

ILLINOIS POLLUTION CONTROL BOARD
April 20, 2006

IN THE MATTER OF:)
)
STANDARDS AND REQUIREMENTS FOR)
POTABLE WATER WELL SURVEYS AND) R06-23
FOR COMMUNITY RELATIONS ACTIVITIES) Rulemaking - Land
PERFORMED IN CONJUNCTION WITH)
AGENCY NOTICES OF THREATS FROM)
CONTAMINATION (35 ILL. ADM. CODE)
1505))

Proposed Rule. First Notice.

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

This rulemaking proposes to add a new Part 1505 to the Board's regulations concerning standards and requirements for potable water well surveys and community relations activities in response to threats from soil and water contamination. On January 20, 2006, the Illinois Environmental Protection Agency (Agency) filed this proposal in response to Public Act 94-314, effective July 25, 2005, which added a new Title VI-D ("Right-To-Know") to the Environmental Protection Act (Act). Public Act 94-314 requires the Board to adopt well survey and community relations rules within 240 days of the effective date of P.A. 94-314, or no later than September 17, 2006. The Board meeting immediately before that date is scheduled for September 7, 2006.

Today the Board adopts the Agency's proposal, as amended, for first notice. First-notice publication in the *Illinois Register* will begin a 45-day period for interested persons to file public comments with the Board. The Board describes the new Part 1505 and the various issues raised at hearing in more detail below.

PROCEDURAL BACKGROUND

On January 20, 2006, the Illinois Environmental Protection Agency (Agency) filed this proposal for rulemaking pursuant to Sections 27 and 28 of the Environmental Protection Act (Act) and 35 Ill. Adm. Code 102.202(b).¹ The Board accepted the rulemaking for hearing on February 2, 2006. To date, the Board has held one public hearing before Hearing Officer Amy Antonioli. The hearing was held on March 28, 2006, in Chicago.² A second hearing is scheduled for May 23, 2006, in Springfield.

¹ The Agency's statement of reasons will be cited to as "Stat. of Reas. at _."

² The transcript from the March 28, 2006 hearing will be cited to as "Tr.1 at _."

Mr. Gary King, Mr. Richard Cobb, Mr. Kurt Niebergall, Ms. Joyce Munie, Ms. Carol Fuller, and Mr. Scott Phillips testified on behalf of the Agency. Mr. King, manager of the Division of Remediation Management within the Bureau of Land at the Agency, testified regarding the new potable water well survey rules and how they will be integrated with the site remediation, leaking underground storage tank, and Resource Conservation and Recovery Act closure programs. Mr. Cobb, Deputy Manager of the Division of Public Water Supplies of the Agency's Bureau of Water, discussed the background of P.A. 94-314 and the purpose and scope of the proposed Part 1505. Mr. Niebergall, Manager of the Office of Community Relations, talked about the purpose, scope, and reasoning behind the proposed standards and requirements for community relations activities.

Ms. Dierdre K. Hirner, on behalf of the Illinois Environmental Regulatory Group, and Ms. Bernadette Dinschel, individually, also testified at hearing. To date there have been no public comments filed with the Board. The Agency has filed one errata sheet reflecting issues raised prior to the first hearing.

Filing Public Comments

First-notice publication in the *Illinois Register* of these proposed rule changes will start a period of at least 45 days during which anyone may file public comments with the Board at:

Office of the Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

The Board encourages persons to file public comments on these proposed amendments. The applicable docket number (R06-23) should be indicated on the public comment. Any person may file a public comment, regardless of whether the person has yet filed one.

Additionally, as part of the Board's voluntary electronic filing pilot project, public comments in this rulemaking may be filed through COOL at www.ipcb.state.il.us. Any questions about electronic filing should be directed to the Clerk's Office at (312) 814-3629.

SUMMARY OF PROPOSED NEW PART 1505 AND ERRATA SHEET 1

Public Act 94-314 directs the Agency to propose rules requiring potable water well surveys and community relations activities in response to releases of contaminants that have impacted or may impact offsite groundwater or soil. The Agency states it clearly understood the requirement to adopt well survey procedures and establish minimum standards for the performance and documentation of such surveys during site investigations to ensure complete and accurate identification of the existence and location of potable water supply wells. Stat. of Reas. at 3. The difficulty associated with both establishing the well survey procedures as well as the community relations activities, states the Agency, is that as many as 18-20 Parts of the Board's rules have response action requirements that may trigger these two programs. In

preparing the proposal, the Agency determined that there was insufficient time to propose separate sets of amendments for each Part. *Id.* Therefore, the Agency drafted “a single, overarching Part that would span multiple media and regulatory boundaries.” *Id.*

The Agency stated that it held several public outreach meetings regarding the proposed language for this rulemaking and, as a result, the proposed Part 1505 was developed with input from environmental organizations, the regulated community, and representatives from State and local government. Stat. of Reas. at 5-6. The Agency stated that it held additional public outreach meetings after filing the proposal and that the Agency will likely propose changes to the rule text based on public input as well as issues raised at hearing.

The proposed new Part 1505 contains three subparts. Subpart A contains general information. Subpart B contains the procedures for performing potable water well surveys as part of response actions taken to address releases of contaminants. Subpart C contains the standards and requirements for community relations activities to be developed and implemented when the responsible party agrees to take on the Agency’s notice obligations as part of Agency-approved community relations activities. Each of the three subparts are discussed in more detail below.

Subpart A

Subpart A sets forth the scope, purpose, and applicability of Part 1505. Subpart A also provides a list of definitions. The Agency’s original proposal defines a “response action” as taken in reaction to a release of contaminants. A response action may include a site investigation to characterize the nature and extent of the contamination, identify potentially affected wells and other exposure pathways and receptors, and collect information sufficient to perform any necessary modeling of future contaminant migration. A response action may also include the development and implementation of a remedial or corrective action plan that will eliminate or control contamination from the release.

The Agency’s errata sheet 1 adds a definition of a “person performing a response action” as a person taking responsibility for addressing a release, but not necessarily the person that may have caused the contamination. The definition specifically excludes persons hired or authorized to perform the response action by a person taking responsibility for the release.

Subpart B

If someone performs a response action pursuant to Board rules that requires a well survey as part of a site investigation, then Subpart B requires compliance with minimum standards and requirements for those surveys. Stat. of Reas. at 10. The submission and review of well survey documentation and appeals of Agency final determinations concerning well survey procedures, however, are subject to the Board rules requiring the response action. *Id.* at 11. In ongoing response actions, if the well survey has not been performed as of the effective date of this rule, then the survey must conform to the proposed standards. If the well survey is already complete, but no final determination by the Agency has yet been made, Agency approval may depend on

whether the well survey satisfies the new standards. *Id.* at 11. If the well survey does not follow the proposed Subpart B procedures, the Agency may require additional survey actions.

The Agency clarified in errata sheet 1 that the area of the potable water well survey should be expanded if the groundwater contamination exceeding Class I or the Board's antidegradation regulations is shown to extend offsite. The Agency stated that the well survey procedures parallel the recently adopted survey requirements under the underground storage tank regulations at 35 Ill. Adm. Code 732 and 734.

Subpart C

As set forth in the proposal, community relations activities are voluntary and performed as authorized by the Agency in place of the Agency's notice obligations under Section 25d-3 of the Act. P.A. 94-314, *eff.* July 24, 2005 (*to be codified as* 415 ILCS 5/25d-3). Stat. of Reas. at 14. Pursuant to Section 25d-3, the Agency's decision that notice must be given triggers the implementation of community relations activities. *Id.* The Agency may choose to notify the responsible party that notice must be issued, and can offer the responsible party the option to provide notice instead of the Agency. Once a responsible party notifies the Agency that it wishes to proceed, compliance with Subpart C becomes mandatory. The responsible party assumes the obligation to provide notice, but the entire process must be done with Agency oversight. *Id.* at 15.

The Agency has the discretion to offer the responsible party an opportunity to provide notice. The Agency's decision may depend on the extent of the contamination and how fast the contamination is moving. Stat. of Reas. at 15.

The Agency has proposed two tiers of community relations activities. Stat. of Reas. at 16. Limited community relations activities are required for releases (soil or groundwater) posing a threat of groundwater contamination above the Class I groundwater quality standards at five or fewer off-site private, semi-private, or non-community water system wells. *Id.* Limited activities also apply where offsite soil contamination poses a threat of exposure above the appropriate Tiered Approach to Corrective Action Objectives (TACO) Tier 1 contaminant concentrations under 35 Ill. Adm. Code 742 suitable for the current use at five or fewer offsite properties. For the sites described in this section, a contact list and fact sheet for distribution to a specified group of affected, potentially affected, or interested persons are required.

More comprehensive community relations activities are required for releases that pose a threat of groundwater contamination above Class I groundwater quality standards at five off-site private, semi-private, or non-community water system wells or one or more community water supply wells. Stat. of Reas. at 18. The same level of community relations activities is required if offsite soil contamination exceeds or poses a threat of exposure above TACO Tier 1 contamination concentrations suitable for the current uses at more than five properties. *Id.* Pursuant to the more comprehensive tier of community relations activities, the person authorized to provide notice must develop and implement a plan for community relations activities in addition to a contact list and fact sheet. *Id.* at 18-19. The Agency's errata sheet 1 adds an

Appendix A to Part 1505, which contains the outline of a model community relations plan appropriate for a complex site.

Under the more comprehensive requirements, the person authorized to give notice must create an online document repository. Stat. of Reas. at 17. Pursuant to the proposed Section 1505.320, the repository must be established at a web site. If a request is made for a repository at a physical location, a physical repository must also be provided. *Id.* The repository must be maintained and updated until 180 days from the Agency's issuance of completion documentation for the response action.

Under both tiers of community relations activities, fact sheets and plans for community relations activities must be updated routinely to reflect the development of new information or significant changes to information already submitted. If the person authorized to provide notice fails to perform all of the activities required under Subpart C, then the Agency may provide public notice and seek cost recovery pursuant to Title VI-D, an enforcement action, or both. Stat. of Reas. at 18. This method of appeal allows the Agency to promptly notify the public and avoid potential delays to the development and implementation of community relations activities. *Id.* If the Agency fails to meet the mandatory 30-day review deadline, the plan is considered approved by default. *Id.* at 19.

Technical Feasibility and Economic Reasonableness

The Agency states the proposed regulations are both technically feasible and economically reasonable. Well surveys are already performed in response to most releases addressed pursuant to Board rules and Agency oversight, so no new or additional technical requirements are required under Subpart B. The only new technical requirement imposed by P.A. 94-314 and the proposed rules is the establishment of a website document repository. Stat. of Reas. at 20. According to the Agency, the establishing a website is technically feasible and, therefore, the proposed rule raises no new issues of technical feasibility. *Id.* at 20-21.

The Agency does not anticipate any significant increase in costs for the State or for the persons performing response actions for the performance of well surveys for the same reasons. Subpart B, according to the Agency, merely attempts to codify the Agency's existing procedures for well surveys. Stat. of Reas. at 21.

There will definitely be increased costs for the Agency and responsible parties performing notice and community relations obligations under Subpart C. Costs will vary depending on the nature and extent of the contamination, and the Agency hopes that by having two levels of community relations activities, the costs will be limited appropriately. Stat. of Reas. at 21. The Agency predicts that most sites will fall into the limited requirement group, but that costs will substantially increase for those sites with greater impacts that must prepare plans and document repositories.

The Agency's Office of Community Relations estimates the cost to the responsible parties for developing a fact sheet and contact list, preparing a news release, and distributing the required information will range from \$9,500 to \$12,000. Stat. of Reas. at 22. The cost estimates

are based on approximately 160 to 200 hours of staff time and direct and indirect costs of approximately \$60 per hour. The Agency estimates that if a plan is required, the cost could increase by as much as \$4,500 to \$6,000. *Id.* The Agency states it did not include estimates for establishing an electronic document repository because the Office of Community Relations does not have experience with this. *Id.*

The Office of Community Relations estimates that the increased costs to the Agency for reviewing documents, responding to fact sheets, and other follow-up activities will range from \$2,000 to \$3,200 if only fact sheets are required, and \$3,200 to \$4,800 if a comprehensive community relations plan is also required. The Agency foresees additional undetermined costs for enforcement under the proposed Section 1505.330(d) and for non-compliance in general. Stat. of Reas. at 22.

The Agency states that despite these additional costs, “the legislature has determined that the public does have a right to know when contamination has impacted or may impact offsite properties or offsite potable water supply wells and that the right could be better served by adding community relations requirements.” Stat. of Reas. at 22. According to the Agency, Section 25d-3 of the Act mandates the Agency to provide notice, and the associated costs are justified for compliance with the Act.

Published Study or Report Requirement

With regard to the “published study or report” requirement of Section 102.202(e), the Agency states that the proposal includes no incorporations by reference, and that no published studies or research reports were used in developing the rules. Stat. of Reas. at 24; *see also* 35 Ill. Adm. Code 102.202(e); *see also* 35 Ill. Adm. Code 102.202(k).

DISCUSSION

Today the Board adopts the Agency’s proposal to add a new Part 1505 to the Board’s rules establishing standards and requirements for potable water well surveys and for community relations activities in response to impacts or threats of contamination to offsite soil or groundwater. As set forth above, the parties discussed several potential changes to the proposed rulemaking at the first hearing. The Agency has indicated that it intends to make changes to the proposed language reflecting issues raised at the first hearing. However, in order to meet the Board’s September 17, 2006 deadline for adopting these regulations,³ today the Board adopts this rule for first notice based on the Agency’s proposal, as amended by the Agency’s errata sheet 1. A second hearing is scheduled for May 23, 2006.

Testimony Other than the Agency’s at Hearing

³ September 17, 2006 is 240 days from the date the Board received the Agency’s proposal, as required by Section 25d-7 of the Act. P.A. 94-314, *eff.* July 24, 2005 (*to be codified as* 415 ILCS 5/25d-7(a))

A resident of the Village of Lisle, Ms. Bernadette Dinschel, testified at hearing. Ms. Dinschel states that the Lockformer Company site, located in Lisle, entered the Illinois site remediation program in 1998. A year later, states Ms. Dinschel, the Agency determined that a chlorinated chemical solvent, trichloroethylene (TCE), was present in private wells up to three miles from the Lockformer site. Because she lived within the boundaries of the contaminated area, Ms. Dinschel stated she became concerned. Tr.1 at 95. Ms. Dinschel testified that she provided citizen input on a subcommittee the Agency organized which led to the legislation that became P.A. 94-314. Tr.1 at 96.

Ms. Dinschel's greatest concern with the Agency's proposal was that the notification procedures under Subpart C would not adequately notify property owners and occupants. Tr.1 at 100-01. In response to Ms. Dinschel's testimony, the Board notes that proposed Section 1505.310(b)(1), as amended by the Agency's errata sheet 1, requires people authorized to provide notice as part of community relations activities must notify property owners and occupants "to the extent reasonably practical." Ms. Dinschel also expressed concern that the proposal would allow a company or other responsible party rather than the Agency or governmental entity to notify the public. Tr. at 103-04. Ms. Fuller, from the Office of Community Relations, stated that in a pilot notification mailing, the Agency used letterhead from the local health department, but that a local health department would not be the only acceptable letterhead to use. For example, the county or city or responsible party may also provide letterhead for a community right-to-know mailing. Tr.1 at 107-08.

Ms. Deirdre K. Hirner prefiled testimony in this rulemaking and gave a summary of her prefiled testimony along with additional comments at hearing. Tr.1 at 111. Ms. Hirner offered her support of the Agency's proposal as amended by the Agency's errata sheet 1, then mentioned four concerns on behalf of IERG. *Id.* at 112. First, Ms. Hirner stated that the requirement to include closure plan documents in fact sheets would be difficult for many parties providing notification to meet because the closure plan is often not available so soon after discovering contamination or a threat of contamination. Second, Ms. Hirner noted that in many Illinois communities there is limited access to the internet, making physical document repository a better choice in those communities. Tr.1 at 114. Ms. Hirner stated that with regard to this issue, the Agency's proposal as amended by errata sheet 1, allowing a physical repository in addition to a website when there is a request for one, satisfies this second concern. Tr.1 at 120.

Third, Ms. Hirner stated that the definition of "responsible party" in other Agency programs "denotes having very strict liability." Tr.1 at 114. Throughout Subpart C, Ms. Hirner stated IERG would favor using "the person performing the response action" or to actually define responsible party for the purposes of Part 1505, Subpart C for clarification. Tr.1 at 115. Finally, Ms. Hirner stated that IERG supports notifying all people who are potentially impacted by a release, and that the Agency's language in the proposed rule, as amended by errata sheet 1, "is very good language." *Id.* Ms. Hirner concludes by stating that IERG is opposed to a mandatory identification of occupants because P.A. 94-314 requires notification only of owners and operators. Further, depending on the site location and surrounding communities, Ms. Hirner states that notification of occupants may be very difficult, and perhaps even beyond the control of the regulated community. Tr.1 at 117.

The Board finds that the Agency's proposal adopted by the Board today satisfies some of the concerns raised by Ms. Dinschel and Ms. Hirner, on behalf of IERG, at hearing. As discussed above and at hearing, the Agency indicates that it intends to address the issue of whether or how to define the term "responsible party" as well as other issues raised in a subsequent errata sheet that the Board may consider at the second hearing and prior to second notice.

Technical Feasibility and Economic Reasonableness

The Board received no testimony or comments regarding the Department of Commerce and Economic Opportunity's decision not to perform an economic impact study on this rulemaking. The Board agrees with the Agency that both parts of the proposal are technically feasible. The Agency states that the requirements for potable water well surveys are economically reasonable and procedures are already required by the Agency and followed by persons performing response actions for soil or groundwater contamination pursuant to applicable Board rules. The Board finds the water well survey requirements of Subpart B economically reasonable.

The Agency concedes that the new standards and requirements for community relations activities may cost the Agency, and the responsible party with respect to the release or threat of a release, considerably more in instances where there is an impact or threat of impact to offsite property. Nonetheless, the Board agrees that the statute mandates the Agency to propose, and the Board to adopt, water well survey and community right-to-know regulations. In fact, the statute itself is quite specific about who must be given notice, in what circumstances, and what information must be included in the notices. While the Agency indicates that it will make some modifications to the proposal based on discussions at hearing, the Board finds that the Agency's proposed Subpart C community right-to-know rules generally meet the intent and purpose of P.A. 94-314, and are economically reasonable.

Accordingly, the Board finds the proposed rule technically feasible and economically reasonable for both the responsible party as well as the State. The Board also finds that the proposed rulemaking will benefit the environment and the community because it will provide the public with valuable and timely information regarding public health and the environment and ensures protection of potable water wells.

The Board adopts the proposal as amended by the Agency in errata sheet 1, making only those additional technical corrections necessary to keep the rule language consistent with regulatory language typically reviewed by the Joint Committee on Administrative Rules and adopted by the Board.

CONCLUSION

The Board adopts the Agency's proposed rulemaking establishing standards and requirements for potable water well surveys and for community relations activities in response to contamination or threats of contamination, as amended by the Agency, for first-notice publication in the *Illinois Register*.

ORDER

The Board directs the Clerk to cause the filing of the following rule with the Joint Committee on Administrative Rules for its first-notice review.

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

PART 1505

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

SUBPART A: GENERAL

Section

1505.100	Purpose and Scope
1505.105	Applicability
1505.110	Definitions
1505.115	Severability

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

Section

1505.200	Purpose and Scope
1505.205	Applicability
1505.210	Procedures for Potable Water Supply Well Surveys

SUBPART C: STANDARDS AND REQUIREMENTS FOR COMMUNITY RELATIONS
 ACTIVITIES

Section

1505.300	Purpose and Scope
1505.305	Applicability
1505.310	Contact Lists and Fact Sheets
1505.315	Community Relations Plans
1505.320	Establishment of Document Repository
1505.325	Submission of Fact Sheets and Community Relations Plans for Review
1505.330	Agency Reviews of Fact Sheets and Community Relations Plans
1505.335	Implementation of Community Relations Plans and Distribution of Fact Sheets; Compliance Monitoring and Records Retention
1505.340	Compliance

APPENDIX A Contents of A Model Community Relations Plan

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), 5/25d-7(a)].

SOURCE: Adopted in _____ at ____ Ill. Reg. _____, effective, _____, 200__.

NOTE: Italics denote statutory language.

SUBPART A: GENERAL

Section 1505.100 Purpose and Scope

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 the responsible party to provide the notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act [415 ILCS 5/25d-3(a), 5/25d-3(c)] as part of the Agency-approved community relations activities. 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 responsible party who has implemented community relations activities to provide the notice in place of the Agency. The standards and requirements in Subpart C of this Part are for community relations activities performed by those 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 fact sheets and community relations plans and the establishment and maintenance of document repositories.

Section 1505.105 Applicability

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

Section 1505.110 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as that applied to the same words or terms in Title I or Title VI-D of the Environmental Protection Act.

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

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

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

“Community relations plan” or “CRP” means a plan containing goals, milestones, and specific tasks that will accomplish two-way communications between a party performing a response action and community members who may be interested in or affected by site contamination or activities at the remediation site.

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

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

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

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

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

Section 1505.115 Severability

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

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

Section 1505.200 Purpose and Scope

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

Section 1505.205 Applicability

- a) Except as provided in subsection (b) of this Section, this Subpart B applies to persons performing response actions pursuant to applicable Board rules. Whenever a response action for soil or groundwater contamination, or both, is required pursuant to applicable Board rules, the person subject to those rules shall comply with the standards and requirements of this Subpart B when a well survey is required to determine the existence and location of potable water supply wells. When determining the existence and location of these wells, the person also shall 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 or Agency interpretations of those rules require the performance of a well survey as part of the response action, this Subpart B sets forth the minimum standards and requirements that must be satisfied when performing that well survey and preparing the documentation for submission to the Agency. In addition, the submission and review of well survey documentation and appeals of Agency final determinations concerning well survey procedures and reporting are subject to the rules governing the response action.
 - 2) Applicable Board rules requiring potable water supply well surveys as part of response actions may supersede the requirements of this Subpart B only

to the extent their express provisions are equivalent to or more stringent than the standards and requirements of this Subpart B.

- b) Persons performing response actions pursuant to applicable Board rules who already have initiated the response action for a release as of the effective date of this Part 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 has not been performed as of the effective date of this Part; or
 - 3) The well survey has been performed but has not been approved by the Agency as of the effective date of this Part and the well survey performed does not satisfy the requirements of this Subpart B.
- c) 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.

Section 1505.210 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, persons subject to this Subpart B shall 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, 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 all setback zones and regulated recharge areas in which all or any portion of the property where the release occurred is located.
- b) Actions taken to identify the wells and associated protected areas shall include, but not be 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 shall expand the area of the potable water supply well survey if measured or modeled groundwater contamination extends beyond a boundary of the property where the release occurred in concentrations exceeding the applicable remediation objectives of 35 Ill. Adm. Code 742. Appendix B: Table E for the groundwater ingestion route or the applicable groundwater quality standards at 35 Ill. Adm. Code 620 (e.g., Class I, Class III). If there is no Table E objective or Part 620 standard, the objective shall be determined or approved by the Agency in accordance with 35 Ill. Adm. Code 620. Subpart F.
- 1) The extent of modeled groundwater contamination shall 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 shall 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 shall 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 Part 742 or Part 620 remediation objectives for the groundwater ingestion exposure route; and
 - B) All setback zones and regulated recharge areas in which any portion of the measured and modeled extent of groundwater contamination exceeding the Part 742 or Part 620 remediation objectives for the groundwater ingestion exposure route 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 shall not be 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 wells).

- e) Documentation of a potable water supply well survey conducted in accordance with this Section shall include, but not be limited to, the following:
- 1) One or more maps to a scale clearly showing the following:
 - A) The locations of the community water system wells and other potable water supply wells identified pursuant to this Section; and
 - B) The location and extent of setback zones and regulated recharge areas identified pursuant to this Section.
 - 2) The maps showing the well locations, setback zones and regulated recharge areas pursuant to subsection (e)(1) of this Section shall show those areas in relation to the measured and modeled extent of groundwater contamination exceeding the remediation objectives of Part 742 or Part 620 for the groundwater ingestion exposure route.
 - 3) One or more tables listing the applicable setback zones and regulated recharge areas for each community water system well and other potable water supply wells identified pursuant to this Section; and
 - 4) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells and protected areas pursuant to this Section, the name and title of each person contacted at each entity, and field observations, if any, associated with the identification and location of potable water supply wells.

SUBPART C: STANDARDS AND REQUIREMENTS FOR COMMUNITY RELATIONS ACTIVITIES

Section 1505.300 Purpose and Scope

- a) The purpose of this Subpart C is to establish the minimum standards and requirements for the development and implementation of community relations activities in accordance with Section 25d-7 of the Act when the Agency has authorized the responsible party to provide the notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of the Agency-approved community relations activities. In addition, it is the purpose of this Part to ensure that these community relations activities fully inform communities and individuals in a timely manner about offsite impacts or potential impacts from soil or groundwater contamination or both and the responses to such impacts. This Subpart C contains requirements for the content, submission for review, distribution and implementation of fact sheets and community relations plans, and the establishment and maintenance of document repositories.
- b) Subpart C not a limitation:

- 1) This Subpart C establishes minimum requirements for community relations activities when such activities are to be performed in place of a notice by the Agency in accordance with subsection (a) of Section 25d-3 of the Act. Nothing in this Subpart C is intended to prohibit or prevent a person from implementing other community relations activities sooner than required by this Subpart or under circumstances in addition to those described in this Subpart. The Agency may recommend that community relations activities be performed at other times and under other circumstances and may offer assistance with development and implementation of such activities where resources permit.
- 2) Nothing in this Subpart C is intended to limit in any way the Agency's authority to provide independent notice of threats of exposure to the public from soil or groundwater contamination, or both, in accordance with Title VI-D of the Act [415 ILCS 5/25d-1 – 25d-10] and implementing rules or under any other authority.

Section 1505.305 Applicability

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

Section 1505.310 Contact Lists and Fact Sheets

- a) Persons authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall comply with community relations requirements in subsection (b) of this Section if:
 - 1) Measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards at 35 Ill. Adm. Code 620 at five or fewer offsite private, semi-private or non-community water system wells; or
 - 2) Offsite soil contamination from the site where the release occurred poses a threat of exposure to the public above the appropriate Tier 1 remediation objectives for the current use(s) at five or fewer offsite properties.
- b) The person authorized to provide notice as part of community relations activities and within the limits set forth in subsection (a) of this Section shall develop a contact list and develop and distribute a fact sheet in accordance with this subsection (b).
 - 1) The person shall prepare a contact list including, but not limited to, the following affected, potentially affected or interested persons, as applicable:
 - A) Owners of 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 with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use(s);
 - C) Occupants of the properties identified in subsections (b)(1)(A) and (b)(1)(B) of this Section to the extent reasonably practicable. The contact list shall include the methods by which the responsible party has attempted to identify the occupants;
 - D) Owners of properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release; and
 - E) Officials of each unit of government serving the affected properties, including state and federal legislators, county board chairs and county clerks, township supervisors, and mayor or

village presidents and city or village clerks. Officials of specialized districts (e.g., school, drainage, park districts) may be excluded from the contact list unless required pursuant to subsections (b)(1)(A) through (b)(1)(D) of this Section.

- 2) The person shall develop a fact sheet for the release and response action. The fact sheet shall be distributed to the contact list as derived from subsection (b)(1) of this Section. The fact sheet shall be written clearly and concisely in non-technical, non-legal terminology. The fact sheet and any required updates, shall contain, at a minimum, the following information to the extent available:
 - A) The nature and extent of the contaminants identified on and off the site where the release occurred;
 - B) A brief description of the pathways of potential exposure and the potential adverse public health effects posed by the contaminants;
 - C) A description of any precautionary measures affected or potentially affected parties should take to avoid or reduce potential public health impacts, including potable well sampling and analysis recommendations, as appropriate;
 - D) A non-technical description of the steps that are proposed to address the contamination including, but not limited to, soil excavation and treatment, disposal or redistribution, pump-and-treat, bio-remediation, reliance on engineered barriers or institutional controls, groundwater monitoring, and so forth;
 - E) The anticipated remediation schedule through completion of the project, including any operation, maintenance or monitoring following construction of the remedy;
 - F) The nature of the closure documentation expected from the Agency (e.g., focused or comprehensive No Further Remediation (“NFR”) Letter, permit modification, reliance on engineered barriers or institutional controls);
 - G) The date of preparation of the fact sheet, the name of the representative(s) of the business, site or facility from whom information and site-related documents may be obtained, and e-mail address, postal address and telephone number where the representative(s) can be reached; and
 - H) The name, e-mail address, postal address and telephone number of the Agency’s designated staff person and a statement that

additional information and site-related documents may be available by contacting the Agency's designated staff person or by filing a request for site-specific information with the appropriate Agency bureau in accordance with the Freedom of Information Act (5 ILCS 140).

- c) For information that is not available when a fact sheet is prepared pursuant to subsection (b)(2) of this Section, the submission of the fact sheet to the Agency for review shall be accompanied by an explanation of why the information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet.
- d) Fact sheets and contact lists developed in accordance with this Section shall 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).

Section 1505.315 Community Relations Plan

- a) Persons authorized by the Agency to provide notice pursuant to subsections (a) and (c) of the Act as part of community relations activities shall comply with the community relations requirements in subsection (b) of this Section if:
 - 1) Measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards at 35 Ill. Adm. Code 620 at more than five offsite private, semi-private or non-community water system wells or one or more community water system wells; or
 - 2) Offsite soil contamination from the site where the release occurred poses a threat of exposure to the public above the appropriate Tier 1 remediation objectives for the current use(s) at more than five offsite properties.
- b) The person authorized to provide notice as part of community relations activities and exceeding the limits set forth in subsection (a) of this Section shall develop and implement a community relations plan and fact sheet in accordance with this subsection (b). Section 1505.Appendix A of this Part contains the outline of a model community relations plan that would be appropriate for a complex site.

- 1) The CRP shall include, but not be limited to, the following elements to the extent related to the contaminants being addressed in the response action:
 - A) A description of the site or facility and details of the release and any related soil or groundwater contamination;
 - B) A list of community issues and concerns collected from affected, potentially affected, and interested parties identified through the process outlined in subsection (b)(1)(D) of this Section;
 - C) A community relations program including elements of outreach, methods for maintaining a dialogue with affected, potentially affected, and interested parties, and a schedule for activities and objectives; and
 - D) The process for identifying and updating the contact list, which shall consist of affected, potentially affected, and interested parties including, but not limited to:
 - i) Owners of 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 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 soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use(s);
 - v) Occupants of the properties identified in subsections (b)(1)(D)(i) and (b)(1)(D)(iv) of this Section to the extent reasonably practicable. The community relations plan shall include the methods by which the responsible party will attempt to identify the occupants;
 - vi) Local, state and federal officials whose jurisdiction covers the affected and potentially affected properties including: mayor or village president, city or village clerk, township supervisors, county board chair and county clerk, city and

county health department administrator; state and federal legislators; and

- vii) Citizens, identified groups, organizations or businesses within a minimum of 1000 feet from the site where the release occurred that may have an interest in learning about affected and potentially affected properties (e.g., public and private school administrator(s), Parent-Teacher Association (PTA) leader(s); day care center, senior center and nursing home management; neighborhood or homeowner association or other community leader(s) as identified; hospital and clinic management; and recognized environmental or citizen advisory groups). If approved by the Agency, the initial minimum distance of 1000 feet may be expanded or contracted as the CRP and contact list are updated based on new information developed during the response action.
- 2) Along with the development of a CRP in accordance with subsection (b)(1) of this Section, persons subject to this subsection (b) shall develop and distribute a fact sheet for the release and response action. The fact sheet shall be distributed to the contact list as derived in subsection (b)(1)(D) of this Section. The fact sheet shall 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 shall be produced and distributed in both English and the other predominant language. The fact sheet and any required updates shall contain, at a minimum, the following information to the extent available:
- A) The nature and extent of the contaminants identified on-site and offsite of the site where the release occurred;
 - B) A brief description of the pathways of potential exposure and the potential adverse public health effects posed by the contaminants;
 - C) A description of any precautionary measures affected or potentially affected parties should take to avoid or reduce potential public health impacts, including potable well sampling recommendations, as appropriate;
 - D) A non-technical description of the steps that are proposed to address the contamination including, but not limited to, soil excavation and treatment, disposal or redistribution, pump-and-treat, bio-remediation, reliance on engineered barriers or institutional controls, groundwater monitoring, and so forth;

- E) The anticipated remediation schedule through completion of the project, including any operation, maintenance or monitoring following construction of the remedy;
 - F) The nature of the closure documentation expected from the Agency (e.g., focused or comprehensive NFR Letter, permit modification, reliance on engineered barriers or institutional controls);
 - G) Responses to key community concerns as expressed by affected, potentially affected and interested parties;
 - H) The World Wide Web address of the Document Repository established pursuant to Section 1505.320 of this Part and the address and hours of the document repository established at a physical location, if also required pursuant to Section 1505.320 of this Part;
 - I) The date of preparation of the fact sheet, the name of the representative(s) of the business, site or facility from whom information and copies of repository and other site-related documents may be obtained, and e-mail address, postal address and telephone number where the representative(s) can be reached; and
 - J) The name, e-mail address, postal address and telephone number of the Agency's designated staff person and a statement that additional information and site-related documents may be available by contacting the Agency's designated staff person or by filing a request for site-specific information with the appropriate Agency bureau in accordance with the Freedom of Information Act (5 ILCS 140).
- c) For information that is not available when a fact sheet is prepared pursuant to subsection (b)(2) of this Section, the submission of the fact sheet to the Agency for review shall be accompanied by an explanation of why the information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet.
- d) Updates:
- 1) Fact sheets developed in accordance with subsection (b)(2) of this Section shall 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 shall 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 parties and communities about releases of contaminants with actual or potential impacts to offsite wells, offsite property uses, or both. A current version of the publicly available CRP shall be kept in the document repository described in Section 1505.320.

Section 1505.320 Establishment of Document Repository

Persons developing a CRP pursuant to Section 1505.315 of this Part also shall establish a document repository for the purpose of displaying documents and providing copies of those documents. The document repository shall be established at a World Wide Web site unless the person authorized to provide the notice as part of community relations activities or the Agency receives a request for a document repository at a physical location. If an individual requests a document repository at a physical location, the person authorized to provide the notice may satisfy the request by providing a complete set of copies of the documents to the party making the request. If two or more individuals, one or more groups of individuals (e.g., citizen or neighborhood groups, civic organizations), or a local government official or administrator requests a document repository at a physical location, the person authorized to provide the notice shall establish and maintain the document repository at both a World Wide Web site and at a physical location as described under subsection (c) of this Section.

- a) The document repository shall include the community relations plan, all public notices (e.g., proof of publication for newspaper or other published notices, letters, door hangers, or other forms of public notification), all fact sheets, all applications, plans and reports submitted to the Agency for review and approval and subsequent Agency comment packages, and all final determinations by the Agency, such as a No Further Remediation Letter, permit modification, or other project completion documentation.
 - 1) The person shall update the repository promptly and continuously as fact sheets, plans, reports, comment packages and Agency decisions are generated throughout the process.
 - 2) The documents shall be created, organized and indexed so that affected, potentially affected, or interested persons can identify, locate and download documents of interest.
 - 3) The repository shall include the business, site or facility representative's e-mail, postal address and telephone number where inquiries can be

directed and persons can request copies of repository documents and other site-related documents by mail.

- b) Repositories at World Wide Web sites:
 - 1) The documents must be in a readily available format for downloading and printing (e.g, portable document format (.pdf), graphic interchange format (.gif), tagged image file format (.tiff); joint photographic group format (.jpgf)) with links to web sites where software to view and print the documents may be downloaded.
 - 2) Documents that cannot be converted to a readily available format for downloading and printing must be described in the document index, identified as available upon request, and made available in accordance with subsection (a)(3) of this Section.
- c) Repositories at physical locations:
 - 1) Repositories established at physical locations shall be established no later than ten business days after receipt of a request for a repository at a physical location or receipt of the Agency's notification that a request has been made to the Agency, whichever is earlier.
 - 2) Repositories established at a physical location shall be at a public location (e.g., public library, city hall) and open to the public at times convenient to affected, potentially affected, or interested persons.
- d) Information deemed trade secrets or non-disclosable in accordance with Board procedures at 35 Ill. Adm. Code 130 or Agency procedures at 2 Ill. Adm. Code 1828 may be redacted or excluded from the repository consistent with the requirement for providing the public all documents that have not been deemed confidential. Information to be added to the document repository also shall be screened to ensure that personal information identifying affected, potentially affected, or interested persons or their exact property locations are not disclosed.
- e) The document repository may be discontinued no less than 180 days after the recording of the NFR Letter or the issuance of other project completion documentation by the Agency (e.g., permit modification, closure letter, "4(y) letter" [415 ILCS 5/4(y)]).

Section 1505.325 Submission of Fact Sheets and Community Relations Plans for Review

- a) Except as provided in subsection (b) of this Section or subsection (d) of Section 1505.330 of this Part, persons accepting the Agency's offer to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of

community relations activities shall, within 30 days of the date of their acceptance:

- 1) Submit to the Agency a fact sheet and contact list satisfying subsection (b) of Section 1505.310 of this Part or a CRP, fact sheet and contact list satisfying the requirements of subsection (b) of Section 1505.315 of this Part; and
 - 2) Establish a web site document repository if required in accordance with Section 1505.320 of this Part.
- b) Updates of CRPs, fact sheets or both and updates of contact lists prepared pursuant to subsection (d) of Section 1505.310 or subsection (d) of Section 1505.315 of this Part also shall be submitted for Agency review in accordance with subsection (a) of this Section except that the updates shall be submitted to the Agency within ten days of 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 or fact sheets may be filed in specified electronic formats.

Section 1505.330 Agency Reviews of Fact Sheets and Community Relations Plans

- a) The Agency shall have 30 days from receipt of a fact sheet, CRP, or updates of such documents to conduct a review and approve or disapprove of the CRP or fact sheet or approve of the CRP or fact sheet with conditions or modifications. All reviews shall be based on the standards for review set forth in subsection (b) of this Section.
- 1) The Agency's record of the date of receipt of a fact sheet or CRP shall be deemed conclusive unless a contrary date is proved by a signed, dated receipt from the Agency or certified mail or registered mail.
 - 2) Persons subject to this Subpart C may waive the time period for review upon a request from the Agency or at the person's discretion.
- b) When reviewing a fact sheet or CRP, the Agency shall consider:
- 1) Whether the CRP contains the elements required by subsection (b) of Section 1505.315 of this Part;
 - 2) Whether the fact sheet contains the elements required by subsection (b) of Section 1505.310 of this Part or subsection (b) of Section 1505.315 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;

- 3) Whether the information in the fact sheet and CRP is consistent with the information contained in the Agency's records and any field observations; and
 - 4) Whether the persons subject to this Subpart C have clearly defined:
 - A) Persons required to be included in the contact list for fact sheets in accordance with subsection (b) of Section 1505.310 of this Part or subsection (b) of Section 1505.315 of this Part; or
 - B) The demographics of nearby populations that may be affected by or concerned about site activities for purposes of notification under the CRP including, but not limited to, residences, businesses, day care centers, schools, nursing homes, hospitals and clinics.
- c) Upon completion of the review, the Agency shall notify the submitter in writing whether the fact sheet or CRP and accompanying fact sheet are approved, approved with conditions or modifications, or disapproved. The notification shall be made by certified or registered mail postmarked with a date stamp and with return receipt requested. If the Agency disapproves a fact sheet or CRP, or approves a fact sheet or CRP with conditions or modifications, the notification shall contain the following information, as applicable:
- 1) An explanation of the specific information or documentation, if any, that the Agency determines the submitter 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 fact sheet or CRP 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 fact sheet or CRP is approved as submitted; and
 - 4) An explanation of the reasons for conditions or modifications if conditions or modifications are required.
- d) If the Agency disapproves of a fact sheet or CRP or approves of a fact sheet or CRP with conditions or modifications, the submitter shall submit a revised fact sheet, CRP, or both to the Agency within ten days of receiving the Agency's denial. If the revised fact sheet, CRP, or both are not received by the Agency within ten days, or if a revised fact sheet or CRP are 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 submitter pursuant to Title VI-D of the Act, pursue an enforcement action against the submitter for failure to develop and implement an Agency-approved fact sheet, or CRP, or both. In addition to any other defenses that may be available to the submitter, it shall be a defense to an Agency action to obtain cost recovery for notification or for an alleged violation of the requirement to develop and implement an Agency-approved fact sheet or CRP that the fact sheet or CRP submitted to the Agency and rejected satisfies the requirements for such documents as set forth in Sections 1505.310 and 1505.315 of this Part. This provision does not limit the use of this defense in other circumstances where appropriate.

- e) The Agency may, to the extent consistent with review deadlines, provide the submitter with a reasonable opportunity to correct deficiencies prior to sending a disapproval of a fact sheet or CRP or an approval with conditions or modifications. However, the correction of such deficiencies by the submission of additional information may, in the sole discretion of the Agency, restart the time for review.
- f) If the Agency does not issue its final determination on the fact sheet, CRP, or updates of such documents within 30 days of the receipt of the document, the document shall be deemed approved as submitted.

Section 1505.335 Implementation of Community Relations Plans and Distribution of Fact Sheets; Compliance Monitoring and Records Retention

- a) Implementation of the CRP or distribution of a fact sheet shall begin within five days of receipt of the Agency's approval of the CRP or the fact sheet or within ten days of the date the document(s) is deemed approved pursuant to subsection (f) of Section 1505.330 of this Part.
- b) Compliance monitoring:
 - 1) Persons authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall:
 - A) 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
 - B) Inform the Agency in writing two weeks in advance of plans to hold public meetings or press conferences about site activities or developments.

- 2) The Agency may monitor the implementation of approved CRPs, the distribution of approved fact sheets, and the establishment and maintenance of document repositories. Steps taken by the Agency to monitor these activities may include, but shall not be limited to:
 - A) Independently contacting affected, potentially affected and interested persons concerning the type, completeness and timeliness of information provided under the fact sheet or CRP and at the document repository;
 - B) Cross-checking documentation received and generated by the Agency with documentation placed in the document repository;
 - C) Attending scheduled public meetings to monitor presentations and to lend Agency perspective; and
 - D) Making site visits to verify descriptions of site conditions and activities as stated in community relations activities.

- c) The person authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall 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” [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.

Section 1505.340 Compliance

No person authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall fail to comply with the requirements of this Subpart C or the provisions of community relations activities approved by the Agency.

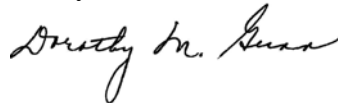
This Appendix A lists the key elements of a community relations plan and several factors that should be included with each element in a community relations plan prepared for a complex site. Unless otherwise required by rule, all the factors listed with each element may not be necessary for each site developing and implementing a community relations plan pursuant to this Part 1505, but each factor should be considered when developing any community relations plan.

1. **Site/Facility Description:** The CRP should provide for the development a brief overview of the site where the release occurred including, but not limited to, a description of the business, site or facility, its current operations, previous land uses and previous remedial activities; the nature and extent of known contamination; and the known or potential threat to public health and the environment. The overview should include a map to an appropriate scale detailing the site location and surrounding area and showing roads and streets, homes and businesses, and geographic and other significant features.
2. **Community Issues and Concerns:** The CRP should provide for the development of a brief summary of the demographics of the area surrounding the site where the release occurred including, but not limited to, the approximate percentage of non-English speaking persons among the affected, potentially affected, and interested parties and their preferred language, 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 parties identified through the process outlined in the fourth element below.
3. **Community Relations Program:** The CRP should describe the community relations program objectives, action plan and schedule to keep affected, potentially affected and interested parties apprised of conditions at the site, response actions, and actual or potential public health impacts. This section also should explain how the public will be notified of mailings or meetings. The contact person(s) and contact information for public inquiries should be clearly defined. Additionally, details about the location of, and access to, the document repository should be outlined in this section of the CRP.
4. **Contact List:** The CRP should outline the process for identifying and updating a contact list and developing a contact database of affected, potentially affected, and interested parties including, but not limited to:
 - * Owners and occupants of properties served by private, semi-private or non-community water systems that have been or may be impacted by groundwater contamination from the release;
 - * Owners and operators of community water system wells that have been or may be impacted by groundwater contamination from the release;
 - * Owners of properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release;

- * Owners and occupants of offsite properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use(s);
- * Local, state and federal officials whose jurisdiction covers the affected and potentially affected properties including: mayor or village president, city or village clerk, township supervisors, county board chair and county clerk, city and county health department administrator; state and federal legislators; and
- * Citizens, identified groups, organizations or businesses within a minimum of 1000 feet from the site where the release occurred that may have an interest in learning about affected and potentially affected properties (e.g., public and private school administrator(s), Parent-Teacher Association (PTA) leader(s); day care center, senior center and nursing home management; neighborhood or homeowner association or other community leader(s) as identified; hospital and clinic management; and recognized environmental or citizen advisory groups). If approved by the Agency, the initial minimum distance of 1000 feet may be expanded or contracted as the CRP and contact list are updated based on new information developed during the response action.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 20, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board