

ILLINOIS POLLUTION CONTROL BOARD
January 22, 2015

IN THE MATTER OF:)
)
STANDARDS AND REQUIREMENTS FOR) R 14-23
POTABLE WATER WELL SURVEYS AND) (Rulemaking – Land)
COMMUNITY RELATIONS ACTIVITIES)
PERFORMED IN CONJUNCTION WITH)
AGENCY NOTICES OF THREATS FROM)
CONTAMINATION: PROPOSED)
AMENDMENTS TO 35 ILL. ADM. CODE)
1600)

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by J.D. O’Leary):

On June 17, 2014, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend Part 1600 of the Board’s Subtitle O Right to Know regulations. On November 20, 2014, the Board adopted a first-notice opinion and order and submitted proposed amendments to publication in the *Illinois Register*. Today, the Board submits proposed amendments to the Joint Committee on Administrative Rules (JCAR) for second-notice review.

The Board’s November 20, 2014 first-notice opinion includes a review of the statutory and regulatory background for this rulemaking at pages 3-5 and a section-by-section summary of the Agency’s proposal at pages 5-17. The Board has not reproduced those sections in this order. The Board recommends that any reader wishing to read them consult the first-notice opinion.

Below, the Board first provides the procedural background of this proceeding, before addressing second-notice changes to its proposal. The Board then discusses the issues of the technical feasibility and economic reasonableness of the proposal. Finally, the Board reaches its conclusion and issues its order submitting the proposed amendments to second-notice review by JCAR.

PROCEDURAL BACKGROUND

Procedural History

On June 17, 2014, the Agency filed a proposal to amend Part 1600 of the Board’s Right-to-Know rules. The Agency’s filing included a Statement of Reasons (SR). On July 24, 2014, the Board accepted the proposal for hearing. Also on July 24, 2014, the hearing officer issued an order scheduling two hearings: the first on September 4, 2014, in Springfield; and the second on October 16, 2014, in Chicago.

In a letter dated August 4, 2014, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study of the Agency's rulemaking proposal as required by Section 27(b) of the Act (415 ILCS 5/27(b) (2012)). The Board asked that DCEO determine by September 19, 2014, whether it would conduct such a study. The Board received no response from DCEO.

On August 21, 2014, the Agency pre-filed the testimony of Mr. Bradley Frost for the first hearing. On August 28, 2014, the hearing officer issued an order including an Attachment A listing Board questions on the Agency's proposal and pre-filed testimony.

The first hearing took place as scheduled on September 4, 2014, and the Board received the transcript (Tr.1) on September 9, 2014. During the hearing, the hearing officer admitted into the record two exhibits, Mr. Frost's pre-filed testimony, and the Agency's responses to the Board's pre-filed questions. Tr.1 at 10-11.

The second hearing took place as scheduled on October 16, 2014. The Board received the transcript (Tr.2) on October 16, 2014. On October 17, 2014, the hearing officer issued an order setting a deadline of October 31, 2014, to file post-hearing comments.

On October 30, 2014, the Board received post-hearing comments from the Agency.

On November 20, 2014, the Board adopted its first-notice opinion and order (First Notice). The Board's first-notice proposal appeared in the *Illinois Register* on December 5, 2014. 38 Ill. Reg. 22411 (Dec. 5, 2014). On December 10, 2014, the hearing officer set a deadline of January 20, 2015 to file first-notice comments. The Board received no comments during the first-notice comment period.

SECOND-NOTICE CHANGES

In a number of sections, Part 1600 employs the term "use(s)" to include both the singular and plural. *See* 35 Ill. Adm. Code 1600.310(a)(2), 1600.310(b)(2)(B), 1600.315(a)(2), 1600.315(b)(2)(D)(iv). Part 1600 also employs the terms "representative(s)" (*see* 35 Ill. Adm. Code 1600.310(b)(3)(H), 1600.315(b)(3)(I)) and "person(s)" (35 Ill. Adm. Code 1600.APPENDIX A(3)). Neither the Agency's original proposal nor the Board's first-notice proposal sought to amend these terms. *See* First Notice at 22, 24, 25, 26, 28, 30, 34. In fact, the Agency and the Board proposed to add to Part 1600 provisions employing "use(s)" and similar terms. *See, e.g.*, First Notice at 22-23, 24, 26, 28, 34.

However, as published in the *Illinois Register*, the proposal amends a number of these terms. In some sections, for example, the term "use(s)" has been replaced with "uses." *See, e.g.*, 38 Ill. Reg. 22418-19, 22420, 22423, 22425, 22433 (Dec. 5, 2014). In other sections, "representative(s)" has been replaced with "representatives." *Id.* at 22422, 22427-28.

Terms such as "use(s)" intend to refer both to the singular and the plural. As one example, under Section 1600.310(b)(2), compliance with community relations requirements is required if offsite soil contamination threatens exposure above Tier I remediation objectives for

the current use or uses at five or fewer offsite properties. Under Section 1600.310(b)(3)(H), required fact sheets must include the name of the representative or representatives from whom information about a release and response action may be obtained. Accordingly, in these two sections and where other similar changes have occurred, the Board will further revise that language to “use or uses” or its equivalent. The Board believes that these further revisions reflect the intent of the Right to Know rules and provide clarification, and the revisions are reflected in the order below.

The Board’s second-notice proposal includes other non-substantive changes, which are not discussed in this opinion.

TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

Economic Impact Study

As required by Section 27(b) of the Act (415 ILCS 5/27(b) (2012)), the Board in a letter dated August 4, 2014, requested that DCEO conduct an economic impact study of the Agency’s rulemaking proposal. The Board asked that DCEO determine by September 19, 2014, whether it would conduct such a study. The Board has received no response to this request from DCEO. During each hearing, the hearing officer afforded those present an opportunity to address the Board’s request for a study and DCEO’s lack of response. Tr.1 at 13-14; Tr.2 at 6-7. No participant offered testimony or comment on the request or response. *See* Tr.1 at 14; Tr.2 at 6-7.

Technical Feasibility

In its Statement of Reasons, the Agency stated that “[n]o new technical requirements are created by the proposed amendments.” SR at 9. In its first-notice opinion, the Board found that the Agency’s proposal, with limited changes during this proceeding, implements statutory and regulatory revisions and amends the Right to Know rules in a manner that is technically feasible. First Notice at 18.

The Board did not receive any first-notice comments, and the record does not include any persuasive claim that the first-notice proposal is technically infeasible. To the extent that the Board has modified its first-notice proposal, it has done so without adding technical requirements or making them more stringent. On the basis of the record before it, the Board finds that its second-notice proposal is technically feasible.

Economic Reasonableness

In its Statement of Reasons, the Agency stated that the economic costs related to its proposed amendments “are minimal, if any, but may include updated forms and employee procedural training.” SR at 9. In its first-notice opinion, the Board found that the Agency’s proposal, with limited changes during this proceeding, implements statutory and regulatory revisions and amends the Right to Know rules in a manner that is technically feasible. First Notice at 18.

The Board did not receive any first-notice comments, and the record does not include any persuasive claim that the first-notice proposal is economically unreasonable. To the extent that the Board has modified its first-notice proposal, it has done so without adding or increasing costs for compliance with the proposal. On the basis of the record before it, the Board finds that its second-notice proposal is economically reasonable.

Board Discussion

The Board has reviewed the record in this proceeding on the issues of technical feasibility and economic reasonableness. The Board finds that its second-notice proposal, with limited changes as described above, implements statutory and regulatory revisions and amends the Board's Right to Know rules in a manner that is technically feasible and economically reasonable.

CONCLUSION

The Board proposes for second-notice review by JCAR the following amendments to Part 1600 of its Right to Know regulations (35 Ill. Adm. Code 1600).

ORDER

The Board directs the Clerk to submit the following proposed amendments to Part 1600 of the Board's Right to Know regulations to JCAR for second-notice review. Proposed additions to Part 1600 are underlined, and proposed deletions appear stricken.

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
1600.105	Applicability
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
1600.APPENDIX A	Contents of a Model Community Relations Plan

AUTHORITY: Implementing Sections 25d-3(c) and 25d-7(a) and authorized by Sections 4(i), 25d-7(a), and 27 of the Environmental Protection Act [415 ILCS 5/4(i), 25d-3(c), and 25d-7(a), and 27].

SOURCE: Adopted in R06-23 at 30 Ill. Reg. 15756, effective September 15, 2006; amended in R14-23 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

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 shall be the same as that applied to the same words or terms 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 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]

~~*"Contamination" or "contaminate", when used in connection with groundwater, means water pollution of such groundwater. [415 ILCS 5/3.170]*~~

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

"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~~ person(s) 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 located at 35 Ill. Adm. Code 742.

"Volatile chemicals" means chemicals with a Dimensionless Henry's Law Constant of greater than 1.9×10^{-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 39 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 is to establish the minimum standards and requirements for the development and implementation of community relations activities 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 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 ~~both~~ 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 CRP ~~community relations plans~~, 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 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 threats of exposure to the public from soil, soil gas, or groundwater contamination, or any combination thereof~~both~~, 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 39 Ill. Reg. _____, effective _____)

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

- a) Authorized parties must comply with community relations requirements in this Section if:
 - 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 35 Ill. Adm. Code 620~~ at five or fewer offsite private, semi-private, or non-community water system wells; ~~or~~
 - 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) ~~2~~ Offsite soil contamination from the site where the release occurred poses a threat of exposure ~~to the public~~ above the appropriate Tier 1 remediation objectives for the current use or uses~~use(s)~~ 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) An authorized party within the limits set forth in subsection (a) of this Section must develop a notice and ~~community relations plan (CRP)~~ consisting of a contact list and fact sheet in accordance with this subsection (b).
- 1) Notices issued under subsection (c) of Section 25d-3 of the Act and this Part must be distributed in accordance with Section ~~1600.335~~~~1600.355~~ 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, which must consist of including, but not limited to, the following affected, potentially affected, and or interested persons, including, but not limited to, as applicable:
 - 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 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~~use(s)~~;
- 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)~~and (b)(2)(B)~~ 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
- ~~D)~~ ~~Owners of properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release; and~~
- ~~G)~~ Officials of ~~unit~~each unit of government serving the affected or potentially affected properties, including but not limited to State and federal legislators, county board chairs and county clerks, ~~township supervisors, and~~ mayors or village presidents, ~~and~~ 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 pursuant to subsections (b)(2)(A) through ~~(b)(2)(F)~~(b)(2)(D) 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 ~~any precautionary measures~~ affected or potentially affected persons~~parties~~ should

take to evaluate the potential for threats to human health via a completed exposure pathway ~~avoid or reduce potential public health impacts~~, 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-and analysis recommendations, as appropriate;

- D) A non-technical description of the 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, 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 nature of 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, or institutional controls, or building control technologies);
 - G) Responses to key community concerns as expressed by affected, potentially affected, and interested persons~~parties~~;
 - H) The date of preparation of the fact sheet, the name of the representative or representatives~~representative(s)~~ 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~~representative(s)~~ can be reached; and
 - I) The name, e-mail address, postal address, and telephone number of the Agency's designated staff person and a statement that additional information and site-related documents may be available by contacting the Agency's designated staff person or by filing a request for site-specific information with the ~~appropriate~~ Agency ~~bureau~~ 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 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 39 Ill. Reg. _____, effective _____)

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

- a) Authorized parties must comply with the community relations requirements in this Section if:
- 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 35 Ill. Adm. Code 620 at more than five offsite private, semi-private, or non-community water system wells or one or more community water system wells; ~~or~~
 - 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;
 - 3) ~~2)~~ Offsite soil contamination from the site where the release occurred poses a threat of exposure ~~to the public~~ above the appropriate Tier 1 remediation objectives for the current use or uses ~~use(s)~~ at more than five 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 more than five offsite properties.
- b) An authorized party exceeding the limits set forth in subsection (a) of this Section must develop a notice and a CRP ~~community relations plan~~ and fact sheet in accordance with this subsection (b). Appendix A of this Part contains the outline

of a model ~~CRP community relations plan~~ 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 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~~parties~~ 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~~parties~~, and a schedule for activities and objectives; and
 - D) The process for identifying and updating the contact list, which must consist of affected, potentially affected, and interested persons~~parties~~, 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 that poses a threat of indoor inhalation exposure

above the appropriate Tier 1 remediation objectives for the current use or uses;

- ~~vii~~) 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~~use(s)~~;
- 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;
- ~~viii~~) Occupants of the properties identified in subsections (b)(2)(D)(i), ~~and~~ (b)(2)(D)(iv), (b)(2)(D)(v), and (b)(2)(D)(vi) of this Section to the extent reasonably practicable. The ~~CRP~~community relations plan must include the methods by which the authorized party will attempt to identify the occupants;
- ~~viii~~vi) 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 subsections (b)(2)(D)(i) through (b)(2)(D)(vii), or (b)(2)(D)(ix) of this Section.~~Local, State and federal officials whose jurisdiction covers the affected and potentially affected properties including: mayor or village president, city or village clerk, township supervisors, county board chair and county clerk, city and county health department administrator, State and federal legislators; and~~
- ~~ix~~vii) 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~~Parent-Teacher Association~~ 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 in accordance with Section 1600.335 of this Part to the contact list as derived from subsection ~~(b)(2)(D)~~~~(b)(1)(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 ~~both~~ English and any other~~another~~ predominant languages spoken in the affected area~~language~~. 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-site and off-site 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 any precautionary measures affected or potentially affected persons~~parties~~ should take to evaluate the potential for threats to human health via a completed exposure pathway~~avoid or reduce potential public health impacts~~, 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 and analysis recommendations, as appropriate;
 - D) A non-technical description of the 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, 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 nature of 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, ~~or institutional controls, or building control technologies~~);
- G) Responses to key community concerns as expressed by affected, potentially affected, and interested persons~~parties~~;
- H) The World Wide Web address of the Document Repository established pursuant to Section 1600.320 of this Part and the address and hours of the document repository established at a physical location, if also required pursuant to Section 1600.320 of this Part;
- I) The date of preparation of the fact sheet, the name of the representative or representatives~~representative(s)~~ 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~~representative(s)~~ can be reached; and
- J) The name, e-mail address, postal address, and telephone number of the Agency's designated staff person and a statement that additional information and site-related documents may be available by contacting the Agency's designated staff person or by filing a request for site-specific information with the ~~appropriate Agency bureau~~ 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)(2)~~ 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 in accordance with subsection (b)~~(3)(2)~~ 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~~^{parties} 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.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1600.320 Establishment of Document Repository

Authorized parties developing a CRP pursuant to Section 1600.315 of this Part also must establish a document repository for the purpose of displaying documents and providing copies of those documents. The document repository must be established 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~~^{community relations plan}, 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 NFRa No Further Remediation~~ 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 e-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) 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 web sites where software to view and 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 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 in 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 39 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 community relations plan~~ 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 a ~~World Wide Web~~ web site document repository if required in 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 for Agency 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 39 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 community relations plan~~ 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 community relations plan~~ 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 community relations plan~~ pursuant to this Part, but each factor should be considered when developing the ~~CRP community relations plan~~.

1. **Site/Facility Description:** The CRP should provide ~~for the development~~ 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 ~~for the development of~~ 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~~ parties 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~~parties 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~~parties 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~~person(s) 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~~parties including, but not limited to:
 - A. ~~Owners and occupants~~ 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.~~D. ~~Owners and occupants~~ of offsite~~off site~~ properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use or uses~~use(s)~~;
 - 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;
 - ~~GE.~~ Occupants of properties identified in paragraphs A, D, E, and ~~F~~D to the extent reasonably practicable. The ~~CRP~~community relations plan must include the methods by which the authorized party will attempt to identify the occupants;
 - ~~HF.~~ 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) Local, State and federal officials whose jurisdiction covers the affected and potentially affected properties including: mayor or village president, city or village clerk, township supervisors, county board chair and county clerk, city and county health department administrator; State and federal legislators; and

- IG. 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~~Parent Teacher Association~~ 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 39 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 22, 2015, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board