

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL ADM. CODE ) R18-30  
 ) (Rulemaking- Right to Know)  
SUBTITLE O: RIGHT TO KNOW )

**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S COMMENTS, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/Joanne M. Olson  
Joanne M. Olson  
Assistant Counsel  
Division of Legal Counsel

Date: August 22, 2018

Joanne M. Olson #6293500  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544

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**ILLINOIS EPA'S COMMENTS**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, ("Illinois EPA" or "Agency") by and through its counsel, and pursuant to an Illinois Pollution Control Board ("Board") Order dated June 21, 2018, submits the following comments in the above captioned rulemaking.

**I. Introduction**

The Board's proposed regulatory amendments in this docket do not stem from an Agency petition or proposal. The Board, *sua sponte*, proposed clean up amendments to remove obsolete, repetitive, confusing or otherwise unnecessary language. In its June 21, 2018, order, the Board explains that these amendments are being proposed in response to Governor Rauner's Executive Order 2016-13. The Board also asked the Agency to respond to specific questions. These comments will address the specific questions posed by the Board as well as the proposed amendments generally.

**II. Response to Board Questions**

**A) Section 1600.305(b)**

- 1) When notifying an authorized party to provide contamination notices, does the Agency provide notice electronically or by a physical letter sent via U.S. Mail or third-party carrier?

Agency Response: An offer letter to perform notification is sent by certified mail with return receipt requested to the responsible party for a site and the consultant of record is mailed a copy of the letter by first class mail. Typically, when the Agency has a valid e-

mail address for the consultant, the consultant is e-mailed a scanned copy of the offer letter. The Agency rarely has an e-mail address for the responsible party.

- 2) If electronic communication is appropriate, does the Agency consider the proposed term “letter” to adequately address both physical and electronic communications or is there a better term?

Agency Response: The Agency believes written, paper notice sent by U.S. Mail is appropriate, with scanned courtesy copies sent by email when available. The Agency believes the regulatory language as currently adopted is adequate to encompass current Agency practices. The use of the term “letter” particularly in subsection (b)(1) as proposed by the Board is confusing.

**B) Section 1600.310 and Section 1600.315**

- 3) Are the parentheticals following “affected and potentially affected properties” necessary?

Agency Response: Yes. Section 1600.310 does not contain a parenthetical after “affected and potentially affected properties”. Instead, in subsection (b)(2)(G) a list (including but not limited to) of the types of government officials follows. This phrase “affected and potentially affected properties” appears in the same manner in Section 1600.315(b)(2)(D)(viii). In Section 1600.315(b)(2)(D)(ix), the phrase appears followed by a parenthetical. This parenthetical, however, lists citizens, identified groups, organizations or businesses; it does not list or extrapolate on the phrase “affected or potentially affected properties”. The parentheticals and lists following “affected and potentially affected properties” in Section 1600.310(b)(2)(G), Section 1600.315(b)(2)(D)(viii) and Section 1600.315(b)(2)(D)(ix) provide a clear listing of the persons or groups that must be notified.

- 4) If so, is it appropriate to remove the parentheticals within the text and add to Section 1600.110 a definition for “affected and potentially affected properties” that would include these examples?

Agency Response: No. The explanations that follow the phrase “affected or potentially affected properties” in Section 1600.310(b)(2)(G), Section 1600.315(b)(2)(D)(viii) and Section 1600.315(b)(2)(D)(ix) do not describe affected or potentially affected property. Instead, these lists include examples of people, groups or businesses who must be included on the contact list because they have a connection to or interest in the affected or potentially affected properties. A definition would be ineffectual in reducing the parentheticals or lists following the phrase “affected or potentially affected properties.”

**C) Section 1600.330(c)**

- 5) Does the Agency provide electronic notification or are these notifications physically mailed?

Agency Response: The Agency physically mails notifications using certified mail with return receipt requested via the United States Postal Service. The Agency proposes to allow email notification if the recipient of the notice consents to email notification.

**D) Appendix A**

- 6) Is there an example of a CRP that could be made part of Appendix A to better aid authorized parties when creating a CRP?

Agency Response: CRPs created under Section 1600.310(b) for limited community relations activities consist of a contact list and a fact sheet. The fact sheet is posted on the Illinois EPA website. However, the contact list contains private information not releasable under the Freedom of Information Act (“FOIA”), and they are not appropriate for inclusion in a Board rule. Likewise, CRPs for expanded community relations activities pursuant to Section 1600.315(b) often contain private information unsuitable for inclusion in a Board rule. CRPs for expanded community relations activities are uncommon because, in recent years, the Agency has provided the right-to-know notice when a community water supply well is or potentially is affected by contamination. The Agency believes Appendix A is a satisfactory listing of the elements that should be included in a CRP.

- 7) If so, are CRPs public and easily accessible? Please explain where and how a CRP can be located.

Agency Response: CRPs are accessible to the public to the extent allowed by the FOIA. As explained above, the fact sheet portions of CRPs for limited community relations activities are available on the Agency website. Also, members of the public may obtain a CRP by filing a FOIA request with the Agency. The Agency must review and redact certain elements of the CRP, such as individual property occupant names and contact information, as well as other parts of the CRP that are protected from disclosure under FOIA. Because of the protected information contained in these CRPs, the Agency no longer posts CRPs for expanded community relations activities on the right-to-know webpage. Postings are limited to the letters and fact sheets.

**E) Substantive Changes**

- 8) Is there any proposed revision that would change the rule’s meaning or application?

Agency Response: The Agency believes some of the Board’s proposed changes could have a substantive effect. The Board proposes many changes to these rules which appear to be unnecessary and, in some instances, very complicated. When there is extensive and unnecessary re-writing of regulations, there will be unintended substantive changes. One substantive change the Agency would like to note is the removal of the language “including but not limited to” throughout proposed rule. Without this language, the lists are exhaustive, and the Agency will be unable to ask for additional information. Additionally, the Agency believes the changes to the following may be substantive: Section 1600.210(c)(1); Section 1600.210(c)(2)(B); Section 1600.210(e); Section 1600.305(b)(1);

Section 1600.315(b)(3)(A)(iii), Section 1600.315(b)(3)(A)(v);  
Section 1600.315(b)(3)(A)(ix); Section 1600.320(a)(2); and Section 1600.330.

### III. Proposed Amendments

The Board's stated purpose of this rulemaking is to remove obsolete, repetitive, confusing or otherwise unnecessary rule language. The Agency believes the Board's proposed amendments go beyond this stated purpose. These amendments are a re-write of the rules with little benefit to the people of the State of Illinois or the Agency.

The Agency has identified three obsolete provisions in Part 1600. First, the Agency believes Section 1600.100 in its entirety is unnecessary because both Subparts B and C have a section covering their purpose and scope. The Agency believes this section can be repealed. Second, the Agency agrees that Section 1600.105 can be repealed. Third, Section 1600.205(b) addresses releases occurring on or before September 15, 2006. The Agency agrees that this subsection is obsolete and should be deleted.

The Agency does not believe, as a general matter, that Part 1600 is repetitive, confusing or otherwise contains unnecessary information. The changes the Agency believes should be made to further the Board's stated purposes are contained in Appendix A<sup>1</sup>, which is attached hereto. The proposed changes in Appendix A include revisions to regulatory language where the original language was unclear or unnecessary (*see* Section 1600.300(a) & (b); Section 1600.310(a) & (b); Section 1600.315(a) & (b); Section 1600.320(d); Section 1600.325(b); Section 1600.330(a)(2)).

Within Appendix A, the Agency would like to highlight the changes to Sections 1600.310(a) and 1600.315(a). In reviewing this language, the Agency concluded that it was unclear and that a credible argument could be made in opposition to the Agency's intent and

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<sup>1</sup> The regulatory amendments contained in Appendix A were drafted in accordance with the Illinois Secretary of State Style Manual for the Illinois Administrative Code and Illinois Register. This style manual is available at: [https://www.cyberdriveillinois.com/publications/pdf\\_publications/admin\\_code\\_style\\_manual.pdf](https://www.cyberdriveillinois.com/publications/pdf_publications/admin_code_style_manual.pdf)

current practice. As Part 1600 was being developed, the Agency intended Section 1600.310 to apply whenever the total number of affected potable wells and properties was five or fewer. The Agency intended Section 1600.315 to apply whenever one or more community water system wells or a total of more than five potable private, semi-private, or non-community water system wells and properties were affected. As currently drafted, when contamination is in more than one form (soil, soil gas, and groundwater), the cumulative number of wells and properties impacted could be greater than five, but the expanded notification requirements of Section 1600.315 would not apply. The language proposed in Attachment A will remedy the Agency's concerns by clarifying that, when determining the type of notice that must be given (whether Section 1600.310 or Section 1600.315 applies), the number of properties/wells affected are counted cumulatively.

Finally, the Agency is proposing that the Board include a definition of notice in Section 1600.110. This definition clarifies that the notice recipients may include both affected and potentially affected parties. Additionally, the definition includes language allowing for notification with the results of sampling activities.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/Joanne M. Olson  
Joanne M. Olson  
Assistant Counsel  
Division of Legal Counsel

Joanne M. Olson #6293500  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE O: RIGHT TO KNOW  
CHAPTER I: POLLUTION CONTROL BOARD

PART 1600  
STANDARDS AND REQUIREMENTS FOR POTABLE WATER SUPPLY WELL SURVEYS  
AND FOR COMMUNITY RELATIONS ACTIVITIES PERFORMED IN CONJUNCTION  
WITH AGENCY NOTICES OF THREATS FROM CONTAMINATION

SUBPART A: GENERAL

Section	
1600.100	Purpose and Scope ( <u>Repealed</u> )
1600.105	Applicability ( <u>Repealed</u> )
1600.110	Definitions
1600.115	Severability

SUBPART B: STANDARDS AND REQUIREMENTS FOR POTABLE WATER SUPPLY  
WELL SURVEYS

Section	
1600.200	Purpose and Scope
1600.205	Applicability
1600.210	Procedures for Potable Water Supply Well Surveys

SUBPART C: STANDARDS AND REQUIREMENTS FOR COMMUNITY RELATIONS  
ACTIVITIES

Section	
1600.300	Purpose and Scope
1600.305	Applicability
1600.310	Notices and Community Relations Plans for Limited Community Relations Activities
1600.315	Notices, Fact Sheets and Community Relations Plans for Expanded Community Relations Activities
1600.320	Establishment of Document Repository
1600.325	Submission of Notices, Contact Lists, Fact Sheets and Community Relations Plans for Review
1600.330	Agency Reviews of Notices, Contact Lists, Fact Sheets and Community Relations Plans
1600.335	Implementation of Community Relations Plans and Distribution of Notices and Fact Sheets; Records Retention
1600.340	Compliance

APPENDIX A	Contents of a Model Community Relations Plan
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AUTHORITY: Implementing Sections 25d-3(c) and 25d-7(a) and authorized by Section 25d-7(a) of the Environmental Protection Act [415 ILCS 5/25d-3(c), and 25d-7(a)].

SOURCE: Adopted in R06-23 at 30 Ill. Reg. 15756, effective September 15, 2006; amended in R14-23 at 39 Ill. Reg. 3968, effective February 26, 2015; amended in R18-30 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL

##### **Section 1600.100 Purpose and Scope (Repealed)**

- a) ~~The purpose of this Part is to set forth in accordance with Section 25d-7 of the Act [415 ILCS 5/25d-7] the minimum procedures for conducting potable water supply well surveys pursuant to applicable Board rules and for the documentation and reporting of the results of those surveys to the Agency. In addition, the purpose of this Part is to set forth in accordance with Section 25d-7 of the Act standards and requirements for the performance of community relations activities when the Agency has authorized a person to provide the notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act [415 ILCS 5/25d-3(a) and (c)] as part of the Agency approved community relations activities.~~
- b) ~~Subsection (a) of Section 25d-3 of the Act requires that the Agency provide notice under certain specified circumstances while subsection (c) of Section 25d-3 provides that the Agency may authorize a person who has implemented community relations activities to provide the notice in place of the Agency.~~
- e) ~~The standards and requirements in Subpart C of this Part are for community relations activities performed by parties authorized to provide notice in place of the Agency. This Part establishes the minimum standards and requirements for the performance of the potable water supply well surveys and the development, review, implementation and distribution of notices, fact sheets and community relations plans and the establishment and maintenance of document repositories. Nothing in this Part relieves an authorized party from reporting and notice obligations under other federal and State environmental laws.~~

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### **Section 1600.105 Applicability (Repealed)**

Subparts B and C of this Part contain separate and independent applicability provisions.

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### **Section 1600.110 Definitions**

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part will have the meanings ascribed~~shall~~ in Title I or Title VI-D of the Environmental Protection Act.

"Act" means the Environmental Protection Act [415 ILCS 5].

*"Agency" is the Illinois Environmental Protection Agency. [415 ILCS 5/3.105]*

"Authorized party" means a person authorized by the Agency under subsection (c) of Section 25d-3 of the Act [415 ILCS 5/25d-3(c)] and Subpart C of this Part to provide notice as part of Agency-approved community relations activities in lieu of a notice required to be given by the Agency.

*"Board" is the Pollution Control Board. [415 ILCS 5/3.130]*

"Building control technology" means any technology or barrier that affects air flow or air pressure within a building for purposes of reducing or preventing contaminant migration to the indoor air.

"Class I groundwater quality standards" means the Class I groundwater quality standards specified in~~located at~~ 35 Ill. Adm. Code 620.410.

*"Contaminant" is any solid, liquid or gaseous matter, any odor, or any form of energy, from whatever source. [415 ILCS 5/3.165]*

"CRP" means the community relations plan required under Title VI-D of the Act and Subpart C of this Part.

"Notice" means an Agency approved notification conducted to inform affect parties or potentially affected parties of risk pursuant to Section 25d-3 of the Act [415 ILCS 5/25d-3] or to inform parties of the results of sampling activities previously conducted pursuant to a signed access agreement.

*"Person" means individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body, including the United States Government and each department, agency and instrumentality of the United States. [415 ILCS 5/58.2]*

"Person performing a response action" means the person or persons taking responsibility for addressing a release by authorizing or approving the performance of a response action (e.g., Leaking Underground Storage Tank Program owner or operator, Site Remediation Program Remediation Applicant, permittees). The phrase does not include persons who have been hired or authorized to perform the response action by the person taking responsibility for the release or persons with whom the person taking responsibility for the release has contracted or subcontracted to perform the response action.

*"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer or such persons; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the federal Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act; and the normal application of fertilizer. [415 ILCS 5/3.395]*

"Response action" means any action or series of actions taken to address a release of contaminants or its effects as may be necessary or appropriate to protect human health or the environment. A response action may include, but is not limited to, release investigation and characterization, soil remediation, and groundwater remediation.

*"Soil gas" means the air existing in void spaces in the soil between the groundwater table and the ground surface. [415 ILCS 5/25d-1]*

"Tier 1 remediation objectives" means the Tier 1 remediation objectives specified ~~in~~ ~~located~~ at 35 Ill. Adm. Code 742.

"Volatile chemicals" means chemicals with a Dimensionless Henry's Law Constant of greater than  $1.9 \times 10^{-2}$  or a vapor pressure greater than 0.1 Torr (mmHg) at 25°C. For purposes of the indoor inhalation exposure route, elemental mercury is included in this definition.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: STANDARDS AND REQUIREMENTS FOR POTABLE WATER SUPPLY WELL SURVEYS

### Section 1600.200 Purpose and Scope

~~The purpose of this Subpart B~~ establishes ~~to establish~~ minimum standards and requirements for performing potable water supply well surveys to ensure ~~that~~ these wells are accurately identified and located so that impacts and potential impacts to such wells from soil or groundwater contamination, ~~or both~~, can be identified. The effects of soil contamination on groundwater contamination are evaluated as the soil component of the groundwater ingestion exposure route using modeling as referenced in this Subpart ~~B~~. This Subpart ~~B~~ sets forth the procedures persons ~~subject to this Subpart B~~ must use to perform potable water supply well surveys and for the documentation of the results of well surveys in reports to the Agency.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1600.205 Applicability

- a) ~~Except as provided in subsection (b) of this Section, this Subpart B applies to persons performing response actions pursuant to applicable Board rules. Whenever a response action for soil or groundwater contamination, or both, is required pursuant to applicable Board rules, the person subject to those rules must comply with the standards and requirements of this Subpart B when a well survey is required to determine the existence and location of potable water supply wells. When determining the existence and location of these wells, the person also must identify and locate setback zones and regulated recharge areas associated with the wells.~~
- 1) ~~This Subpart B does not contain an independent requirement to perform a potable water supply well survey. If the Board rules governing the response action require the performance of a well survey as part of the response action, this Subpart B sets forth the minimum standards and requirements that must be satisfied when performing that well survey and preparing the documentation for submission to the Agency. In addition, the submission and review of well survey documentation and appeals of Agency final determinations concerning well survey procedures and reporting are subject to the rules governing the response action.~~
  - 2) ~~Applicable Board rules requiring potable water supply well surveys as part of response actions may supersede the requirements of this Subpart B only to the extent their express provisions are equivalent to or more stringent than the standards and requirements of this Subpart B.~~
- b) ~~Persons performing response actions pursuant to applicable Board rules who already have initiated the response action for a release as of September 15, 2006 may be required by the Agency to perform an otherwise required potable water supply well survey in accordance with this Subpart B if:~~
- 1) ~~The Agency requires the performance of a well survey in accordance with the applicable Board rules; and~~
  - 2) ~~The well survey:~~
    - A) ~~has not been performed as of September 15, 2006; or~~
    - B) ~~has been performed but has not been approved by the Agency as of September 15, 2006 and the well survey performed does not satisfy the requirements of this Subpart B.~~
- e) ~~Nothing in this Subpart B is intended to prohibit the use of all or some of the standards and requirements set forth in this Subpart B in other rules or contexts as authorized by those rules, Board or court orders, or other applicable law.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_, effective \_\_\_\_\_)

**Section 1600.210 Procedures for Potable Water Supply Well Surveys**

- a) When ~~the Board's applicable Board~~ rules require a well survey to determine the existence and location of potable water supply wells, persons subject to ~~this~~ Subpart B must identify:
- 1) all private, semi-private, and non-community water system wells located at the property where the release occurred or within 200 feet of the property where the release occurred;
  - 2) all community water system (CWS) wells located at the property where the release occurred or within 2,500 feet of the property where the release occurred; and
  - 3) all setback zones and regulated recharge areas in which all or any portion of the property where the release occurred is located.
- b) ~~The person performing the well survey must take action~~Actions taken to identify the wells and associated protected areas, ~~including~~must include, but are not limited to, the following:
- 1) Contacting the Agency's Division of Public Water Supplies to identify community water system wells and associated setback zones and regulated recharge areas;
  - 2) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health (or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells, other than community water system wells, and their setback zones; and
  - 3) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.
- c) In addition to identifying potable water supply wells and associated protected areas pursuant to subsections (a) and (b) of this Section, persons subject to ~~this~~ Subpart B must expand the area of the potable water supply well survey if measured or modeled groundwater contamination extends beyond a boundary of the property where the release occurred in concentrations exceeding the applicable remediation objectives of 35 Ill. Adm. Code 742. Appendix B: Table E for the groundwater ingestion exposure route or the applicable groundwater quality standards at 35 Ill. Adm. Code 620 (e.g., Class I, Class III). If there is no Table E

objective or Part 620 standard, the objective shall be determined or approved by the Agency in accordance with 35 Ill. Adm. Code 620.Subpart F.

- 1) The extent of modeled groundwater contamination must be determined using the procedures of 35 Ill. Adm. Code 742 or another model or methodology approved by the Agency. When modeling the extent of groundwater contamination, the modeling must include the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route.
- 2) At a minimum, the expanded well survey must identify the following:
  - A) All private, semi-private, and non-community water system wells located within 200 feet, and all community water system wells located within 2,500 feet, of the measured and modeled extent of groundwater contamination exceeding the applicable remediation objectives of Part 742 for the groundwater ingestion exposure route or the applicable Part 620 groundwater quality standards; and
  - B) All setback zones and regulated recharge areas in which any portion of the measured or modeled extent of groundwater contamination exceeding the applicable remediation objectives of Part 742 for the groundwater ingestion exposure route or Part 620 remediation objectives is located.
- d) The Agency may, based on site-specific circumstances or information collection deficiencies (e.g., incomplete, conflicting or imprecise information, information assembled from unverified sources), require additional investigation to determine the existence or location of potable water supply wells, setback zones or regulated recharge areas. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other materials requesting information about the existence of potable water supply wells).
- e) Documentation of a potable water supply well survey conducted ~~under~~<sup>in</sup> accordance with this Section must include, but is not limited to, the following:
  - 1) One or more maps to a scale clearly showing the following:
    - A) The locations of the community water system wells and other potable water supply wells identified pursuant to this Section; and
    - B) The location and extent of setback zones and regulated recharge areas identified pursuant to this Section.

- 2) The maps showing the well locations, setback zones and regulated recharge areas pursuant to subsection (e)(1) of this Section must show those areas in relation to the measured or modeled extent of groundwater contamination exceeding the applicable remediation objectives of Part 742 for the groundwater ingestion exposure route or the applicable Part 620 groundwater quality standards.
- 3) One or more tables listing the applicable setback zones and regulated recharge areas for each community water system well and other potable water supply wells identified pursuant to this Section.
- 4) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells and protected areas pursuant to this Section, the name and title of each person contacted at each entity, and field observations, if any, associated with the identification and location of potable water supply wells.

(Source: Amended at 42 Ill. Reg. \_\_\_\_, effective \_\_\_\_\_)

#### SUBPART C: STANDARDS AND REQUIREMENTS FOR COMMUNITY RELATIONS ACTIVITIES

##### **Section 1600.300 Purpose and Scope**

- a) ~~The purpose of this Subpart C establishes to establish the minimum standards and requirements for an authorized party to develop and implement the development and implementation of community relations activities under Title IV-D of the Act in accordance with Section 25d-7 of the Act when the Agency has authorized a person to provide the notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of the Agency approved community relations activities. In addition, it is the purpose of this Part to ensure that these Community relations activities must fully inform communities and individuals in a timely manner about offsite impacts or potential impacts from soil, soil gas, or groundwater contamination, or any combination thereof and the responses to such impacts. This Subpart C contains the minimum requirements for the content, submission for review, distribution and implementation of notices, contact lists, fact sheets and CRPs, and the establishment and maintenance of document repositories.~~  
Community relations activities must fully inform communities and individuals in a timely manner about offsite impacts or potential impacts from soil, soil gas, or groundwater contamination, or any combination thereof and the responses to such impacts. This Subpart C contains the minimum requirements for the content, submission for review, distribution and implementation of notices, contact lists, fact sheets and CRPs, and the establishment and maintenance of document repositories.
- b) Subpart C Not a Limitation:
  - 1) ~~This Subpart C establishes minimum requirements for community relations activities when such activities are to be performed in place of a notice by the Agency in accordance with subsection (a) of Section 25d-3 of the Act. Nothing in this Subpart C is intended to prohibit or prevent a person from implementing other community relations activities sooner~~

than required by this Subpart or under circumstances in addition to those described in this Subpart. The Agency may recommend alternative times and circumstances for performing ~~that~~ community relations activities ~~be performed at other times and under other circumstances~~ and may offer assistance with development and implementation of such activities ~~where resources permit~~.

- 2) Nothing in ~~this~~ Subpart C is intended to limit ~~in any way~~ the Agency's authority to provide independent notice of threatened ~~threats of~~ exposure to ~~the public~~ from soil, soil gas, or groundwater contamination, ~~or any combination thereof~~, in accordance with Title VI-D of the Act [415 ILCS 5/25d-1 through 25d-10] and implementing rules or under any other authority.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 1600.305 Applicability**

- a) ~~When~~ ~~Whenever~~ the Agency determines that it must provide notice under ~~pursuant to subsection (a) of Section 25d-3(a) of the Act~~, the Agency may authorize a person to provide the notice as part of the Agency-approved community relations activities developed and implemented under ~~in accordance with this Subpart C~~.
- b) Nothing in ~~this~~ Subpart C requires the development and implementation of community relations activities ~~in accordance with this Subpart~~ unless:
  - 1) The Agency notifies the person in writing that a notice must be issued under ~~subsection (a) of Section 25d-3(a) of the Act~~;
  - 2) As a part of the written notice to the person, the Agency offers the person the opportunity to provide the notice in lieu of the Agency issuing the notice; and
  - 3) The person accepts the Agency's offer and notifies the Agency in writing within seven days after receipt of the Agency's ~~offer~~ notice letter) that the person ~~it~~ intends to provide the notice as part of the community relations activities developed and implemented under ~~in accordance with Subpart C of this Part~~ in lieu of the Agency providing the notice.
- c) Nothing in ~~this~~ Subpart C is intended to prohibit the use of all or some of the standards and requirements ~~set forth~~ in this Subpart C in other rules or contexts as authorized by those rules, Board or court orders, or other applicable law.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.310 Notices and Community Relations Plans for Limited Community Relations Activities**

- a) ~~An authorized party~~Authorized parties must ~~develop a notice and CRP consisting of a contact list and fact sheet pursuant to~~develop a notice and CRP consisting of a contact list and fact sheet pursuant to ~~comply with community relations requirements in this Section if, at five or fewer offsite properties or potable water supply wells other than a community water supply well, the:~~comply with community relations requirements in this Section if, at five or fewer offsite properties or potable water supply wells other than a community water supply well, the:
- 1) Measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards ~~at five or fewer offsite private, semi-private, or non-community water system wells;~~
  - 2) Measured offsite groundwater contamination from volatile chemicals from the site where the release occurred poses a threat of indoor inhalation exposure above the appropriate Tier 1 remediation objectives for the current use or uses ~~at five or fewer offsite properties;~~
  - 3) Offsite soil contamination from the site where the release occurred poses a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses ~~at five or fewer offsite properties;~~ or
  - 4) Measured offsite soil gas contamination from the site where the release occurred poses a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses ~~at five or fewer offsite properties.~~
- b) ~~Notice and CRP. An authorized party within the limits set forth in subsection (a) of this Section must develop a notice and CRP consisting of a contact list and fact sheet in accordance with this subsection (b).~~Notice and CRP. An authorized party within the limits set forth in subsection (a) of this Section must develop a notice and CRP consisting of a contact list and fact sheet in accordance with this subsection (b).
- 1) Notices issued under ~~this sections~~subsection (c) of Section 25d-3 of the Act and this Part must be ~~distributed to the contact list in accordance with Section 1600.335 of this Part to the contact list as derived from subsection (b)(2) of this Section~~distributed to the contact list in accordance with Section 1600.335 of this Part to the contact list as derived from subsection (b)(2) of this Section and may contain the following information:
    - A) *The name and address of the site or facility where the release occurred or is suspected to have occurred;*
    - B) *The identification of the contaminant released or suspected to have been released;*
    - C) *Information as to whether the contaminant was released or suspected to have been released into the air, land, or water;*

- D) *A brief description of the potential adverse health effects posed by the contaminant;*
  - E) *A recommendation that water systems with wells impacted or potentially impacted by the contamination be appropriately tested; and*
  - F) *The name, business address, and phone number of persons at the Agency from whom additional information about the release or suspected release can be obtained. [415 ILCS 5/25d-3(c)]*
- 2) The authorized party must prepare a contact list, ~~consisting which must consist~~ of affected, potentially affected, and interested persons, including, but not limited to:
- A) Owners of offsite properties served by private, semi-private, or non-community water system wells that have been or may be impacted by groundwater contamination from the release;
  - B) Owners of offsite properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release;
  - C) Owners of offsite properties with buildings located above groundwater with measured contamination from volatile chemicals ~~posing that poses~~ a threat of indoor inhalation exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - D) Owners of offsite properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - E) Owners of offsite properties with measured soil gas contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - F) Occupants of the properties identified in subsections (b)(2)(A), (b)(2)(C), (b)(2)(D), and (b)(2)(E) ~~of this Section~~ to the extent reasonably practicable. The contact list must include the methods by which the authorized party has attempted to identify the occupants; and
  - G) Government officials~~Officials of units of government~~ serving the affected or potentially affected properties, including but not limited

to State and federal legislators, county board chairs and county clerks, mayors or village presidents, city or village clerks, and environmental health administrators for State and local health departments. Officials of specialized districts (e.g., school, drainage, park districts) may be excluded from the contact list unless required ~~under~~pursuant to subsections (b)(2)(A) through (b)(2)(F) of this Section.

- 3) The authorized party must develop a fact sheet for the release and response action. The fact sheet must be distributed in accordance with Section 1600.335 of this Part to the contact list ~~as derived from subsection (b)(2) of this Section~~. The fact sheet must be written clearly and concisely in non-technical, non-legal terminology. The fact sheet and any required updates must contain, at a minimum, the following information to the extent available:
  - A) The nature and extent of the contaminant or contaminants identified on and off the site where the release occurred;
  - B) A brief description of the pathway or pathways of potential exposure and the potential adverse public health effects posed by the contaminant or contaminants;
  - C) A description of the appropriate actions that affected or potentially affected persons should take to evaluate the potential for threats to human health via a completed exposure pathway, including potable water supply well sampling, soil gas sampling, and any other actions, as well as any precautionary measures necessary to avoid or reduce public health impacts, if appropriate;
  - D) A non-technical description of the proposed steps ~~that are proposed~~ to address the contamination, including, but not limited to, soil excavation and treatment, disposal or redistribution, pump-and-treat, bio-remediation, reliance on engineered barriers or institutional controls, groundwater monitoring, and building control technologies, ~~and so forth~~;
  - E) The anticipated remediation schedule through completion of the project, including any operation, maintenance, or monitoring following construction of the remedy;
  - F) The closure documentation expected from the Agency (e.g., focused or comprehensive No Further Remediation (NFR) Letter, permit modification, or Section 4(y) letter) and a summary ~~of the contents~~ of the closure documentation (e.g., reliance on engineered barriers, institutional controls, or building control technologies);

- G) Responses to key community concerns as expressed by affected, potentially affected, and interested persons;
  - H) The ~~date of preparation~~ date of the fact sheet, the name and contact information of the representative or representatives of the business, site or facility from whom information and site-related documents may be obtained, ~~and e-mail address, postal address, and telephone number where the representative or representatives can be reached;~~ ~~and~~
  - I) The name and contact information, ~~e-mail address, postal address, and telephone number~~ of the Agency's designated staff person; and
  - J) An explanation of how additional information and site-related documentation can be obtained, including how to contact a ~~statement that additional information and site-related documents may be available by contacting~~ the Agency's designated staff person or file by filing a request for ~~site specific information with the Agency~~ in accordance with the Freedom of Information Act [5 ILCS 140].
- c) For information that is not available when a fact sheet is prepared pursuant to subsection (b)(3) of this Section, the submission of the fact sheet to the Agency for review must be accompanied by an explanation of why the information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet.
- d) Fact sheets and contact lists developed ~~under in accordance with~~ this Section must be updated and redistributed whenever new information is obtained or ~~developed or circumstances change so that~~ there is a material change to the information required or provided in the fact sheet (e.g., completion of site investigation and characterization of the nature and extent of contaminants, higher concentrations of contaminants than previously detected, evidence of additional contaminants of concern or of a larger area affected by contamination, approval of plans or reports, completion of response action activities).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 1600.315 Notices, Fact Sheet and Community Relations Plans for Expanded Community Relations Activities**

- a) Applicability of this Section
  - 1) An authorized party ~~Authorized parties~~ must develop a notice, a CRP and fact sheet pursuant to this Section ~~comply with the community relations~~

requirements in this Section if, at more than five properties or potable water supply wells other than a community water supply well, the:

- A)1) Measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards ~~at more than five offsite private, semi-private, or non-community water system wells or one or more community water system wells;~~
  - B)2) Measured offsite groundwater contamination from volatile chemicals from the site where the release occurred poses a threat of indoor inhalation exposure above the appropriate Tier 1 remediation objectives for the current use or uses ~~at more than five offsite properties;~~
  - C)3) Offsite soil contamination from the site where the release occurred poses a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses ~~at more than five offsite properties;~~ or
  - D)4) Measured offsite soil gas contamination from the site where the release occurred poses a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses ~~at more than five offsite properties.~~
- 2) An authorized party must develop a notice, a CRP and fact sheet pursuant to this Section if the measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards at one or more community water supply wells.
- b) Notice, CRP and Fact Sheet. An authorized party exceeding the limits set forth in subsection (a) of this Section must develop a notice and a CRP and fact sheet in accordance with this subsection (b). Appendix A of this Part contains the outline of a model CRP that may be appropriate for a site subject to this Section.
- 1) Notices must be developed in accordance with subsection (b)(1) of Section 1600.310 ~~of this Part~~ and distributed to the contact list in accordance with Section 1600.335 ~~of this Part to the contact list as derived from subsection (b)(2)(D) of this Section.~~

- 2) The CRP must be implemented in accordance with Section 1600.335 of ~~this Part~~ and must include, but is not limited to, the following elements to the extent related to the contaminant or contaminants being addressed in the response action:
  - A) A description of the site or facility and details of the release and any related soil, soil gas, or groundwater contamination;
  - B) A list of community issues and concerns collected from affected, potentially affected, and interested persons identified through the process outlined in subsection (b)(2)(D) ~~of this Section~~;
  - C) A community relations program including elements of outreach, methods for maintaining a dialogue with affected, potentially affected, and interested persons, and a schedule for activities and objectives; and
  - D) A contact list, along with the ~~The~~ process for identifying and updating the ~~contact~~ list, consisting ~~which must consist~~ of affected, potentially affected, and interested persons, including, but not limited to:
    - i) Owners of offsite properties served by private, semi-private, or non-community water systems that have been or may be impacted by groundwater contamination from the release;
    - ii) Owners and operators of community water system wells that have been or may be impacted by groundwater contamination from the release;
    - iii) Owners of offsite properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release;
    - iv) Owners of offsite properties with buildings located above groundwater with measured contamination from volatile chemicals posing ~~that poses~~ a threat of indoor inhalation exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
    - v) Owners of offsite properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses;

- vi) Owners of offsite properties with measured soil gas contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - vii) Occupants of the properties identified in subsections (b)(2)(D)(i), (b)(2)(D)(iv), (b)(2)(D)(v), and (b)(2)(D)(vi) ~~of this Section~~ to the extent reasonably practicable. The CRP must include the methods by which the authorized party will attempt to identify the occupants;
  - viii) ~~Government officials~~ Officials of units of government serving the affected and potentially affected properties, including but not limited to federal and State legislators, county board chairpersons and county clerks, mayors or village presidents, city or village clerks, and environmental health administrators for State and county health departments. Officials of specialized districts (e.g. school, drainage, park districts) may be excluded from the contact list unless required ~~under~~ pursuant to subsections (b)(2)(D)(i) through (b)(2)(D)(vii), or (b)(2)(D)(ix) ~~of this Section~~; and
  - ix) Citizens, identified groups, organizations or businesses within a minimum of 1,000 feet from the site where the release occurred that may have an interest in learning about affected and potentially affected properties (e.g., public and private school administrators, parent organization leaders; day care center, senior center, and nursing home management; neighborhood or homeowner association or other community leaders as identified; hospital and clinic management; and recognized environmental or citizen advisory groups). If approved by the Agency, the initial minimum distance of 1,000 feet may be expanded or contracted as the CRP and contact list are updated based on new information developed during the response action.
- 3) Along with the development of a notice and CRP in accordance with subsections (b)(1) and (b)(2) ~~of this Section~~, the authorized party must develop and distribute a fact sheet for the release and response action. The fact sheet must be distributed to the contact list in accordance with Section 1600.335 ~~of this Part to the contact list as derived from subsection (b)(2)(D) of this Section~~. The fact sheet must be written clearly and concisely in non-technical, non-legal terminology. If a significant portion of the population surrounding the site where the release occurred is non-English speaking, the fact sheet and any updates to the fact sheet must be

produced and distributed in English and any other predominant languages spoken in the affected area. The fact sheet and any required updates must contain, at a minimum, the following information to the extent available:

- A) The nature and extent of the contaminant or contaminants identified onsite and offsite of the site where the release occurred;
- B) A brief description of the pathway or pathways of potential exposure and the potential adverse public health effects posed by the contaminant or contaminants;
- C) A description of the appropriate actions that affected or potentially affected persons should take to evaluate the potential for threats to human health via a completed exposure pathway, including potable water supply well sampling, soil gas sampling, and any other actions, as well as any precautionary measures necessary to avoid or reduce public health impacts, if appropriate;
- D) A non-technical description of the proposed steps ~~that are proposed~~ to address the contamination including, but not limited to, soil excavation and treatment, disposal or redistribution, pump-and-treat, bio-remediation, reliance on engineered barriers or institutional controls, groundwater monitoring, and building control technologies, ~~and so forth~~;
- E) The anticipated remediation schedule through completion of the project, including any operation, maintenance, or monitoring following construction of the remedy;
- F) The closure documentation expected from the Agency (e.g., focused or comprehensive NFR Letter, permit modification, or Section 4(y) letter) and a summary of ~~the contents of~~ the closure documentation (e.g., reliance on engineered barriers, institutional controls, or building control technologies);
- G) Responses to key community concerns as expressed by affected, potentially affected, and interested persons;
- H) The World Wide Web address of the Document Repository established underpursuant to Section 1600.320 ~~of this Part~~ and the address and hours of the document repository established at a physical location, if also required underpursuant to Section 1600.320 ~~of this Part~~;
- I) The ~~date of preparation~~ date of the fact sheet, the name and contact information of the representative or representatives of the business,

~~site or facility from whom information and copies of repository and other site-related documents may be obtained, and e-mail address, postal address, and telephone number where the representative or representatives can be reached; and~~

- J) ~~The name and contact information, e-mail address, postal address, and telephone number of the Agency's designated staff person; and~~
- K) An explanation of how additional information and site-related documentation can be obtained, including how to contact a statement that additional information and site-related documents may be available by contacting the Agency's designated staff person or file by filing a request for site specific information with the Agency in accordance with the Freedom of Information Act [5 ILCS 140].
- c) For information that is not available when a fact sheet is prepared pursuant to subsection (b)(3) ~~of this Section~~, the submission of the fact sheet to the Agency for review shall be accompanied by an explanation of why the information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet.
- d) Updates
- 1) Fact sheets developed ~~under in accordance with~~ subsection (b)(3) ~~of this Section~~ must be updated and redistributed whenever new information is obtained or ~~developed or circumstances change so that~~ there is a material change to the information required or provided in the fact sheet (e.g., completion of site investigation and characterization of the nature and extent of contaminants, higher concentrations of contaminants than previously detected, evidence of additional contaminants of concern or of a larger area affected by contamination, approval of plans or reports, completion of response action activities).
- 2) The CRP including, but not limited to, the contact list must be reviewed on a regular basis and updated, as necessary, to ensure that timely and accurate information is provided to affected, potentially affected, and interested persons and communities about releases of contaminants with actual or potential impacts to offsite wells, offsite property uses, or both. A current version of the publicly available CRP must be kept in the document repository described in Section 1600.320.
- e) Appendix A of this Part contains the outline of a model CRP that may be appropriate for a site subject to this Section.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 1600.320 Establishment of Document Repository**

~~An authorized party~~ ~~Authorized parties~~ developing a CRP ~~under pursuant to~~ Section 1600.315 ~~of this Part~~ also must establish a document repository for document viewing and copying ~~the purpose of displaying documents and providing copies of those documents~~. The document repository must be established online at a World Wide Web site. A document repository at a physical location as described under subsection (c) ~~of this Section~~ also must be established if a request for a repository at a physical location is made to the authorized party or to the Agency.

- a) The document repository must include the notice, CRP, all public notices (e.g., proof of publication for newspaper or other published notices, letters, door hangers, or other forms of public notification), all fact sheets, all applications, plans and reports submitted to the Agency for review and approval and subsequent Agency comment packages, and all final determinations by the Agency, such as an NFR Letter, permit modification, or other project completion documentation.
  - 1) The authorized party must update the repository promptly and continuously as notices, fact sheets, plans, reports, comment packages, and Agency decisions are generated throughout the process.
  - 2) The documents must be created, organized and indexed so that affected, potentially affected, or interested persons can identify, locate, and download documents of interest.
  - 3) The repository must include the business, site or facility representative's contact information ~~mail, postal address, and telephone number~~ where inquiries can be directed and persons can request copies of repository documents and other site-related documents ~~by mail~~.
- b) On-line Repositories at World Wide Web Sites
  - 1) The documents must be in a readily available format for downloading and printing (e.g., portable document format (.pdf), graphic interchange format (.gif), tagged image file format (.tiff), joint photographic group format (.jpg)) with links to download web sites where software for viewing to view and printing ~~print the documents may be downloaded~~.
  - 2) Documents that cannot be converted to a readily available format for downloading and printing must be described in the document index, identified as available upon request, and made available according to ~~in accordance with~~ subsection (a)(3) ~~of this Section~~.

- 3) System capacity must be sufficient to support the viewing and downloading of the documents in the repository and to accommodate the anticipated number of viewers.
- c) Repositories at Physical Locations
- 1) Repositories ~~established~~ at physical locations must be established no later than ten business days after receipt of a request for a repository at a physical location or receipt of the Agency's notification that a request has been made to the Agency, whichever is earlier.
  - 2) Repositories established at a physical location must be at a public location (e.g., public library, city hall) and open to the public at times convenient to affected, potentially affected, or interested persons.
- d) Information deemed trade secrets or non-disclosable ~~underin accordance with~~ Board procedures at 35 Ill. Adm. Code 130 or Agency procedures at 2 Ill. Adm. Code 1828 may be redacted or excluded from the repository ~~consistent with the requirement for providing the public all documents that have not been deemed confidential~~. Information to be added to the document repository also must be screened to ensure that personal information identifying affected, potentially affected, or interested persons or their exact property locations is not disclosed.
- e) The document repository may be discontinued no less than 180 days after the recording of the NFR Letter or the issuance of other project completion documentation by the Agency (e.g., permit modification, closure letter, "4(y) letter" (see 415 ILCS 5/4(y)).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.325 Submission of Notices, Contact Lists, and Fact Sheets and Community Relations Plans for Review**

- a) Except as provided in subsection (b) ~~of this Section~~ or Section 1600.330(d) ~~of this Part~~, authorized parties must, within 30 days after the date of their acceptance:
- 1) Submit to the Agency a notice and CRP satisfying the requirements of Section 1600.310(b) ~~of this Part~~ or a notice, CRP, fact sheet, and contact list satisfying the requirements of Section 1600.315(b) ~~of this Part~~; and
  - 2) Establish an online ~~World Wide Web site~~ document repository if required ~~underin accordance with~~ Section 1600.320 ~~of this Part~~.
- b) Updates of CRPs, fact sheets or ~~both and updates of~~ contact lists prepared pursuant to Section 1600.310(d) or Section 1600.315(d) ~~of this Part~~ also must be submitted to the ~~for~~ Agency for review ~~in accordance with subsection (a) of this~~

~~Section except that the updates must be submitted to the Agency within ten days after preparing the revised CRP or developing or obtaining new information that would materially change the information required or provided in the fact sheet.~~

- c) If authorized by the Agency, CRPs, notices, contact lists or fact sheets may be filed in specified electronic formats.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 1600.330 Agency Reviews of Notices, Contact Lists, Fact Sheets and Community Relations Plans**

- a) The Agency has 30 days from receipt of a notice, contact list, fact sheet, CRP, or updates of such documents to conduct a review and approve or disapprove of the document(s) or approve of the document(s) with conditions or modifications. All reviews must be based on the standards for review set forth in subsection (b) of this Section.
- 1) The Agency's record of the date of receipt of a notice, contact list, fact sheet or CRP will be deemed conclusive unless a contrary date is proved by a signed, dated receipt from the Agency or certified mail or registered mail.
  - 2) An authorized party ~~parties~~ may waive the time period for review ~~upon a request from the Agency or at the authorized party's discretion.~~
- b) When reviewing documents under this Section ~~a notice, contact list, fact sheet or CRP~~, the Agency must consider:
- 1) Whether the notice complies with Section 1600.310(b)(1) or Section 1600.315(b)(1) ~~the requirements of subsection (b) of Section 1600.310 of this Part or Section 1600.315(b) of this Part;~~
  - 2) Whether the CRP contains the elements required by Section 1600.315(b)(2) ~~of this Part;~~
  - 3) Whether the fact sheet contains the elements required by Section 1600.310(b)(3) ~~of this Part~~ or Section 1600.315(b)(3) ~~of this Part~~ including, but not limited to, any explanation of why specified information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet;
  - 4) Whether the information in the notice, contact list, fact sheet or CRP is consistent with the information contained in the Agency's records and any field observations; and

- 5) Whether authorized parties have clearly defined:
  - A) Persons required to be included in the contact list for notices and fact sheets ~~under in accordance with~~ Section 1600.310(b) ~~of this Part~~ or Section 1600.315(b) ~~of this Part~~; or
  - B) The demographics of nearby populations that may be affected by or concerned about site activities for purposes of notification under the CRP, including, but not limited to, residences, businesses, day care centers, schools, nursing homes, hospitals and clinics.
- c) Upon completion of the review, the Agency must notify the authorized party in writing whether the notice, contact list, fact sheet or CRP is approved, approved with conditions or modifications, or disapproved. The notification must be made by certified mail or registered mail postmarked with a date stamp and with return receipt requested, or by email with consent of the recipient. If the Agency disapproves a document, or approves a document with conditions or modifications, the notification must contain the following information, as applicable:
  - 1) ~~An specific explanation of any missing the specific information or documentation or, if any, that the Agency determines the authorized party did not provide or is inconsistent with the~~ information contained in the Agency's records and any field observations;
  - 2) A list of the provisions of this Part that may be violated if the document is approved as submitted;
  - 3) A statement of the reasons why the provisions cited in subsection (c)(2) of this Section may be violated if the document is approved as submitted; and
  - 4) An explanation of the reasons for conditions or modifications if conditions or modifications are required.
- d) If the Agency disapproves of a notice, contact list, fact sheet or CRP or approves of a notice, contact list, fact sheet or CRP with conditions or modifications, the authorized party must submit a revised version of the document to the Agency within ten days after receiving the Agency's ~~decision disapproval or approval with conditions or modifications~~.
- e) If a revised notice, contact list, fact sheet or CRP is not received by the Agency within ten days, or if a revised document is not approved on the second Agency review, the Agency, in addition to any other remedies that may be available, may provide notice to the public and seek cost recovery from the authorized party pursuant to Title VI-D of the Act, or pursue an enforcement action against the

authorized party for failure to develop and implement an Agency-approved notice, contact list, fact sheet or CRP.

- 1) In addition to any other defenses that may be available to the authorized party, it shall be a defense to an Agency action to obtain cost recovery for notification or for an alleged violation of the requirement to develop and implement an Agency-approved notice, contact list, fact sheet or CRP that the document submitted to and rejected by the Agency satisfies the requirements for such documents as set forth in Sections 1600.310 and 1600.315 ~~of this Part~~.
  - 2) The defense described in subsection (e)(1) does not limit the use of this defense in other circumstances where appropriate.
- f) The Agency will, to the extent consistent with review deadlines, provide the authorized party with a reasonable opportunity to correct deficiencies prior to sending a disapproval of a notice, contact list, fact sheet or CRP or an approval with conditions or modifications. However, the correction of such deficiencies by the submission of additional information may, in the sole discretion of the Agency, restart the time for review.
- g) If the Agency does not issue its final determination on the notice, contact list, fact sheet, CRP, or updates of such documents within 30 days after the receipt of the document, the document will be deemed approved as submitted.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.335 Implementation of Community Relations Plans and Distribution of Notices and Fact Sheets; Records Retention**

- a) Implementation of the CRP or distribution of a notice or fact sheet must begin within five days after receipt of the Agency's approval of the document or within ten days after the date the document is deemed approved pursuant to Section 1600.330(g) ~~1600.330(f) of this Part~~.
- b) Authorized parties must:
  - 1) Provide to the Agency copies of all public notices (including, but not limited to, proof of publication for newspaper or other published notices, news releases, letters, door hangers, or other forms of public notification); and
  - 2) Inform the Agency in writing two weeks in advance of plans to hold public meetings or press conferences about site activities or developments.

- c) Authorized parties must retain records and documents demonstrating compliance with the requirements of this Subpart C for at least one year after the recording of the NFR Letter or the issuance of other project completion documentation by the Agency (e.g., permit modification, closure letter, "4(y) letter" (see 415 ILCS 5/4(y))). The retention period for the records and documents is extended automatically during the course of any disputes or unresolved enforcement actions regarding the community relations activities or as requested in writing by the Agency. Records may be preserved and presented in an electronic format.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 1600.APPENDIX A Contents of a Model Community Relations Plan**

This Appendix A lists the four key elements of a CRP for an authorized party proceeding under Section 1600.315 of this Part and several factors that might be included with each element in a CRP prepared for the site where the release occurred. Unless otherwise required by rule, all the factors listed with each element may not be necessary for each site developing and implementing a CRP ~~underpursuant to~~ this Part, but each factor should be considered when developing the CRP.

1. **Site/Facility Description:** The CRP should provide a brief overview of the site where the release occurred, including, but not limited to, a description of the business, site or facility, its current operations, previous land uses and previous remedial activities; the nature and extent of known contamination; and the known or potential threat to public health and the environment. The overview should include a map to an appropriate scale detailing the site location and surrounding area and showing roads and streets, homes and businesses, and geographic and other significant features.
2. **Community Issues and Concerns:** The CRP should provide a brief summary of the demographics of the area surrounding the site where the release occurred, including, but not limited to, the approximate percentage of non-English speaking persons among the affected, potentially affected, and interested persons and their preferred language, or languages, key community concerns, and any preferred methods of communication as learned through research work, interviews, and surveys of a representative sample of affected, potentially affected, and interested persons identified through the process outlined in the fourth element below.
3. **Community Relations Program:** The CRP should describe the community relations program objectives, action plan, and schedule to keep affected, potentially affected, and interested persons apprised of conditions at the site, response actions, and actual or potential public health impacts. This section also should explain how the public will be notified of mailings or meetings. The contact person or persons and contact information for public inquiries should be clearly defined. Additionally, details about the location of, and access to, the document repository should be outlined in this section of the CRP.

4. Contact List: The CRP should outline the process for identifying and updating a contact list and developing a contact database of affected, potentially affected, and interested persons, including, but not limited to:
  - A. Owners of offsite properties served by private, semi-private, or non-community water systems that have been or may be impacted by groundwater contamination from the release;
  - B. Owners and operators of community water system wells that have been or may be impacted by groundwater contamination from the release;
  - C. Owners of offsite properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release;
  - D. Owners of offsite properties with buildings located above groundwater with measured contamination from volatile chemicals that poses a threat of indoor inhalation exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - E. Owners of offsite properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - F. Owners of offsite properties with measured soil gas contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses;
  - G. Occupants of properties identified in paragraphs A, D, E, and F to the extent reasonably practicable. The CRP must include the methods by which the authorized party will attempt to identify the occupants;
  - H. ~~Government officials~~ ~~Officials of units of government~~ serving the affected and potentially affected properties, including but not limited to federal and State legislators, county board chairpersons and county clerks, mayors or village presidents, city or village clerks, and environmental health administrators for State and county health departments. Officials of specialized districts (e.g. school, drainage, park districts) may be excluded from the contact list unless required pursuant to Section 1600.315(b)(2)(D)(i) through (b)(2)(D)(vii), or (b)(2)(D)(ix); and
  - I. Citizens, identified groups, organizations, or businesses within a minimum of 1,000 feet from the site where the release occurred that may have an interest in learning about affected and potentially affected properties (e.g., public and private school administrators, parent organization leaders; day care center, senior center and nursing home management; neighborhood or homeowner association or other community leaders as identified; hospital and clinic management; and recognized

environmental or citizen advisory groups). If approved by the Agency, the initial minimum distance of 1,000 feet may be expanded or contracted as the CRP and contact list are updated based on new information developed during the response action.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**CERTIFICATE OF SERVICE**

Joanne M. Olson, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING and ILLINOIS EPA'S COMMENTS upon persons listed on the Service List, by placing a true copy in an envelope duly addressed bearing proper first class postage in the United States mail at Springfield, Illinois on August 22, 2018, or by sending an email from my email account (joanne.olson@illinois.gov) to the email addresses designated below with the following attached as a 35 page PDF document in an e-mail transmission on or before 5:00 pm on August 22, 2018.

/s/Joanne M. Olson

Joanne M. Olson

**SERVICE LIST**

Office of General Counsel  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, IL 62702-1271  
[eric.lorenz@illinois.gov](mailto:eric.lorenz@illinois.gov)  
[virginia.yang@illinois.gov](mailto:virginia.yang@illinois.gov)

Office of the Attorney General  
69 West Washington, St.  
Suite 1800  
Chicago, IL 62706  
[ntikalsky@atg.state.il.us](mailto:ntikalsky@atg.state.il.us)

Illinois Pollution Control Board  
100 W. Randolph St.  
Suite 11-500  
Chicago, IL 60601  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)  
[Natalie.Winquist@illinois.gov](mailto:Natalie.Winquist@illinois.gov)

Department of Commerce & Economic  
Opportunity  
Small Business Office  
500 East Monroe Street  
Springfield, IL 62701  
[Katy.Khayyat@illinois.gov](mailto:Katy.Khayyat@illinois.gov)