schools, and hospitals); 35 Ill. Adm. Code 302.102(a) (establishing “mixing zones” as part of the Board’s water quality regulations).

Finally, Village of Lombard does not preclude the Board from adopting the proposed

rules. In that case, the Board adopted a regulation dividing DuPage County into nine water-treatment regions. The regulations required the regions to cooperate in sewage and water treatment. The Illinois Supreme Court confirmed that the Act empowers the Board to regulate by establishing standards: “The statute in question expresses a general policy to protect the State from pollution and creates a board of experts to implement that policy through regulation.” Village of Lombard, 66 Ill. 2d at 507, 363 N.E.2d at 816. The court struck down the regulations at issue, however, finding that “the General Assembly has not empowered the Pollution Control Board to coordinate sewage treatment through regional water-treatment plans in the State of Illinois.” Village of Lombard, 66 Ill. 2d at 509, 363 N.E.2d at 816. Here, the proposed rules do not attempt to establish a new governmental agency, as did the rules that the court struck down in Village of Lombard. Instead, the proposed rules establish a standard to prevent water pollution. The proposed rules are therefore consistent with the Board’s powers and duties under the Act.

In this proposal, the Board has considered the adequacy of protection afforded the Pleasant Valley region. As a result of the assessment completed by Clark Engineers MW, Inc., and pursuant to Section 17.4(b) of the Act, the Board concludes that the “boundary of the delineated area is drawn so that the natural geological or geographic features contained therein are shown to be highly susceptible to contamination over a predominant portion of the recharge area.” 415 ILCS 5/17.4(b) (2000). Therefore, the standard applicable setback zones are inadequate. Pursuant to Section 27(a), therefore, the Board is within its authority to create different setback zones for municipal solid waste landfills. Therefore, the Board finds that it does have the statutory authority to prohibit new municipal solid waste landfills from locating within the Pleasant Valley regulated recharge area.

To the extent that the NSWMA argues that the Act contemplates the possibility of a municipal solid waste landfill locating within a regulated recharge area, the Board agrees. However, the Board finds that Section 39.2(a)(ix) of the Act does not prohibit the Board from restricting a new municipal solid waste landfill from locating within the Pleasant Valley regulated recharge area. Under Section 39.2(a)(ix), local siting approval shall be granted if, among other things, the proposed facility “will be granted within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.” 415 ILCS 5/39.2(a)(ix) (2000). In this proposal, the Board’s requirements are such that no municipal solid waste landfill may be located within the Pleasant Valley regulated recharge area. This prohibition is not inconsistent with Section 39.2(a)(ix) of the Act.

The Board disagrees with the NSWMA’s assertion that Section 617.120(a) is inconsistent with Sections 14.2 and 14.3 of the Act, because those Sections authorize an exception or waiver of the applicable setback requirements. PC 4 at 8. Those sections specifically exclude waivers from the setback requirements for community water supply wells and from a new potential primary source other than landfilling. The Board finds that today’s proposal does not conflict with those sections.

The Board agrees with the NSWMA’s position that the current definition of “new” needs correction. At first notice, the definition of “new” allowed a facility that was built after

the effective date of Subpart A, but not in a recharge area, to be “new” if it became part of a future recharge area. The Board appreciates the NSWMA bringing this inconsistency to the Board’s attention. The Board has amended Section 617.120(b) to reflect that “new” in pertinent part, means “not in existence or for which construction has not commenced at its location as of the effective date of any Subpart of this Part that creates a delineated regulated recharge area in which that facility is located.” See Section 617.120(b).

Suitability Assessment (Section 617.125)

The instant proposal also adds a new wellhead protection provision, not present in previous Board groundwater regulations. The new provision is the recharge area suitability assessment (RASA), found at proposed Section 617.125. The purpose of the RASA process is to assess potential environmental impacts that a new facility would have within a regulated recharge area, and to assure that appropriate measures to protect against possible contamination will be included in the operation of the facility.

The RASA provision applies to owners or operators of new major potential sources that are located wholly or partially within the regulated recharge area.⁶ 35 Ill. Adm. Code 617.125(a). These owners or operators are required to undertake preparation of a RASA document, as described in Section 617.125(c). This document must be filed with the Agency, and the owner or operator must publish a public notice of the assessment and notify adjacent property owners of the filing. 35 Ill. Adm. Code 617.125(d). The Agency, at the request of any person, is also required to hold a public hearing regarding the RASA. 35 Ill. Adm. Code 617.125(e), (f).

After the RASA is filed or a hearing is held, whichever is later, the Agency must issue a statement which addresses whether the assessment demonstrates the potential environmental impacts that a facility would have within the recharge area and includes the appropriate measures to protect against possible contamination, or whether the assessment must be modified. 35 Ill. Adm. Code 617.125(h). This statement is appealable to the Board. 35 Ill. Adm. Code 617.125(l).

At first notice, the Board had suggested modification of the Agency original language at Section 617.125(k) so as to require achievement of an adequate RASA before operation could commence. The Board observed that it “questions whether any major potential source of groundwater contamination should be allowed to operate in a regulated recharge area if the

⁶ A “major potential source” is a unit at a facility or site that is not currently subject to a removal or remediation action that stores, accumulates, landfills, or land treats waste other than household waste, that could cause contamination of groundwater, and is generated on the site. See 35 Adm. Code 617.102. A “major potential source” is a “new major potential source” if, as of the effective date of this proposal, it does not exist or construction has not begun on it. 35 Ill. Adm. Code 617.102. A “new major potential source” may also be a facility, site, or unit which laterally expands or undergoes major reconstruction as of the effective date of this proposal. 35 Ill. Adm. Code 617.102.

owner or operator of that facility cannot demonstrate that the impact on the groundwater has been adequately assessed.” First notice opinion at p. 5.

The Agency has replied:

The Illinois EPA appreciates the Board’s concern. However, due to the broadness of the major potential source definition, and the potential overlap with agricultural regulations, the Illinois EPA does not support going beyond the advisory level at this time. We are concerned that the proposed modifications present a new policy direction that may have some negative ramifications. In developing these provisions with interested stakeholders, we did not discuss this level of pre-operation approval. Further discussion with stakeholders and full consideration of the issues need to take place before this level of approval is required. The Agency proposes that the regulation be amended at a later date, to go beyond the advisory level, if pre-operation approval is desired by the Board.

In summary, the Illinois EPA is concerned about the amendment “...to require achievement of an adequate recharge area suitability assessment before operation can commence” because it moves the proposal beyond the concept of an “assessment” to the equivalent of an operational permit or siting approval. Essentially, the owner or operator would be prohibited from construction without Agency approval. In addition, the potential impact of the facility will be assessed either through submission by the owner or operator, or through the comments provided by the Illinois EPA. Further, the results of the assessment process will be available for the public to make local siting decisions. PC 2 at 3.

The Board accepts the Agency’s explanation for the merits of the original language, and changes Section 617.125 to read: “Operation of the facility may only commence after the issuance of a final statement by the Agency.”

Additionally, to the extent that the Agricultural Organizations argue that the Agency should conduct and pay for the RASA, the Board disagrees. PC 3 at 1. The Board agrees with the Agency that should a livestock facility seek to locate within a regulated recharge area, completing a RASA is a minimal burden. PC 6 at 5.

Furthermore, although the Agricultural Organizations believe that the hearing requirement is duplicative with the Livestock Management Facilities Act (LMFA) (510 ILCS 77 *et seq.*(2000)) public meeting provision, the Board disagrees. Currently, under proposed Section 617.125(e)(2), after an owner or operator files a RASA, any person may request a hearing in the vicinity of the proposed facility. As the Agency observes, the owners or operators of a new major potential source are not required to file a RASA if a public informational meeting is previously requested pursuant to Section 12 of the LMFA. PC 6 at 7, citing Section 617.125(b)(1). Under Section 12 of the LMFA, either the county board or 75 or

more county residents, may request that the Department of Agriculture conduct an informational meeting allowing the public to ask questions and present oral or written comments concerning the construction of a livestock waste handling facility. 510 ILCS 77/12(a) (2000). Therefore, if a public meeting is held under 510 ILCS 77/12 (2000), a livestock management facility will not have to file a RASA under 35 Ill. Adm. Code 617.125 (b), nor have a hearing under 617.125(e)(2).

Technical Control Regulations (Section 617.130)

The Board's existing groundwater regulations at 35 Ill. Adm. Code 615 and 616 establish technical standards for certain activities that are located within applicable setback zones or regulated recharge areas of potable water supply wells. These technical standards apply within the minimum and maximum setback zones of the Pleasant Valley wells. Under proposed Section 617.130 it is noted that the technical standards apply within the regulated recharge area and within 2,500 feet of the Pleasant Valley wellheads. The Board has added "livestock waste" at Section 617.130(a), at both the Agency's and the Agricultural Organizations' requests. PC 6 at 1; PC 3 at 2. This addition exempts livestock waste from having to comply with the cross reference to 35 Ill. Adm. Code 601, 615, 616 and 617 (Groundwater Protection: Regulations for Existing and New Activities Within Setback Zones and Regulated Recharge Areas) found in Section 617.130, because livestock waste is exempt from these provisions. The Board finds no issues of technical feasibility in this proposal.

Abandoned and Improperly Plugged Well Assistance Program (Section 617.135)

If not properly closed, wells that are no longer used can be a ready conduit for pollution of groundwater resources. Accordingly, elimination of abandoned and improperly plugged wells is a focus of existing groundwater protection regulations. Today's proposal at 35 Ill. Adm. Code 617.135 adds a program to these regulations to assist Pleasant Valley with its elimination efforts. Specifically, this is done through an educational program in concert with the Illinois Department of Public Health and the local school system.

Signage Provision (Section 617.140)

A second new wellhead protection provision proposed today in Subpart A mandates that the Agency and the Illinois Department of Transportation work together to post road signs at the entrance and exit of a recharge area. 35 Ill. Adm. Code 617.140. The purpose of this provision is to notify the public of the presence of the recharge area, and thereby to lessen or prevent impacts of contaminant spills.

Subpart B

Subpart B of today's proposal sets forth the requirements specific to the proposed Pleasant Valley regulated recharge area. In addition to an applicability provision, the subpart contains two program provisions. The first program provision concerns registering potential sources and groundwater contamination routes. The second concerns chemical substances management.

Applicability (Section 617.205)

Types of activities that will be affected are new and existing primary, secondary, and tertiary potential sources of groundwater contamination. 35 Ill. Adm. Code 617.205(a). Each of these terms is as defined in existing wellhead protection regulations.

The applicability also emphasizes that existing regulations for setback zones, as provided for in the EPAct, the IGPAAct, and Board regulations, remain applicable and apply throughout the regulated recharge area. 35 Ill. Adm. Code 617.205(b).

The Agency has noted that “the majority of the businesses located within the Pleasant Valley PWD are small, and these proposed provisions are specifically developed with that in mind.” Statement at 23. The Agency has also noted that, for this reason, it has “purposefully wanted to avoid a complex permit-like system.” Statement at 23. The Board finds merit in this perspective, and believes the proposed regulations reflect this perspective and also provide an appropriate level of protection.

Source/Route Registration (Sections 617.210 and 617.215)

The proposal requires owners or operators of a potential source or route of groundwater contamination, located wholly or partially within the recharge area, to register the location of the source or route with the Agency. See 35 Ill. Adm. Code 617.210. To assure that affected entities are notified of the registration requirement, the proposal provides that the Agency, with the cooperation of Pleasant Valley, conduct a door-to-door canvass to notify the owners or operators of all known potentially impacted facilities; the canvass is required within 30 days of the effective date of the regulated recharge area. 35 Ill. Adm. Code 617.215. The proposal further requires the Agency to hold a meeting with all owners and operators within 90 days of the effective date, to help them register and provide information regarding Subpart B’s requirements. 35 Ill. Adm. Code 617.215(b), (c).

Management of Chemical Substances (Sections 617.220 and 617.225)

Proposed 35 Ill. Adm. Code 617.220 sets out various provisions intended to assure safe management of chemical substances within the regulated recharge area. Owners and operators of potential tertiary sources of groundwater contamination must develop and implement a chemical substances management system that will include, among other things, a description of how the on-site chemical substances are stored and used. 35 Ill. Adm. Code 617.220(a). Owners or operators of potential tertiary sources of groundwater contamination must also register for a training program, which is intended to provide an overview of the sensitivity of the groundwater resource, and provide input on appropriate pollution prevention alternatives. 35 Ill. Adm. Code 617.220(b), (e).

Following the training program, the owners and operators of potential tertiary sources of groundwater contamination have 180 days in which to implement a chemical substances management plan (CSMP). 35 Ill. Adm. Code 617.220 (c). The intent of creating the CSMP is to develop provisions that allow for coexistence of uses through implementing best

management practices and contingency planning. Statement at 23. The proposal also requires that the CSMP for new potential tertiary sources include secondary containment. 35 Ill. Adm. Code 617.220(d).

Proposed 35 Ill. Adm. Code 617.225 sets out requirements for the Agency's training program.

ECONOMIC EFFECTS

The Agency assessed each of the businesses located in the Pleasant Valley proposed regulated recharge area. PC 2 at 1-2. Evaluation of this information shows that the majority of existing small businesses do not appear to be potential tertiary sources due to the small amount of hazardous substances used. PC 2 at 2. However, two businesses could be potential tertiary sources. PC 2 at 2. The assessments also show that many of the businesses already use the operational measures proposed. PC 2 at 2. Therefore, when considering the economic impact of this proposed rule, from both an operational and capital expenditure perspective, the Agency evaluation further corroborates that implementing a management system for existing or new potential tertiary sources will not be cost or time prohibitive.

Also, because of the regulation's requirements that potential tertiary sources create a CSMP, the economic effects on small businesses would be the costs of preparing the plan. The Agency estimates that it would take 2-3 days to prepare the plan. At an estimated rate of \$20-\$25 per hour, plus the cost of paying employees to attend an Agency-sponsored one day training program, the total approximate cost of the proposal for a small business is \$900. PC 1 at 2.

The capital costs likely to be incurred in complying with the proposal would be primarily for new potential tertiary sources that either construct or use a pre-fabricated storage and handling system. The Agency estimates that the costs of two or four-drum poly spill containment pallets, with a 66-gallon sump capacity to be approximately \$210-\$475.

As the Agency notes, cleanup of groundwater contamination can be very costly. Statement at 25-26. Significant reduction of the potential for groundwater contamination, conversely, can be accomplished at low cost with education and employment of good management practices.

ORDER

The Board hereby proposes for second notice the following amendments to 35 Ill. Adm. Code 617. The Clerk of the Board is directed to file these proposed rules with the Joint Committee on Administrative Rules

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE F: PUBLIC WATER SUPPLIES

CHAPTER I: POLLUTION CONTROL BOARD

PART 617
REGULATED RECHARGE AREAS

SUBPART A: GENERAL

<u>Section</u>	<u>Purpose</u>
617.101	Purpose
617.102	Definitions
617.110	<u>Incorporation by Reference</u>
617.115	<u>Scope</u>
617.120	<u>Prohibitions</u>
617.125	<u>Recharge Area Suitability Assessment</u>
617.130	<u>Technology Control Regulations</u>
617.135	<u>Abandoned and Improperly Plugged Well Assistance Program</u>
617.140	<u>Recharge Area Road Sign Posting</u>

SUBPART B: PLEASANT VALLEY PUBLIC WATER DISTRICT REGULATED
RECHARGE AREA

<u>Section</u>	<u>Purpose</u>
617.200	Purpose
617.205	<u>Applicability</u>
617.210	<u>Registration of Potential Sources and Routes of Groundwater Contamination</u>
617.215	<u>Recharge Area Registration Meeting</u>
617.220	<u>Management Systems for Potential Sources</u>
617.225	<u>Training Program for Potential Tertiary Sources</u>
Appendix A	<u>Boundary of the Pleasant Valley Public Water District Regulated Recharge Area</u>
Appendix B	<u>Potential Route and Source Registration Form</u>

AUTHORITY: Implementing Section 17.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17.4 and 27].

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1592, effective January 10, 1992, amended in R 96-18, at 21 Ill. Reg. 6569, effective May 8, 1997, amended in R00-17 at 24 Ill. Reg. _____, effective _____.

NOTE: Italicization denotes statutory language.

SUBPART A: GENERAL

Section 617.101	Purpose
-----------------	---------

This Part ~~establishes the general requirements and standards for sets-out~~ regulated recharge areas as delineated and adopted by the Illinois Pollution Control Board pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) [415 ILCS 5/17.4].

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 617.102 Definitions

Unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, 35 Ill. Adm. Code 616.102, Section 1 of the Act, or the Illinois Groundwater Protection Act [415 ILCS 55/1].

“Agency” means the Illinois Environmental Protection Agency.

“Agrichemical facility” means a site used for commercial purposes, where bulk pesticides are stored in a single container in excess of 300 gallons of liquid pesticide or 300 pounds of dry pesticide for more than 30 days per year or where more than 300 gallons of liquid pesticide or 300 pounds of dry pesticide are being mixed, repackaged or transferred from one container to another within a 30 day period or a site where bulk fertilizers are stored, mixed, repackaged or transferred from one container to another. [415 ILCS 5/3.77]

“Board” means the Illinois Pollution Control Board.

“Chemical substance” means any “extremely hazardous substance” listed in Appendix A of 40 CFR 355 that is present at a facility in an amount in excess of its threshold planning quantity, any “hazardous substance” listed in 40 CFR 302.4 that is present at a facility in an amount in excess of its reportable quantity or in excess of its threshold planning quantity if it is also an “extremely hazardous substance”, and any petroleum including crude oil or any fraction thereof that is present at a facility in an amount exceeding 100 pounds unless it is specifically listed as a “hazardous substance” or an “extremely hazardous substance”.

“Chemical substance” does not mean any substance to the extent it is used for personal, family, or household purposes or to the extent it is present in the same form as a product packaged for distribution to and use by the general public. [430 ILCS 45/3]

“Class V injection well” means injection wells not included in Class I, II, III, or IV. Class V wells include:

air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;

cesspools, including multiple dwelling, community or regional cesspools, or other devices that receive wastes, which have an open bottom and sometimes have perforated sides. The Underground Injection Control (UIC) requirements do not apply to single family residential cesspools nor to non-residential cesspools that receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;

cooling water return flow wells used to inject water previously used for cooling;

drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

dry wells used for the injection of wastes into a subsurface formation;

recharge wells used to replenish the water in an aquifer;

salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of subsurface mines whether or not what is injected is a radioactive waste;

septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells that are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day;

subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas-producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

radioactive waste disposal wells other than Class IV;

injection wells associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power;

wells used for solution mining of conventional mines such as stopes leaching;

wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;

injection wells used in experimental technologies; and

injection wells used for in - situ recovery of lignite, coal, tar sands, and oil shale. (40 CFR 146.5)

“Container” means any portable device (including, but not limited to, 55-gallon drums) in which material is stored, treated, disposed of or otherwise handled. The term "container" does not include a vehicle used to transport material.

“Existing Potential Tertiary Source of Groundwater Contamination” means a potential tertiary source of groundwater contamination that is not new.

“Facility” means the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business. [430 ILCS 45/3]

“Generator (RCRA)” means any person, by site location, whose act or process produces “hazardous waste” identified or listed in 35 Ill. Adm. Code 721 (see 35 Ill. Adm. Code 702.110 and 35 Ill. Adm. Code 730.103).

“Household waste” means any waste material (including garbage and trash) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

“IEMA” means the Illinois Emergency Management Agency.

“Low level radioactive waste” or “waste” means radioactive waste not classified as high- level radioactive waste, transuranic waste, spent nuclear fuel or byproduct material as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 USC 2014) [420 ILCS 20/3].

“Major Potential Source” means any unit at a facility or site not currently subject to a removal or remedial action that stores, accumulates, landfills, or land treats waste, other than household waste, that could cause contamination of groundwater and is generated on the site.

“Municipal solid waste landfill unit” or “MSWLF Unit” means a contiguous area of land or an excavation that receives household waste, and is not a land application unit, surface impoundment, injection well, or any pile of

noncontainerized accumulations of solid, nonflowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF unit if it receives household waste. [415 ILCS 5/3.85]

“New Major Potential Source” means:

a major potential source that is not in existence or for which construction has not commenced at its location as of the effective date of this Subpart; or

a major potential source that expands laterally beyond the currently permitted boundary or, if the potential source is not permitted, the boundary in existence as of the effective date of this Subpart; or

a major potential source that is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components, constructed within a 2-year period, exceed 50% of the fixed capital cost of a comparable entirely new facility as of the effective date of this Subpart.

“New Potential Primary Source” means:

a potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or

a potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or

a potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility. [415 ILCS 5/3.59]

“New Potential Route” means:

a potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or

a potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988. [415 ILCS 5/3.58]

“New Potential Secondary Source” means:

a potential secondary source which is not in existence or for which construction has not commenced at its location as of July 1, 1988; or

a potential secondary source which expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or

a potential secondary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility [415 ILCS 5/3.60]; or

A new potential secondary source excludes an agrichemical facility that modifies on-site storage capacity such that the volume of the pesticide storage does not exceed 125% of the available capacity in existence on April 1, 1990, or the volume of fertilizer storage does not exceed 150% of the available capacity in existence on April 1, 1990; provided that a written endorsement for an agrichemical facility permit is in effect under Section 39.4 of [the] Act and the maximum feasible setback is maintained. This on-site storage capacity includes mini-bulk pesticides, package agrichemical storage areas, liquid or dry fertilizers, and liquid or dry pesticides. [415 ILCS 5/14.2(g)(4)]

“New Potential Tertiary Source of Groundwater Contamination” means:

a Potential Tertiary Source, that is not in existence or for which construction has not commenced at its location as of the effective date of this Subpart; or

a Potential Tertiary Source that expands laterally beyond the currently permitted boundary or, if the tertiary source is not permitted, the boundary in existence as of the effective date of this Subpart; or

a Potential Tertiary Source that is part of a facility that undergoes major reconstruction after the effective date of this Subpart. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components, constructed within a 2-year period, exceed 50% of the fixed capital cost of a comparable entirely new facility.

“Potential Primary Source” means any unit at a facility or site not currently subject to a removal or remedial action that:

is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or

is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances. [415 ILCS 5/3.59]

“Potential route” means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. [415 ILCS 5/3.58]

“Potential secondary source” means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, that:

is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances; or

stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or

stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or

is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act). [415 ILCS 5/3.60]

“Potential Tertiary Source of Groundwater Contamination” means any unit at a facility or site not currently subject to a removal or remedial action that stores or accumulates any chemical substance during any calendar year and that is not a potential primary or secondary source of groundwater contamination.

“Regulated recharge area” means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination. [415 ILCS 5/3.67]

“Setback zone” means a geographic area, designated pursuant to (the) Act, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters. [415 ILCS 5/3.61]

“Sinkhole” means any natural depression formed as a result of subsurface removal of soil or rock materials and causing the formation of a collapse feature that exhibits internal drainage. The existence of a sinkhole shall be indicated by the uppermost closed depression contour lines on the United States Geological Survey 7.5 minute topographic quadrangle maps or as determined by field investigation.

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by (the) Act or regulations thereunder. [415 ILCS 5/3.43]

“Unit” means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). This term includes secondary containment structures and their contents at agrichemical facilities. [415 ILCS 5/3.62]

“Unit boundary” means a line at the land's surface circumscribing the area on which, above which or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizers, road oils or de-icing agents falls within the unit boundary.

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or coal combustion by-products as defined in Section 3.94 (of the Act), or in industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954 as amended (68 stat. 921)(42 USC 2011 et seq.) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. [415 ILCS 5/3.53]

(Source: Amended at 24 Ill. Reg. _____ , effective _____)

Section 617.110 Incorporation by Reference

- a) The Board incorporates the following federal regulations by reference:
40 CFR 302.1 through 302.8.
- b) This Part incorporates no later amendments or editions.

(Source: Amended at 24 Ill. Reg. _____ , effective _____)

Section 617.115 Scope

This Part establishes regulated recharge areas and provisions governing specific activities in those areas delineated by the Board.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.120 Prohibitions

- a) The following new facilities, sites, units, or potential routes must not be located within a delineated regulated recharge area:
- (1) low level radioactive waste sites;
 - (2) class V injection wells;
 - (3) municipal solid waste landfills; or
 - (4) special or hazardous waste landfills.
- b) For the purpose of subsection (a), “new” means the following:
- 1) a facility, site, or unit that is not in existence or for which construction has not commenced at its location as of the effective date of any Subpart of this Part that creates a delineated regulated recharge area in which that facility is located;
 - 2) a facility, site, or unit that expands laterally beyond the currently permitted boundary or, if the potential primary source is not permitted, the boundary in existence as of the effective date of any Subpart of this Part that creates a delineated regulated recharge area in which that facility is located;
 - 3) a unit or site that is part of a facility that undergoes major reconstruction, which shall be deemed to have taken place where the fixed capital cost of the new components, constructed within a 2-year period, exceed 50% of the fixed capital cost of a comparable entirely new facility; or
 - 4) a Class V injection well that is not in existence or for which construction has not commenced at its location as of the effective date of any Subpart of this Part that creates a delineated regulated recharge area in which that facility is located.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.125 Recharge Area Suitability Assessment

The purpose of the recharge area suitability assessment process is to assess potential environmental impacts that a new facility would have within a regulated recharge area, and to assure that appropriate measures to protect against possible contamination will be included in the operation of the facility.

- a) The owners or operators of new major potential sources located wholly or partially within a delineated regulated recharge area may not commence construction without first filing a recharge area suitability assessment with the Agency, except for livestock operations that meet the criteria set forth in 35 Ill. Adm. Code 501.404(e) or except as provided in subsection (b) of this Section.

- b) For any livestock waste handling facility subject to the Livestock Management Facilities Act as amended, 510 ILCS 77 et seq. (1998), the requirement in subsection (a) of this Section for filing a recharge area suitability assessment is only applicable to such facility after filing a notice of intent, or a complete registration if the facility is designed to handle the waste from a 300 animal unit or larger operation, and:
 - 1) a public informational meeting pursuant to Section 12 of the Livestock Management Facilities Act is not requested; or
 - 2) the provisions for a public informational meeting are not applicable to such facility.

- c) A recharge area suitability assessment must include, at a minimum, the following:
 - 1) a legal description of the site and location maps including:
 - A) a topographic map of the site drawn to scale of 200 feet to the inch or larger with a contour interval of less than 50 feet;
 - B) an area map that shows the approximate distance of the unit at a facility or site from the nearest potable water supply well or sinkhole; and
 - C) an area map that identifies all land uses within 1 mile of the site,
 - 2) soil survey data for the site;

- 3) an explanation of the proposed operation and any protection controls or measures;
 - 4) a description of any management systems that will be utilized to prevent environmental contamination; and
 - 5) an analysis of the potential environmental impacts that could occur due to the operation of the facility and any mitigating measures that will be implemented.
- d) Within 7 days after filing the suitability assessment, the owner or operator must:
- 1) notify all adjacent property owners of the filing; and
 - 2) publish a public notice regarding the filing of the assessment in a newspaper whose circulation covers the affected area.
- e) Within 45 days after the filing of an assessment, any person may:
- 1) request copies of the assessment from the Agency; and
 - 2) request that a public hearing be held at a location in the vicinity of the proposed facility.
- f) The Agency must hold the public hearing in a timely manner, but no more than 45 days after receipt of the written response pursuant to subsection (e)(2) of this Section.
- g) The Agency must provide 21 days public notice prior to a public hearing.
- h) Within 90 days after the filing of an assessment or within 120 days after a hearing, the Agency must issue a written statement with one of the following determinations:
- 1) the assessment demonstrates the potential environmental impacts that a facility would have within the recharge area and includes the appropriate measures to protect against possible contamination;
 - 2) the assessment does not demonstrate the potential environmental impacts that a facility would have within the recharge area and does not include the appropriate measures to protect against possible contamination; or

- 3) the assessment must be modified to address any impacts that the facility will have on the groundwater within the area.
- i) The owner or operator of the facility may, within 30 days, respond to a statement issued by the Agency pursuant to subsection (h)(2) or (h)(3) of this Section.
- j) Not later than 30 days after receipt of a response from the owner or operator of the facility, the Agency must issue a final statement regarding the assessment pursuant to subsection (i) of this Section. If no response is received by the Agency within the 30 day period, no further action is necessary and the statement stands as initially issued.
- k) Operation of the facility may only commence after issuance of a final statement by the Agency.
- l) The applicant may appeal the Agency's final statement to the Board by filing a petition on or before the 35th day after the issuance of the statement. The petition must be filed, and the proceedings conducted, pursuant to the procedures set forth in 35 Ill. Adm. Code 105.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.130 Technology Control Regulations

The standards and requirements of 35 Ill. Adm. Code 615, 35 Ill. Adm. Code 616, 8 Ill. Adm. Code 257, or 77 Ill. Adm. Code 830 apply to the following existing and new activities when those activities are located wholly or partially within 2,500 feet of the wellheads and are located or take place within a regulated recharge area:

- a) landfilling, land treating, surface impounding or piling of special waste and other wastes that could cause contamination of groundwater and that are generated on the site, other than hazardous waste, livestock waste, and construction and demolition debris;
- b) storage of special waste in an underground storage tank to which federal regulatory requirements for the protection of groundwater are not applicable;
- c) storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application;
- d) storage and related handling of road oils and de-icing agents at a central location; and

- e) storage and related handling of pesticides and fertilizers at a central location for the purpose of distribution to retail sales outlets.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.135 Abandoned and Improperly Plugged Well Assistance Program

The Department of Public Health and Department of Natural Resources may develop an assistance program for abandoned and improperly plugged water supply wells as follows:

- a) The Department of Natural Resources and Department of Public Health must develop educational materials on the requirements for properly plugging abandoned water supply wells within a regulated recharge area.
- b) The Department of Natural Resources and the Department of Public Health must work within a school district to develop, and implement an educational program utilizing the materials developed under subsection (a) of this Section on the requirements for properly plugging abandoned water supply wells within, or within the service area of the water supply within a regulated recharge area.
- c) The water supply associated with a regulated recharge area will distribute the educational materials developed under subsection (a) of this Section to the water users within the service area.
- d) The Department of Natural Resources must work with a school district in the service area associated with a regulated recharge area to develop and implement groundwater protection information on the proper plugging requirements of abandoned water supply wells.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.140 Recharge Area Road Sign Posting

Road signs will be posted at the entrance to and exit from a regulated recharge area after the effective date of this Subpart, as follows:

- a) the Agency must work with the Illinois Department of Transportation to demarcate any State or interstate road or highway at the perimeter of a regulated recharge area; and
- b) the public water supply, as defined in 415 ILCS 5/3.28 (1998), must demarcate where any major road other than a state or interstate road or highway enters or exits a regulated recharge area.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: PLEASANT VALLEY PUBLIC WATER DISTRICT
REGULATED RECHARGE AREA

Section 617.200 Purpose

This Subpart establishes requirements and standards for the protection of the Pleasant Valley Public Water District for certain types of existing or new facilities, sites or units located wholly or partially within the regulated recharge area boundary delineated in 35 Ill. Adm. Code 617.Appendix A.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 617.205 Applicability

a) This Subpart applies to the following facilities, sites, units or wells located partially or wholly within the Pleasant Valley Public Water District's recharge area boundary:

- 1) those activities not regulated by 35 Ill. Adm. Code 615 or 35 Ill. Adm. Code 616;
- 2) Class V wells and abandoned and improperly plugged wells of any type;
- 3) existing and new potential primary sources of groundwater contamination, existing and new potential secondary sources of groundwater contamination, existing and new potential tertiary sources of groundwater contamination, and existing and new potential routes of groundwater contamination.

b) Nothing in this Subpart impacts the application of State or Federal laws or regulations (35 Ill. Adm. Code 615, 35 Ill. Adm. Code 616, Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601, et seq.); Sections 3004 and 3008 of the Resource Conservation and Recovery Act (42 USC 6901, et seq.); Sections 4(q), 4(v), 12(g), 21(d), 21(f), 22.2(f), 22.2(m) and 22.18 of the Act; 35 Ill. Adm. Code 724, 725, 730, 731, 733, 740, 742, 750, 811 and 814)) to activities addressed in those Parts or Sections that occur within the boundaries of the regulated recharge area set out in this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 617.210 Registration of Potential Sources and Routes of Groundwater Contamination

The owner or operator of potential sources or routes of groundwater contamination, located wholly or partially within the Pleasant Valley Public Water District's regulated recharge area detailed in Appendix A, must register the location with the Agency using forms provided in Appendix B as follows:

- a) no later than 30 days prior to commencement of construction for new potential routes or primary, secondary or tertiary sources of groundwater contamination; or
- b) no later than 90 days after the registration meeting described in Section 617.215 of this Subpart.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.215 Recharge Area Registration Meeting

The Agency must hold an informational and registration meeting for the owners or operators of potential sources and routes of groundwater contamination that are located within the boundaries of the regulated recharge area.

- a) Within 30 days after the effective date of Subpart B of this Part, the Agency, with the cooperation of the Pleasant Valley Water District, must conduct a door-to-door canvass to notify the owners or operators of all known potentially impacted facilities of the date, time, and place of the informational and registration meeting.
- b) At the meeting, the Agency will provide:
 - 1) information concerning the applicability of this Subpart;
 - 2) an explanation of and information concerning any other related regulations; and
 - 3) an opportunity for the owner or operator to register the facility.
- c) The Agency will sponsor the meeting within 90 days after the effective date of this Subpart at a location within the Pleasant Valley Public Water District.
- d) The Agency must provide copies of each registration to the Pleasant Valley Public Water District.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.220 Management Systems for Potential Sources

- a) The owner or operator of any potential tertiary source of groundwater contamination located wholly or partially within the regulated recharge area must develop and implement a chemical substances management system that, at a minimum, must include the following:
- 1) a brief description of the manner in which the on-site chemical substances are stored and used;
 - 2) a potential release assessment and the response procedures to be followed by the facility for notifying local emergency response agencies;
 - 3) management measures that are employed to reduce the potential for releases; and
 - 4) suitable training as provided by the Agency pursuant to Section 617.225 of this Subpart.
- b) The owner or operator of an existing potential tertiary source of groundwater contamination located wholly or partially within the regulated recharge area must:
- 1) Within 90 days after the effective date of this Subpart register for the training required under Section 617.225; and
 - 2) Within 120 days after the effective date of this Subpart attend an Agency sponsored training program required under Section 617.225 before the development of the required chemical substances management plan (CSMP).
- c) The owner or operator of an existing potential tertiary source of groundwater contamination located wholly or partially within the regulated recharge area must, within 180 days after the training required pursuant to Section 617.225, develop a CSMP and make it available on-site.
- d) The chemical substances management system for a new potential tertiary source must also include secondary containment. Chemical substance storage areas regulated under this Subpart must have a constructed or pre-fabricated containment system that is operated as follows:

- 1) When not protected from receiving precipitation, the constructed or pre-fabricated containment system must have:
 - A) a minimum containment volume of a 6-inch rain storm (a 25 year, 24 hour rain);
 - B) the capacity of the largest container or tank; and
 - C) the volume displaced by the bases of the other tanks located within the secondary containment structure.
- 2) When protected from receiving precipitation, the constructed or pre-fabricated containment system must have a minimum containment volume of 100 percent of the capacity of the largest container or tank, plus the volume displaced by the bases of the other containers or tanks.
- 3) The owner or operator must prevent run-on into the pre-fabricated or constructed secondary containment system, unless the collection system has sufficient excess capacity in addition to that required in subsection (d)(1) of this Section to contain any run-on, which might enter the constructed or pre-fabricated containment system.
- 4) The owner or operator must remove spilled or leaked material and accumulated precipitation from the sump or collection area in a timely manner to prevent overflow of the collection system.
- e) The owner or operator of a new potential tertiary source of groundwater contamination located wholly or partially within the regulated recharge area must:
 - 1) register for the training required under Section 617.225 30 days before construction has commenced; and
 - 2) attend an Agency sponsored training program required under Section 617.225 within 60 days after registration.
- f) The owner or operator of a potential primary or secondary source must review the facility's chemical management practices and take any necessary actions to ensure protection equivalent to subsection (a) or (d) of this Section.
- g) The owner or operator of a potential tertiary source of groundwater contamination must do the following, unless an equivalent CSMP has been prepared and filed:
 - 1) maintain a CSMP at the facility at all times;

- 2) review the CSMP annually;
- 3) clearly identify changes in the CSMP;
- 4) provide a copy of the initial Plan to the appropriate local fire department and police response agency; and
- 5) make the CSMP available for inspection by the public during normal operating hours.

(Source: Amended at 24 Ill. Reg. _____, effective)

Section 617.225 Training Program for Potential Tertiary Sources

- a) A chemical substance management training program (as required in Section 617.220(a)) must be conducted by the Agency as follows:
 - 1) The training program must cover, at a minimum, the following topics:
 - A) an overview of the sensitivity of community water supply recharge areas and groundwater protection;
 - B) improperly abandoned wells;
 - C) the procedure for developing a chemical substance management system;
 - D) cost effective containment systems;
 - E) small business technical assistance opportunities; and
 - F) pollution prevention alternatives appropriate for the type of business.
 - 2) The chemical substances management system training program will be offered at least once, and may be offered more frequently, depending upon demand. The Agency or its designee must publish advance notice of the time, date, and location for each training program.
 - 3) An individual must enroll with the Agency prior to the date for the next scheduled training program.

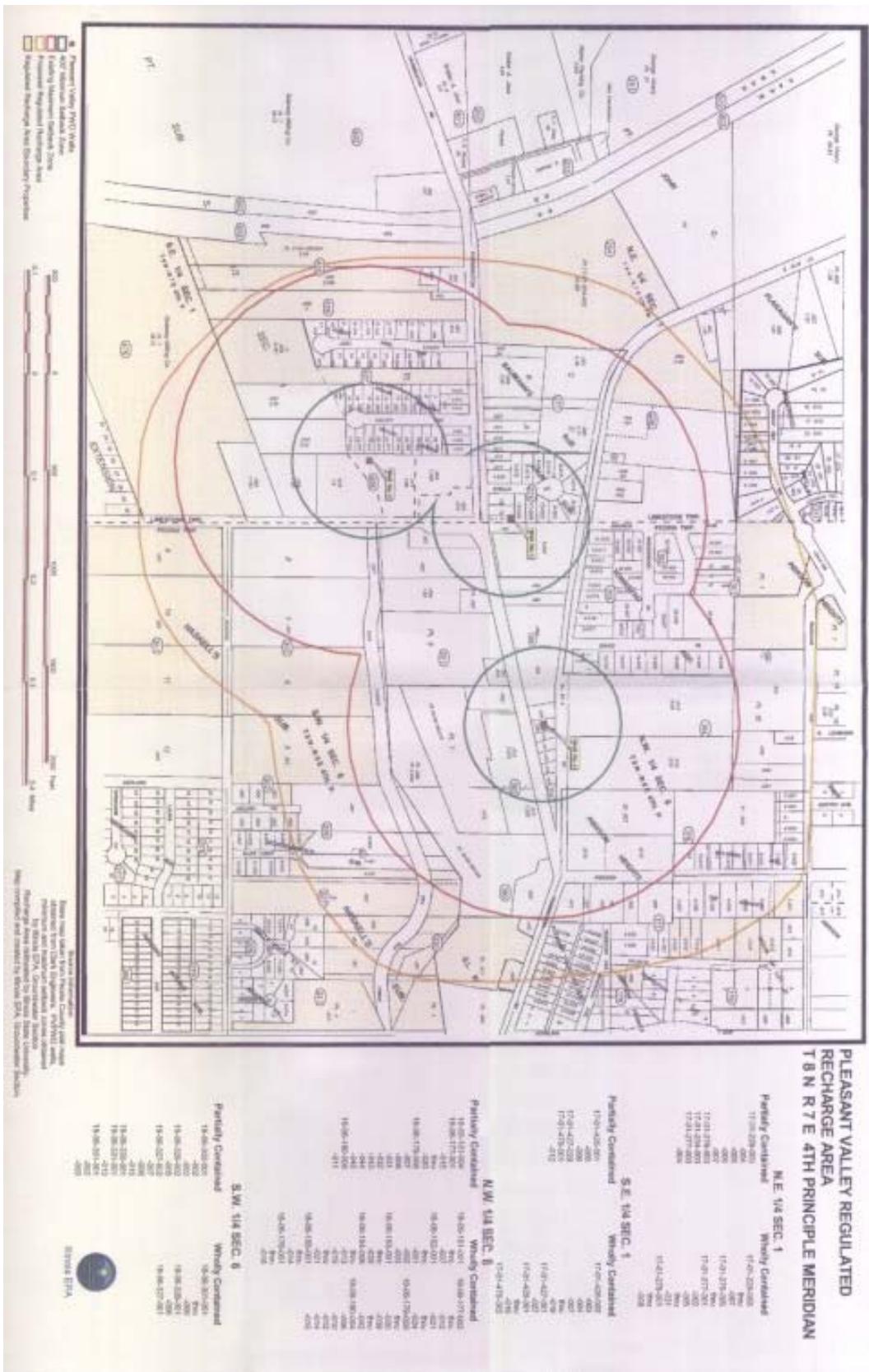
4) The Agency must provide the owner or operator of a potential tertiary source that participates in the chemical substances management training program with a certificate of completion.

b) The owner or operator of a potential tertiary source who receives a certificate of completion of a chemical substances management training program must post the certificate of completion at his place of business, and must provide a copy of such certificate to the Pleasant Valley Public Water District within 10 days after receipt of the certificate from the Agency.

(Source: Amended at 24 Ill. Reg. _____ , effective)

Section 617. Appendix A Boundary of the Pleasant Valley Public Water District Regulated Recharge Area

Please see the following page.



**PLEASANT VALLEY REGULATED
RECHARGE AREA
T 8 N R 7 E 4TH PRINCIPLE MERIDIAN**

N.E. 1/4 SEC. 1
Partly Contained Wholly Contained

1710-02-01	400
1710-02-02	400
1710-02-03	400
1710-02-04	400
1710-02-05	400
1710-02-06	400
1710-02-07	400
1710-02-08	400
1710-02-09	400
1710-02-10	400
1710-02-11	400
1710-02-12	400
1710-02-13	400
1710-02-14	400
1710-02-15	400
1710-02-16	400
1710-02-17	400
1710-02-18	400
1710-02-19	400
1710-02-20	400
1710-02-21	400
1710-02-22	400
1710-02-23	400
1710-02-24	400
1710-02-25	400
1710-02-26	400
1710-02-27	400
1710-02-28	400
1710-02-29	400
1710-02-30	400

S.E. 1/4 SEC. 1
Partly Contained Wholly Contained

1710-02-01	400
1710-02-02	400
1710-02-03	400
1710-02-04	400
1710-02-05	400
1710-02-06	400
1710-02-07	400
1710-02-08	400
1710-02-09	400
1710-02-10	400
1710-02-11	400
1710-02-12	400
1710-02-13	400
1710-02-14	400
1710-02-15	400
1710-02-16	400
1710-02-17	400
1710-02-18	400
1710-02-19	400
1710-02-20	400
1710-02-21	400
1710-02-22	400
1710-02-23	400
1710-02-24	400
1710-02-25	400
1710-02-26	400
1710-02-27	400
1710-02-28	400
1710-02-29	400
1710-02-30	400

N.W. 1/4 SEC. 6
Partly Contained Wholly Contained

1630-11-01	400
1630-11-02	400
1630-11-03	400
1630-11-04	400
1630-11-05	400
1630-11-06	400
1630-11-07	400
1630-11-08	400
1630-11-09	400
1630-11-10	400
1630-11-11	400
1630-11-12	400
1630-11-13	400
1630-11-14	400
1630-11-15	400
1630-11-16	400
1630-11-17	400
1630-11-18	400
1630-11-19	400
1630-11-20	400
1630-11-21	400
1630-11-22	400
1630-11-23	400
1630-11-24	400
1630-11-25	400
1630-11-26	400
1630-11-27	400
1630-11-28	400
1630-11-29	400
1630-11-30	400

S.W. 1/4 SEC. 6
Partly Contained Wholly Contained

1630-11-01	400
1630-11-02	400
1630-11-03	400
1630-11-04	400
1630-11-05	400
1630-11-06	400
1630-11-07	400
1630-11-08	400
1630-11-09	400
1630-11-10	400
1630-11-11	400
1630-11-12	400
1630-11-13	400
1630-11-14	400
1630-11-15	400
1630-11-16	400
1630-11-17	400
1630-11-18	400
1630-11-19	400
1630-11-20	400
1630-11-21	400
1630-11-22	400
1630-11-23	400
1630-11-24	400
1630-11-25	400
1630-11-26	400
1630-11-27	400
1630-11-28	400
1630-11-29	400
1630-11-30	400

Legend

- Pleasant Valley, PUD, 7/1/06
- City of Salem, Schedule Zone
- Proposed Recharge Area Boundary Zone
- Required Recharge Area Boundary Provisions



Map prepared and revised by: **STVSA**
 STVSA
 1000 N. 10th St., Suite 100
 Salem, OR 97301
 Phone: 503.586.1111
 Fax: 503.586.1112
 Email: stvsa@stvsa.com
 Website: www.stvsa.com



Section 617. Appendix B Potential Route and Source Registration Form

SECTION 617. APPENDIX B - PLEASANT VALLEY PUBLIC WATER DISTRICT
POTENTIAL SOURCE AND ROUTE REGISTRATION FORM

DATE: _____

COMPANY/FACILITY NAME: _____

MAILING ADDRESS: _____

_____ PHONE: () _____

COMPANY/FACILITY CONTACT NAME: _____

_____ PHONE: () _____

EMERGENCY CONTACT NAME: _____

_____ PHONE: () _____

PROPERTY OWNER'S NAME: _____ PHONE: () _____

PROPERTY OWNER'S ADDRESS: _____

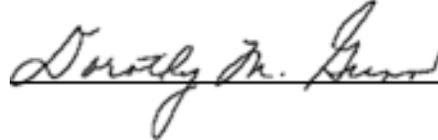
BRIEF DESCRIPTION OF BUSINESS ACTIVITIES AND PROCESSES:

BRIEF DESCRIPTION OF SPECIFIC CHEMICAL SUBSTANCES USED:

IT IS SO ORDERED.

Board Member M. McFawn concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 7th day of June 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board