

Addendum to May 30, 2019 First-Notice Opinion and Order in Docket R18-30

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

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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, 1015; amended in R18-30 at 43 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Section 1600.100 Purpose and Scope (Repealed)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 43 Ill. Reg. _____, effective _____)

Section 1600.105 Applicability (Repealed)

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

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 1600.110 Definitions

~~Unless otherwise provided~~~~Except as stated~~ in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of the Environmental Protection Act apply to the same 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 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~~.

"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 1.9×10^{-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 43 Ill. Reg. _____, effective _____)

Section 1600.115 Severability

If any provision of this Part is adjudged invalid, or its application to any person or in any circumstance is adjudged invalid, the adjudications such invalidity will not affect the validity of this Subtitle Part as a whole or any Subpart, Section, subsection, sentence or clause thereof not adjudged invalid.

(Source: Amended at 43 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 to determine these ~~that~~ impacts and potential impacts to these ~~such~~ wells from soil, soil gas, 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 when performing these to perform potable water supply well surveys and documenting for the documentation of the results of well surveys in reports to the Agency.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1600.205 Applicability

- a) ~~Except as provided in subsection (b) of this Section, this Subpart B applies to persons required under Board rules to perform~~performing response actions for soil and groundwater contamination. The ~~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~~ apply if, as part of the response action, ~~when a well survey is required to determine the existence and location of potable water supply wells. The~~When determining the existence and location of these wells, the person performing the well survey must 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 for that must be satisfied when performing that well survey and properly documenting it~~preparing the documentation for submission to the Agency. The Board's response action rules also govern~~In addition, the submission and review of well survey documentation and appeals of Agency final determinations regarding 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.~~

be) 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 43 Ill. Reg. _____, effective _____)

Section 1600.210 Procedures for Potable Water Supply Well Surveys

- a) When ~~applicable~~ Board rules require a well survey to determine the existence and location of potable water supply wells, the following must be identified:
- 1) ~~All~~ persons subject to this Subpart B must identify 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, which includes~~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 may be required to ~~must~~ expand the area of the potable water supply well survey.
- 1) An expanded well survey is required 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).
- A) If there is no Table E objective or Part 620 standard, the Agency will determine or approve an objective according to ~~shall be determined or approved by the Agency in accordance with~~ 35 Ill. Adm. Code 620. Subpart F.
- B)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 ~~wherein 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~~ ~~in~~ ~~accordance with~~ this Section must include, ~~but is not limited to~~, the following:
- 1) One or more maps to a scale ~~depicting~~ ~~clearly showing~~ the following:
 - A) The locations of the community water system wells and other potable water supply wells identified ~~under~~ ~~pursuant to~~ this Section; ~~and~~
 - B) The location and extent of setback zones and regulated recharge areas identified ~~under~~ ~~pursuant to~~ this Section; ~~and~~.
 - C2) ~~The maps showing the well locations, setback zones and regulated recharge areas pursuant to subsection (c)(1) of this Section must show these areas identified in subsections (A) and (B) 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.~~
 - 23) 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 ~~under~~ ~~pursuant to~~ this Section; ~~and~~
 - 34) A narrative that, at a minimum, ~~lists~~ ~~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 any field observations while identifying and locating, if any, associated with the identification and location of the potable water supply wells.

(Source: Amended at 43 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 developing and implementing 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~~

Communitycommunity 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 thosesuch 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 other circumstances for performing that community relations activities be performed at other times and under other circumstances and may assist in developing offer assistance with development and implementing these 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 according to; 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 43 Ill. Reg. _____, effective _____)

Section 1600.305 Applicability

- a) ~~When~~Whenever the Agency determines that it must provide notice underpursuant 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 underin accordance with this Subpart C.
- b) A person must developNothing in this Subpart C requires the development and implementimplementation of community relations activities underin accordance with this Subpart only ifunless:
 - 1) The Agency informsnotifies the person in writing that a notice must be issued undersubsection (a) of Section 25d-3(a) of the Act;

- 2) ~~In that same writing. 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 itthe notice; and~~
 - 3) ~~The person accepts the Agency's offer and notifies the Agency in writing within seven days after receivingreceipt of the Agency's offer letter (unless a longer period of time is provided in the offerAgency's notice letter) that the person~~#~~ intends to provide the notice in place of the Agency as part of the community relations activities developed and implemented under~~#~~ 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 underset 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 43 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 undercomply with community relations requirements in this Section if, at five or fewer offsite properties or potable 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).~~

1) Notices issued under this Section ~~subsection (c) of Section 25d-3 of the Act and this Part~~ must be distributed to the contact list according to ~~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) A contact list must be prepared by the ~~The authorized party consisting of~~ must prepare a contact list, 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, including. ~~The contact list must include the methods used in attempting 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) A fact sheet for the release and response action must be developed by the authorized party and ~~The authorized party must develop a fact sheet for the release and response action. The fact sheet must be distributed to the contact list according to 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 if to the extent ~~if to the extent~~ available:

- A) The nature and extent of the ~~contaminant or~~ contaminants identified onsite ~~on~~ and offsite ~~off the site~~ where the release occurred;
- B) A brief description of the potential exposure 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, such as 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 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 representatives 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 a request with the Agency under the Freedom of Information Act [5 ILCS 140] ~~by filing a request for site-specific information with the Agency in accordance with the Freedom of Information Act [5 ILCS 140].~~

- c) ~~If any information under subsection (b)(3) is unavailable when submitting~~ 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 detailing why the information is unavailable is required. 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 must also be included.
- 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 43 Ill. Reg. _____, effective _____)

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

- a) ~~An authorized party~~ Authorized parties must develop a notice, CRP, and fact sheet under ~~comply with the community relations requirements in this Section if:~~
- 1) At more than five offsite properties or potable water supply wells other than a community water supply well, the:
 - A) 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; or~~
 - B2) 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; or~~
 - C3) 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~~

- D4) 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; or at more than five offsite properties.~~
- 2) At one or more community water supply wells, 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
- 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 according to~~in accordance with subsection (b)(1) of Section 1600.310(b)(1) of this Part~~ and distributed to the contact list according to~~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 according to~~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 including ~~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~~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 official~~ 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. These persons may include (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) A fact sheet for the release and response action must be developed by the authorized party and ~~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 according to 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 ~~if 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 potential exposure pathways ~~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, and, if appropriate, 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, 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 ~~website~~ World Wide Web address of the document repository ~~Document Repository~~ established under ~~pursuant to~~ Section 1600.320 of this Part and, if a physical location is also required, its ~~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 was prepared, the name and contact information of the individual 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 a request with the Agency under the Freedom of Information Act [5 ILCS 140] by filing a request for site-specific

information with the Agency in accordance with the Freedom of Information Act [5 ILCS 140].

- c) If any information under subsection (b)(3) is unavailable when submitting~~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 detailing~~of why the information is unavailable is required 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 must also be included.
- 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, and related documents under this section 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 contaminant releases of contaminants with actual or potential impacts to offsite wells and, 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 43 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 available online~~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 one~~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) Online Repositories at World Wide Web Sites
- 1) Documents ~~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 accommodate the anticipated number of viewers and to support the viewing and downloading of the documents in the repository documents ~~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 receiving either receipt ~~of a request for a repository at a physical location or receipt of the Agency 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 must remain accessible for at least ~~may be discontinued no less than~~ 180 days after the recording of the NFR Letter or the Agency ~~the Agency~~ 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 43 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~~, within 30 days after the date of acceptance, the authorized party ~~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 43 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 ~~related updates of such documents~~ to conduct a review approving, approving with conditions or modifications, and approve or disapproving/disapprove of the documents/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 which it received ~~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 the authorized party ~~has 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 ~~potentially that may be~~ affected by or concerned about site activities for notification purposes ~~of notification~~ under the CRP, including, ~~but not limited to,~~ residences, businesses, day care centers, schools, nursing homes, hospitals and clinics.
- c) Upon ~~completing 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 explanation of the specific information or documentation, ~~if any,~~ that the Agency determines is lacking, missing, ~~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 justifying the inclusion ~~of the reasons for any conditions or modifications if conditions or modifications are required.~~
- d) If the Agency disapproves of a document under this Section ~~notice, contact list, fact sheet or CRP~~ or approves it 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 under ~~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 ~~is~~ 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 ~~of or 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) ~~To~~The Agency will, to the extent consistent with review deadlines, the Agency will provide the authorized party with a reasonable opportunity to correct deficiencies within a notice, contact list, fact sheet, or CRP prior to sending a disapproval ~~of a notice, contact list, fact sheet or CRP~~ or an approval with conditions or modifications of these documents. However, resubmitting a document to correct ~~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 ~~thesesuch~~ documents within 30 days after receivingthe receipt of the document, the document will be deemed approved as submitted.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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

- a) ~~ImplementingImplementation~~ of the CRP or ~~distributingdistribution~~ of a notice or fact sheet must begin within five days after receivingreceipt of the Agency's approval of the document or within ten days after the date the document is deemed approved underpursuant to Section 1600.330 ~~(g)(f)~~ of this Part.
- b) The authorized party~~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 priorin advance of plans to holdinghold public meetings or press conferences about site activities or developments.
- c) The authorized party~~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 43 Ill. Reg. _____, effective _____)

Section 1600.340 Compliance

An authorized party must comply with the requirements of ~~this~~ Subpart C or the provisions of community relations activities approved by the Agency.

(Source: Amended at 43 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 site 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 of~~ 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 of~~ 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 of~~ 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 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~~ 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. These persons may include (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 43 Ill. Reg. _____, effective _____)