

ILLINOIS POLLUTION CONTROL BOARD

August 10, 2000

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

Proposed Rule. First Notice.

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

On February 14, 2000, the Illinois Environmental Protection Agency (Agency) filed proposed amendments to the Board's water rules at 35 Ill. Adm. Code 617. If adopted, these amendments would create a regulated recharge area for the Pleasant Valley Public Water District (Pleasant Valley), in Peoria County, Illinois. A regulated recharge area is an area where enhanced regulations are imposed by the Board to reduce the potential for groundwater contamination, as provided for under the Environmental Protection Act (EPAAct) (415 ILCS 5/17.3 (1998)). The Pleasant Valley proposal is the first regulated recharge area proposal brought to the Board, and its adoption would create the State's first regulated recharge area.

By today's action, the Board adopts the proposed amendments for the purpose of First Notice, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (1998)). Publication in the *Illinois Register* will follow today's action, whereupon a 45-day public comment period will begin during which interested persons may file public comments with the Board.

PROCEDURAL HISTORY

In September 1987, the Illinois General Assembly adopted Pub. Act 85-863, which includes a variety of provisions designed to enhance the protection of groundwater in Illinois. These provisions contain amendments to the EPAAct together with new stand-alone legislation at 415 ILCS 55/1 *et seq.* (1998).<sup>1</sup> Included in these amendments is a program for well-head protection. A principal aim of the well-head protection program is to reduce the potential for pollution of water supply wells by providing for physical separation between potential sources of pollutants and water supply wells.

A regulated recharge area is one of the well-head protection provisions provided for under the EPAAct. Specifically, a regulated recharge area is "a compact geographic area, determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination." 415 ILCS 5/3.67 (1998). Within such an area the EPAAct provides that more stringent groundwater protection provisions may be applied than apply generally. 415 ILCS 5/17.3 and 17.4 (1998). The purpose of the Agency's Pleasant Valley proposal, is to regulate certain facilities, sites, units or wells located partially or wholly within the boundary of the recharge area, and thereby better protect the public water supply of Pleasant Valley.

Pursuant to Section 17.3 of the EPAAct (415 ILCS 5/17.3 (1998)), the Agency may propose regulations to the Board that would establish the boundaries of a regulated recharge area. For a number of years immediately preceding this proposal, the Agency worked with state and local groups to assess local needs for local regulated recharge areas. The instant proposal arises out of Agency meetings with the Groundwater Advisory Council, an

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<sup>1</sup> Both Pub. Act 85-863 in its entirety and the portion of Pub. Act 85-863 found at 415 ILCS 55/1 *et seq.* (1998), are commonly referred to as the "Illinois Groundwater Protection Act." For clarity, only the latter will be identified as the Illinois Groundwater Protection Act (IGPAAct) herein.

agency and citizen body established under the IGPA to, among other matters, “review, evaluate and make recommendations regarding State laws, regulations and procedures that relate to groundwater protection.” 415 ILCS 55/5(a)(1) (1998); Statement at 14.<sup>2</sup> Additionally, the proposal arises out of the efforts of a regional planning committee, as provided for at Section 17.2 of the EPA to. 415 ILCS 5/17.2 (1998). The regional committee, named the Central Priority Groundwater Protection Planning Region Committee (CRPC), along with the Agency and Groundwater Advisory Council, held a regulatory development workshop in Peoria in 1996. The Agency incorporated suggestions it received as a result of the workshop, and solicited additional comments on the proposal from various members of environmental associations and private citizens groups. Statement at 14-16.

On April 14, 2000, the Agency filed a motion to substitute. The motion requests that the Board replace the amendments filed on February 14, 2000, with the amendments in the April 14, 2000 filing. On April 17, 2000, the Agency filed a motion to file testimony and exhibits. The Board grants the motion to file testimony and exhibits.

A public hearing was held on May 9, 2000, before Hearing Officer Catherine Glenn in Peoria. Members of the Board and the public attended. At the hearing, Hearing Officer Glenn granted the motion to substitute. The Agency presented the testimony of Richard Cobb, the manager of the groundwater section at the Agency. Testimony was also received from Bill Compton on behalf of the CRPC. Compton’s testimony was admitted as Exhibit 1 at hearing.

#### PUBLIC COMMENTS

Following the hearing, but before adopting a first-notice opinion and order proposing the amendments for public comment, the Board received a public comment on the proposal:

PC 1 Agency’s posthearing comments and modified proposal, filed June 1, 2000, by Joey Logan-Wilkey.

The Board grants the Agency’s motion to file the posthearing comments and modified proposal.

#### BACKGROUND

Pleasant Valley provides public water supply service to an unincorporated area located south of Peoria in Peoria County, Illinois. The service area is approximately fifteen square miles, including nine square miles in Kickapoo Township, five square miles in Limestone Township, one square mile in Rosefield Township, and 33 acres in Peoria Township. Exh. 1 at 8-9.<sup>3</sup> The number of service connections within the Pleasant Valley district is approximately 1300. Exh. 1 at 8. Pleasant Valley also sells water to an additional 300 service connections. Exh. 1 at 8. The only groundwater resource in the area capable of supplying the necessary water is located in a small area at the eastern extreme of the Pleasant Valley service area. Statement at 11.

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

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<sup>2</sup> Citations to the Agency’s Statement of Reasons filed on February 14, 2000, will be cited as “Statement at \_\_\_.” Citations to the transcript from the May 9, 2000 hearing will be cited as “Tr. at \_\_\_.”

<sup>3</sup> Citations to the Exhibits filed with the Agency’s proposal will be cited as “Exh. \_\_\_ at \_\_\_.”

that a release or accidental spill in the recharge area could result in contamination of Pleasant Valley's water supply. Statement at 11.

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

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

### PROPOSAL

Today's proposal builds upon the groundwater protection provisions already applicable in the Pleasant Valley area pursuant to the EAct, the IGAct, and the Board's groundwater protection regulations (see 35 ILCS 600 *et seq.* (1998)). Many concepts established in those sources, such as characterization of potential sources of pollution as "primary" or "secondary," setbacks, etc., both continue to apply and are incorporated into the instant proposal.

For the purpose of administrative economy, the proposal is divided into two subparts. Subpart A contains general provisions. Should the Board receive additional regulated recharge area proposals in the future, these general provisions could be adopted to apply to any new regulated recharge areas as well. Subpart B contains requirements that are designed specifically for Pleasant Valley.

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

#### Subpart A

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

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

An important element in Subpart A is extension to the regulated recharge area of the prohibition against "new" sitings of activities that are considered under the EAct and IGAct to be of particular concern in well-head protection. These are low level radioactive waste sites, Class V injection wells, municipal solid waste landfills, and special or hazardous waste landfills. See 35 Ill. Adm. Code 617.120(a). A definition of "new" is included in Section 617.120(b).

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

The recharge area suitability assessment provisions apply to owners or operators of new major potential sources that are located wholly or partially within the regulated recharge area.<sup>4</sup> 35 Ill. Adm. Code 617.125(a). These owners or operators are required to undertake preparation of a recharge area suitability assessment document, as described in Section 617.125(c). This document must be filed with the Agency, and the owner or operator must publish a public notice of the assessment and notify adjacent property owners of the filing. 35 Ill. Adm. Code 617.125(d). The Agency, at the request of any person, is also required to hold a public hearing regarding the recharge area suitability assessment. 35 Ill. Adm. Code 617.125(e), (f).

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

In most of its particulars, Section 617.125 is offered today as proposed by the Agency. However, the Board offers for the purpose of first notice two significant modifications of the Agency's concept of the recharge area suitability assessment. The Board requests the Agency's perspective, as well as that of any other interested person, on these modifications.

First, the Board has added at Section 617.125(h)(1) language intended to specify what constitutes an "adequate" recharge area suitability assessment. The Board believes that the language of this sort is necessary to give notice to an owner or operator of what is expected in the recharge area suitability assessment document.

Second, the Board has modified the language at Section 617.125(k) so as to require achievement of an adequate recharge area suitability assessment before operation can commence. The Board realizes that the Agency's intent has been to make the weight of its review of the recharge area suitability assessment to be only advisory. Tr. at 74. However, the Board questions whether any major potential source of groundwater contamination should be allowed to operate in a regulated recharge area if the owner or operator of that facility cannot demonstrate that the impact on the groundwater has been adequately assessed.

A second new well-head protection provision proposed today in Subpart A mandates that the Agency and the Illinois Department of Transportation work together to post road signs at the entrance and exit of a recharge area. 35 Ill. Adm. Code 617.140. Not only will the signs help notify the public of where the recharge area lies, they will also hopefully lessen or prevent impacts of contaminant spills.

#### Subpart B

Subpart B of today's proposal sets forth the requirements for certain types of existing or new facilities, sites, or units located wholly or partially within the Pleasant Valley regulated recharge district.

The owners or operators of potential sources or routes of groundwater contamination, located wholly or partially within the recharge area, must register the location of the source or route with the Agency. 35 Ill. Adm. Code 617.210. When they must register is explained further in 35 Ill. Adm. Code 617.210. Within 30 days of the effective date of this proposal, the Agency, with the cooperation of Pleasant Valley, will conduct a door-to-door canvass to notify the owners or operators of all known potentially impacted facilities, so that they know of the

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<sup>4</sup> A "major potential source" is a unit at a facility or site that is not currently subject to a removal or remediation action that stores, accumulates, landfills, or land treats waste other than household waste, that could cause contamination of groundwater, and is generated on the site. See 35 Adm. Code 617.102. A "major potential source" is a "new major potential source" if, as of the effective date of this proposal, it does not exist or construction has not begun on it. 35 Ill. Adm. Code 617.102. A "new major potential source" may also be a facility, site, or unit which laterally expands or undergoes major reconstruction as of the effective date of this proposal. 35 Ill. Adm. Code 617.102.

registration requirement. 35 Ill. Adm. Code 617.215. The Agency will hold a meeting within 90 days of this proposal's effective date, for all owners or operators, to help them register and provide information regarding Subpart B's requirements. 35 Ill. Adm. Code 617.215(b), (c).

Today's proposal contains a map of the recharge area, with a legend that gives a narrative description of the properties that are wholly or partially contained within quarter sections of the recharge area. The map is located at 35 Ill. Adm. Code 617. Appendix A. This map will help owners and operators determine whether they are within the regulated recharge area.

#### Potential tertiary sources of groundwater contamination

Owners and operators of potential tertiary sources of groundwater contamination must develop and implement a chemical substances management system that will include, among other things, a description of how the on-site chemical substances are stored and used. 35 Ill. Adm. Code 617.220(a). Owners or operators of potential tertiary sources of groundwater contamination must also register for a training program, which is intended to provide an overview of the sensitivity of the groundwater resource, and provide input on appropriate pollution prevention alternatives. 35 Ill. Adm. Code 617.220(b), (e). Following the training program, the owners and operators of potential tertiary sources of groundwater contamination have 180 days in which to implement a chemical substances management plan (CSMP). 35 Ill. Adm. Code 617.220 (c). The intent of creating the CSMPs is to develop provisions that allow for coexistence of uses through implementing best management practices and contingency planning. Statement at 23. The proposal also requires that the CSMP for new potential tertiary sources include secondary containment. 35 Ill. Adm. Code 617.220(d).

#### ECONOMIC EFFECTS

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

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

Further evaluation of the economic effects of today's proposal is being conducted by the Agency, in conjunction with Pleasant Valley and the local volunteer fire departments in the recharge area. PC 1 at 3.

#### ORDER

The Board directs the Clerk to cause the filing of the following with the Secretary of State for first-notice publication in the *Illinois Register*.

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE F: PUBLIC WATER SUPPLIES

CHAPTER I: POLLUTION CONTROL BOARD

PART 617  
REGULATED RECHARGE AREAS

SUBPART A: GENERAL

Section

617.101 Purpose

617.102 Definitions

617.110 Incorporation by Reference

617.115 Scope

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617.125 Recharge Area Suitability Assessment

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SUBPART B: PLEASANT VALLEY PUBLIC WATER DISTRICT REGULATED RECHARGE  
AREA

Section

617.200 Purpose

617.205 Applicability

617.210 Registration of Potential Sources and Routes of Groundwater Contamination

617.215 Recharge Area Registration Meeting

617.220 Management Systems for Potential Sources

617.225 Training Program for Potential Tertiary Sources

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

617.Appendix B Potential Route and Source Registration Form

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

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

NOTE: Italicization denotes statutory language.

SUBPART A: GENERAL

Section 617.101      Purpose

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

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

## Section 617.102 Definitions

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

“Agency” means the Illinois Environmental Protection Agency.

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

“Board” means the Illinois Pollution Control Board.

“Chemical substance” means any “extremely hazardous substance” listed in Appendix A of 40 CFR Part 355 that is present at a facility in an amount in excess of its threshold planning quantity, any “hazardous substance” listed in 40 CFR Section 302.4 that is present at a facility in an amount in excess of its reportable quantity or in excess of its threshold planning quantity if it is also an “extremely hazardous substance”, and any petroleum including crude oil or any fraction thereof that is present at a facility in an amount exceeding 100 pounds unless it is specifically listed as a “hazardous substance” or an “extremely hazardous substance”. “Chemical substance” does not mean any substance to the extent it is used for personal, family, or household purposes or to the extent it is present in the same form as a product packaged for distribution to and use by the general public [430 ILCS 45/3].

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

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

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

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

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

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

recharge wells used to replenish the water in an aquifer;

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

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

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

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

radioactive waste disposal wells other than Class IV;

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

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

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

injection wells used in experimental technologies; and

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

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

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

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

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

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

“IEMA” means the Illinois Emergency Management Agency.

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

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

“Municipal solid waste landfill unit” or “MSWLF Unit” means a contiguous area of land or an excavation that receives household waste, and is not a land application unit, surface impoundment, injection well, or any pile of noncontainerized accumulations of solid, nonflowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF unit if it receives household waste [415 ILCS 5/3.85].

“New Major Potential Source” means:

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

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

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

“New Potential Primary Source” means:

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

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

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

“New Potential Route” means:

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

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

“New Potential Secondary Source” means:

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

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

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

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

“New Potential Tertiary Source of Groundwater Contamination” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 617.110 Incorporation by Reference

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

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

Section 617.115 Scope

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

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

Section 617.120 Prohibitions

- a) The following new facilities, sites, units, or potential routes must not be located within a delineated regulated recharge area:
  - (1) low level radioactive waste sites;
  - (2) class V injection wells;

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

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

#### Section 617.125 Recharge Area Suitability Assessment

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

- a) The owners or operators of new major potential sources located wholly or partially within a delineated regulated recharge area may not commence construction without first filing a recharge area suitability assessment with the Agency, except for livestock operations that meet the criteria set forth in 35 Ill. Adm. Code 501.404(e) or except as provided in subsection (b) of this Section.
- b) For any livestock waste handling facility subject to the Livestock Management Facilities Act, the requirement in subsection (a) of this Section for filing a recharge area suitability assessment is only applicable to such facility after filing a notice of intent, or a complete registration if the facility is designed to handle the waste from a 300 animal unit or larger operation, and:
  - 1) a public informational meeting pursuant to Section 12 of the Livestock Management Facilities Act is not requested; or
  - 2) the provisions for a public informational meeting are not applicable to such facility.

- c) A recharge area suitability assessment must include, at a minimum, the following:
- 1) a legal description of the site and location maps including:
    - i) a topographic map of the site drawn to scale of 200 feet to the inch or larger with a contour interval of less than 50 feet;
    - ii) an area map that shows the approximate distance of the unit at a facility or site from the nearest potable water supply well or sinkhole; and
    - iii) an area map that identifies all land uses within 1 mile of the site.
  - 2) soil survey data for the site;
  - 3) an explanation of the proposed operation and any protection controls or measures;
  - 4) a description of any management systems that will be utilized to prevent environmental contamination; and
  - 5) an analysis of the potential environmental impacts that could occur due to the operation of the facility and any mitigating measures that will be implemented.
- d) Within 7 days after filing the suitability assessment, the owner or operator must:
- 1) notify all adjacent property owners of the filing; and
  - 2) publish a public notice regarding the filing of the assessment in a newspaper whose circulation covers the affected area.
- e) Within 45 days after the filing of an assessment, any persons may:
- 1) request copies of the assessment from the Agency; and
  - 2) may request that a public hearing be held at a location in the vicinity of the proposed facility.
- f) The Agency must hold the public hearing in a timely manner, but no more than 45 days after receipt of the written response pursuant to subsection (e)(2) of this Section.
- g) The Agency must provide 21 days public notice prior to a public hearing.

- h) Within 90 days after the filing of an assessment or within 120 days after a hearing, the Agency must issue a written statement with one of the following determinations:
- 1) the assessment demonstrates the potential environmental impacts that a facility would have within the recharge area and includes the appropriate measures to protect against possible contamination;
  - 2) the assessment does not demonstrate the potential environmental impacts that a facility would have within the recharge area and does not include the appropriate measures to protect against possible contamination; or
  - 3) the assessment must be modified to address any impacts that the facility will have on the groundwater within the area.
- i) The owner or operator of the facility may, within thirty days, respond to a statement issued by the Agency pursuant to subsection (h)(2) or (h)(3) of this Section.
- j) Not later than thirty days after receipt of a response from the owner or operator of the facility, the Agency must issue a final statement regarding the assessment pursuant to subsection (i) of this Section. If no response is received by the Agency within the thirty day period, no further action is necessary and the statement stands as initially issued.
- k) Operation of the facility may only commence after the owner or operator receives the Agency's statement finding the assessment complies with subsection (h)(1) of this Section, or the owner or operator prevails on appeal brought under Section 617.125(l), whichever is later.
- l) The applicant may appeal the Agency's final statement to the Board by filing a petition on or before the thirty-fifth day after the issuance of the statement. The petition must be filed, and the proceedings conducted, pursuant to the procedures set forth in 35 Ill. Adm. Code 105.

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

Section 617.130 Technology Control Regulations

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

- a) landfilling, land treating, surface impounding or piling of special waste and other wastes that could cause contamination of groundwater and that are generated on the site, other than hazardous waste and construction and demolition debris;

- b) storage of special waste in an underground storage tank to which federal regulatory requirements for the protection of groundwater are not applicable;
- c) storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application;
- d) storage and related handling of road oils and de-icing agents at a central location; and
- e) storage and related handling of pesticides and fertilizers at a central location for the purpose of distribution to retail sales outlets.

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

Section 617.135 Abandoned and Improperly Plugged Well Assistance Program

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

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

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

Section 617.140 Recharge Area Road Sign Posting

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

- a) the Agency must work with the Illinois Department of Transportation to demarcate any state or interstate road or highway at the perimeter of a regulated recharge area; and
- b) the public water supply must demarcate where any major road other than a state or interstate road or highway enters or exits a regulated recharge area.

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

SUBPART B: PLEASANT VALLEY PUBLIC WATER DISTRICT REGULATED RECHARGE AREA

Section 617.200 Purpose

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

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

Section 617.205 Applicability

- a) This Subpart applies to the following facilities, sites, units or wells located partially or wholly within the Pleasant Valley Public Water District's recharge area boundary:
  - 1) those activities not regulated by 35 Ill. Adm. Code 615 or 35 Ill. Adm. Code 616;
  - 2) Class V wells and abandoned and improperly plugged wells of any type;
  - 3) existing and new potential primary sources of groundwater contamination, existing and new potential secondary sources of groundwater contamination, existing and new potential tertiary sources of groundwater contamination, and existing and new potential routes of groundwater contamination; and
- b) nothing in this Subpart impacts the application of State or Federal laws or regulations (35 Ill. Adm. Code 615, 35 Ill. Adm. Code 616, Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, et seq.); Sections 3004 and 3008 of the Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.); Sections 4(q), 4(v), 12(g), 21(d), 21(f), 22.2(f), 22.2(m) and 22.18 of the Act; 35 Ill. Adm. Code 724, 725, 730, 731, 733, 740, 742, 750, 811 and 814) ) to activities addressed in those Parts that occur within the boundaries of the regulated recharge area set out in 35 Ill. Adm. Code 617.Appendix A.

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

Section 617.210 Registration of Potential Sources and Routes of Groundwater Contamination

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

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

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

Section 617.215 Recharge Area Registration Meeting

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

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

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

Section 617.220 Management Systems for Potential Sources

- a) The owner or operator of any potential tertiary source of groundwater contamination, located wholly or partially within the regulated recharge area, must develop and implement a chemical substances management system, that, at a minimum, must include the following:
- 1) a brief description of the manner in which the on-site chemical substances are stored and used;
  - 2) a potential release assessment and the response procedures to be followed by the facility for notifying local emergency response agencies;
  - 3) management measures that are employed to reduce the potential for releases; and
  - 4) suitable training as provided by the Agency pursuant to Section 617.225 of this Subpart.
- b) The owner or operator of an existing potential tertiary source of groundwater contamination, located wholly or partially within the regulated recharge area must:
- 1) Within 90 days of the effective date of this Subpart register for the training required under Section 617.225; and
  - 2) Within 120 days of the effective date of this Subpart attend an Agency sponsored training program required under Section 617.225 before the development of the required chemical substances management plan (CSMP).
- c) The owner or operator of an existing potential tertiary source of groundwater contamination, located wholly or partially within the regulated recharge area must within 180 days after the training required pursuant to Section 617.225 develop a CSMP and make it available on-site.
- d) The chemical substances management system for a new potential tertiary source must also include secondary containment. Chemical substance storage areas regulated under this subpart must have a constructed or pre-fabricated containment system that is operated as follows:
- 1) When not protected from receiving precipitation, the constructed or pre-fabricated containment system must have:
    - A) a minimum containment volume of a 6-inch rain storm (a 25 year, 24 hour rain);
    - B) the capacity of the largest container or tank; and

- C) the volume displaced by the bases of the other tanks located within the secondary containment structure.
- 2) When protected from receiving precipitation, the constructed or pre-fabricated containment system must have a minimum containment volume of 100 percent of the capacity of the largest container or tank, plus the volume displaced by the bases of the other containers or tanks.
- 3) The owner or operator must prevent run-on into the pre-fabricated or constructed secondary containment system, unless the collection system has sufficient excess capacity in addition to that required in subsection (b)(1) of this Section to contain any run-on, which might enter the constructed or pre-fabricated containment system.
- 4) The owner or operator must remove spilled or leaked material and accumulated precipitation from the sump or collection area in a timely a manner to prevent overflow of the collection system.
- e) The owner or operator of a new potential tertiary source of groundwater contamination, located wholly or partially within the regulated recharge area must:
  - 1) register for the training required under Section 617.225 30 days before construction has commenced; and
  - 2) attend an Agency sponsored training program required under Section 617.225 within 60 days of registration.
- f) The owner or operator of a potential primary or secondary source must review the facility's chemical management practices and take any necessary actions to ensure protection equivalent to subsection (a) or (b) of this Section.
- g) The owner or operator of a potential tertiary source must do the following, unless an equivalent CSMP has been prepared and filed:
  - 1) maintain a CSMP at the facility at all times;
  - 2) review the CSMP annually;
  - 3) clearly identify changes in the CSMP;
  - 4) provide a copy of the initial Plan to the appropriate local fire department and police response agency; and
  - 5) make the CSMP available for inspection by the public during normal operating hours.

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

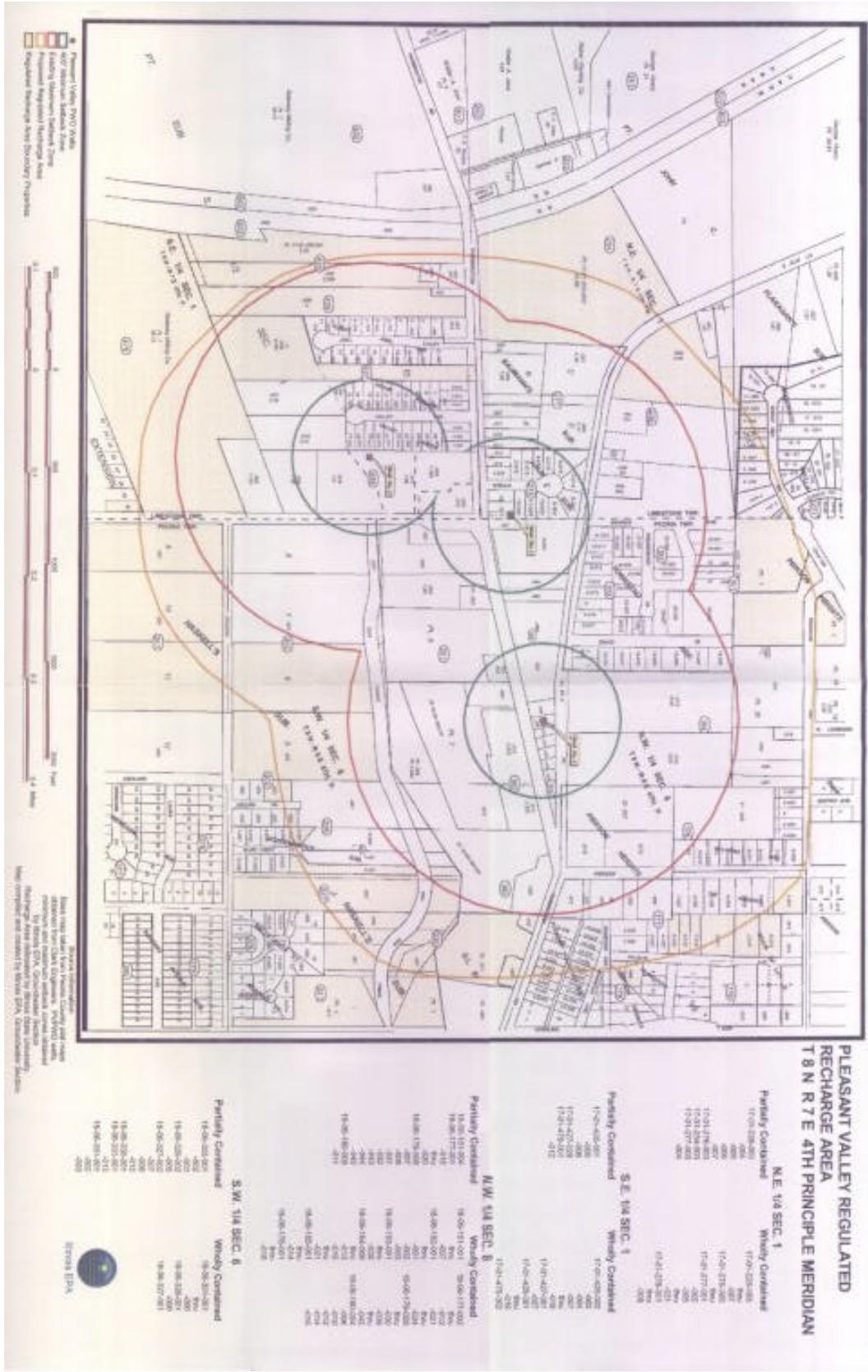
Section 617.225 Training Program for Potential Tertiary Sources

- a) A chemical substance management training program (as required in Section 617.220(a)) must be conducted by the Agency as follows:
- 1) The training program must cover, at a minimum, the following topics:
    - A) an overview of the sensitivity of community water supply recharge areas and groundwater protection;
    - B) improperly abandoned wells;
    - C) the procedure for developing a chemical substance management system;
    - D) cost effective containment systems;
    - E) small business technical assistance opportunities; and
    - F) pollution prevention alternatives appropriate for the type of business.
  - 2) The chemical substances management system training program will be offered at least once, and may be offered more frequently, depending upon demand. The Agency or its designee must publish advance notice of the time, date, and location for each training program.
  - 3) An individual must enroll with the Agency prior to the date for the next scheduled training program.
  - 4) The Agency must provide the owner or operator of a potential tertiary source that participates in the chemical substances management training program with a certificate of completion.
- b) The owner or operator of a potential tertiary source who receives a certificate of completion of a chemical substances management training program must post the certificate of completion at his place of business, and must provide a copy of such certificate to the Pleasant Valley Public Water District within 10 days after receipt of the certificate from the Agency.

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

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

Please see the following page.



**PLEASANT VALLEY REGULATED RECHARGE AREA**  
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City of Pleasant Valley  
 Planning Department  
 1500 N. 7th Street, Suite 100  
 Pleasant Valley, ND 58278  
 Phone: (701) 785-2200  
 Fax: (701) 785-2201  
 Email: info@pleasantvalleynd.com  
 Website: www.pleasantvalleynd.com

Section 617.Appendix B Potential Route and Source Registration Form

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

DATE: \_\_\_\_\_

COMPANY/FACILITY NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_ PHONE: (    ) \_\_\_\_\_

COMPANY/FACILITY CONTACT NAME: \_\_\_\_\_

\_\_\_\_\_ PHONE: (    ) \_\_\_\_\_

EMERGENCY CONTACT NAME: \_\_\_\_\_

\_\_\_\_\_ PHONE: (    ) \_\_\_\_\_

PROPERTY OWNER'S NAME: \_\_\_\_\_ PHONE: (    ) \_\_\_\_\_

PROPERTY OWNER'S ADDRESS: \_\_\_\_\_

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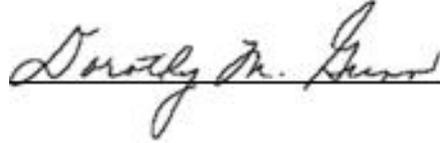
BRIEF DESCRIPTION OF BUSINESS ACTIVITIES AND PROCESSES:

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BRIEF DESCRIPTION OF SPECIFIC CHEMICAL SUBSTANCES USED:

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 10th day of August 2000 by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board