

A gray rectangular box containing the word "CHAPTER" in a serif font at the top, and the number "16" in a large, white, serif font below it.

## **Right-To-Know (RTK) Legislation**

In recent years, the Illinois EPA has become aware of contamination in the environment in certain areas of the State that threatens the safety of drinking water supplies from groundwater sources. Experience from working on multiple sites where commonly used commercial and industrial solvents migrated into the groundwater from soil contamination highlighted the need for early notification to nearby private well owners so individuals can test their water and make important decisions that may impact their families' health.

Three “Right to Know” (RTK) laws were developed in 2002 (RTK 1), 2006 (RTK 2), and 2009 (RTK 3). All three RTK laws were developed to alert private well users to groundwater contamination that may threaten their wells.

In 2002, a “Right to Know” (RTK) law was developed to alert private well users to groundwater contamination that may threaten their wells. The 2002 law, referred to as **RTK 1**, was amended in 2006 (**RTK 2**) and 2009 (**RTK 3**). The RTK (1-3) law can be found in the Environmental Protection Act at 415 ILCS 5/25d-1 – 25d-10 (P.A. 94-314).

### **The Evolution of RTK Legislation**

In 2002 RTK 1 law was developed to alert private well users to groundwater contamination that may threaten their wells. The Illinois EPA notifies the Illinois Department of Public Health when groundwater contamination is detected in public water supply wells at levels determined to be a threat to private well users in the vicinity. The Illinois Department of Public Health then notifies private well users in the area of concern. The levels of contamination detected in the public water supply wells would not necessarily constitute a threat to the public water supply.

The 2006 RTK 2 law required the Illinois EPA to notify citizens when contamination is found in soil or groundwater that poses a threat of exposure to the public. These notifications primarily deal with known sites of contamination such as clean-up sites.

The law mandates that the Illinois EPA give timely notification to Illinois citizens about contamination in soil or groundwater that may threaten public health. This is specifically in reference to contamination that originates from permitted facilities or other sites in Illinois EPA program, and the contamination is measured or modeled to pose an off-site threat of exposure to the public.

As years progressed RTK has evolved.

## **2002 Right to Know Law (RTK 1)**

### **How did all of this start?**

In 2002 the Right to Know (RTK 1) law was developed to alert private well users to groundwater contamination that may threaten their wells. The Illinois EPA notifies the Illinois Department of Public Health when groundwater contamination is detected in public water supply wells at levels determined to be a threat to private well users in the vicinity. The Illinois Department of Public Health then notifies private well users in the area of concern. The levels of contamination detected in the public water supply wells would not necessarily constitute a threat to the public water supply.

### **How far from the contamination are the private wells that receive notification?**

Notifications will be given to owners of private wells that are within 200 ft of any measured or modeled groundwater contamination from a given site. In addition, persons or facilities within 1000 feet of a contaminated site with an interest in knowing more about the situation may be included in a notification (e.g., nursing home or school administrator).

### **Will someone come out and test my well?**

Not necessarily. The law requires notification to well owners about potential contamination threats but does not provide resources for testing. In certain circumstances, the Agency may request that a responsible party perform well testing with state oversight, using standard procedures and a certified laboratory. If the Agency is conducting a source investigation, it is possible that some private wells in an area of concern may be sampled to determine the nature and extent of contamination.

## **How are private wells identified so well owners can be notified?**

The Illinois Department of Public Health, U.S. and Illinois Geological Surveys, and Illinois State Water Survey have assisted Illinois EPA in developing an inventory of private wells and public water systems (including non-community wells). This information may be viewed and accessed through an easy to use Internet GIS by state agency staff, local health departments and consultants for business approved for such access. While this website will not show every private well, it is a good indicator that private wells are located in a given area and establishes a need to notify, if contamination is identified in that area.

## **2006 Right to Know Law (RTK 2)**

### **How is this law different?**

RTK 2 requires the Illinois EPA to notify citizens when contamination is found in soil or groundwater that poses a threat of exposure to the public.

These notifications primarily deal with known sites of contamination such as clean-up sites.

### **Does the Illinois EPA issue the notification?**

Possibly – the Illinois Bureau of Land may issue the notification, however, for sites at which a responsible party has implemented a community relations plan the Agency may allow the responsible party to provide Agency- approved notices in lieu of the notices required to be given by the Agency.

### **How is the notification delivered?**

The method of notification may include one or more of the following: personal notification, such as letters mailed to individual well owners, public meetings, signs, or notices in local newspapers.

### **What information will the notification include?**

Notices may contain the following information ; the name and address of the site or facility where the release occurred or is suspected to have occurred, the identification of the contaminant released or suspected to have been released, information as to whether the contaminant was released or suspected to have been released into the air, land, or water, a brief description of the potential adverse health effects posed by the contaminant, a recommendation that water systems with wells impacted or potentially impacted by the contaminant be appropriately tested and the name, business address, and phone number of persons at the Agency from whom additional information about the release or suspected release can be obtained.

## **2009 Right to Know Law (RTK 3)**

### **What is RTK 3?**

This law requires that the owner/operator of the community water supply notify all users of the supply when water is contaminated or there is a threat of contamination. This is in addition to the current Illinois Law, which requires the Illinois EPA to notify water supply owners and operators of

contamination. This law establishes methods of notification and strict time frames for meeting the required notifications.

### **What Triggers RTK3?**

If the Illinois EPA determines that there exists any groundwater contamination that poses a threat of exposure to the public above the Class 1 Groundwater Quality Standard then the clock starts.

### **What are the notification steps and time frames?**

Once it has been determined that a threat of exposure exists the Illinois EPA must provide public notice within two days, via press release and the posting of information on the Illinois EPA's web site.

Within 5 days the State must follow-up with written notification to the owner and operator of the community water supply and the owners and operators of all connected community water systems. This notification must be on Agency letterhead and must identify the contaminant posing the threat, the level of contamination found, and possible human health effects associated with exposure to the contaminant.

Within 5 business days of receiving such a notice from the Illinois EPA, the community water system is required to provide notice to all of its affected customers and owners of premises connected to the affected community water system; a copy of the notice by first class mail, or e-mail, or notification in a form approved by the Agency via first-class postcard, text message, or telephone.

Within seven days after sending the notice to its customers the public water supply must provide proof to the Illinois EPA that it has done so

### **Are there exceptions to the notification procedures?**

Notices to institutional residents, including but not limited to residents of school dormitories, nursing homes and assisted care facilities may be made to the owners and operators of those institutions and the owner or operator of those institutions shall notify their residents in the same manner as prescribed.

### **Will a hard copy of the notice be sent?**

If the manner for notice selected by the owner or operator of the PWS does not include a written copy of the notice provided by the Agency; such as notices sent via telephone or text message, the owner or operator shall include a written copy of the notice provided by the Agency in the next water bill sent to the residents and owners of the premises. If the water bill is sent on a postcard, no written copy of the notice provided by the Agency is required if the postcard includes the internet address for the notice posted on the Agency's website. The front of the envelope or postcard in which any such notice is sent to residents and owners of premises shall carry the following text in at least 18 point font "PUBLIC HEALTH NOTICE – READ IMMEDIATELY". For a postcard, text message or telephonic communication the Agency shall specify the minimum information that the owner or operator must include in such methods of notice.

## What if a water system doesn't comply?

Penalties have been established for failure to comply with this law. Any owner or operator of a community water system that violates subsection (b) of Section 18.1 or subsection (a) of Section 25d-3 of this Act shall, for each day of violation, be liable for a civil penalty not to exceed \$5 for each of the premises connected to the affected community water system.

## Right-to-Know

Illinois EPA continued to issue CWS well-centric RTK notices in coordination with the IDPH. A total of eight well-centric notifications were completed pursuant to the 2002 RTK requirements (adopted in 415 ILCS 55/9.1) during this reporting period. The 2002 RTK law was developed to notify private well owners based on detection of VOCs in public water supply wells. The assumption used when developing this legislation was that public water supplies were already covered under existing monitoring, compliance, public notice, consumer confidence reporting, and enforcement requirements under the federal SDWA, whereas private wells are not.

Figure 14 provides a list of notifications performed since 2002, and shows the location of each of these supplies. The eight public water supplies notified during the past two-year reporting period are depicted on the Figure 14 with black dots and are italicized in the list of supplies in the legend. A summary of each notification listed is provided under the RTK Web page at <http://www.epa.state.il.us/right-to-know/>.

A total of 81 percent of the well-centric notices, issued since 2002, were based on detections of perchloroethylene or its break down products (i.e., trichloroethylene; cis 1,2 dichloroethylene; trans 1,2 dichloroethylene; 1,1 dichloroethylene; and vinyl chloride).

The RTK notification issued on August 13, 2008, to “potential” private well owners in the vicinity of the Village of Crestwood, triggered by detections of vinyl chloride in what was thought to be their emergency well, led to an issue which attracted national media attention.

As a result of this issue, Governor Quinn, the Attorney General’s Office (AGO) and the Illinois EPA worked on development of the new RTK law. The changes included in Public Act 96-603 increase both responsibility and accountability of a public water supply to notify water customers of water quality issues that could have potential health concerns.

Five major changes result from this new law:

1. Requires owners or operators of CWSs to maintain, on their premises for Illinois EPA inspection, all records, reports, and other documents required for the operation of the public water supply for a minimum of 10 years, including but not limited to all billing records and other documents related to the purchase of water from other CWSs.
2. Requires the Illinois EPA to provide public notice within two days, via press release and the posting of information on the Illinois EPA’s Web site, if: (1) the Illinois EPA refers a CWS-related matter to the AGO for enforcement; (2) the Illinois EPA issues a seal order for such a facility; or (3) the Illinois EPA determines that there exists any groundwater contamination that poses a threat of exposure to the public above the Class I GWQS.

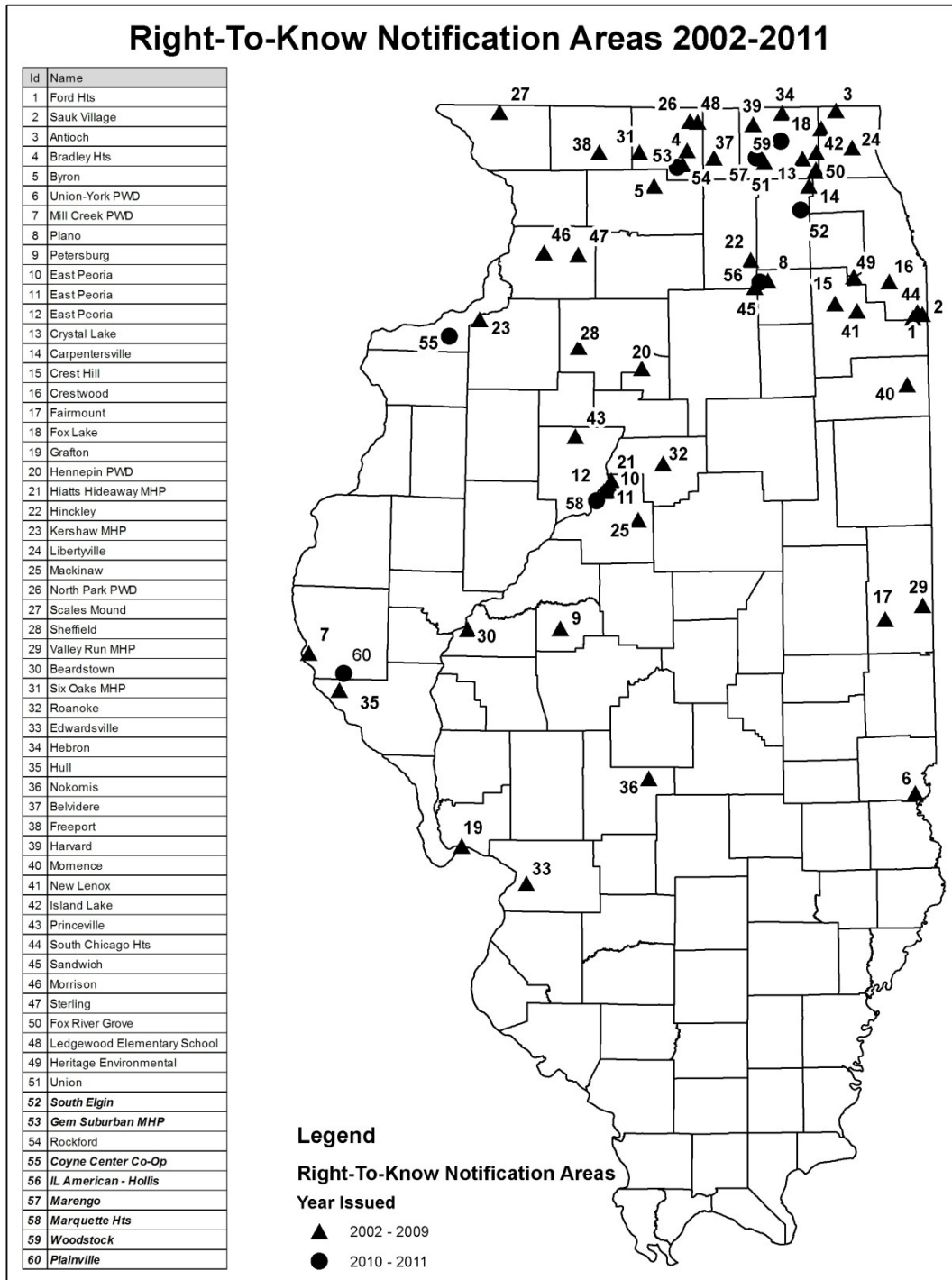


Figure 14. Well-Centric Right-to-Know Notifications

3. Requires the Illinois EPA to provide the written notice described above to the CWS, as well as to all CWSs connected to the system at issue, within five days of: (1) the Illinois EPA referring a CWS-related matter to the AGO for enforcement; (2) the Illinois EPA issuing a seal order for the CWS; or (3) the Illinois EPA determines that there exists any groundwater contamination that poses a threat of exposure to the public above the Class I GWQS, regardless of whether or not the threat of exposure has been eliminated. Sets forth the form and content of such notice to be sent.
4. Within 5 business days of receiving such a notice from the Illinois EPA, requires the CWS to provide notice (either by first-class mail or email, or, if approved by the Illinois EPA, by postcard, email, text message, or telephone) to all of its affected customers as well as to the owners and operators of any connected CWSs. Where the notice sent is not written, requires the CWS to include a copy of the notice sent by the Illinois EPA to its customers in their next water bills. Sets forth the form and content of such notice to be sent. Within seven days after sending its customers the notice, requires the CWS to provide proof to the Illinois EPA that it has done so.
5. Makes it Class 4 felony for any person to knowingly make any false, fictitious, or fraudulent or material statement (either orally or in writing) to either the Illinois EPA or a unit of local government that has a delegation agreement with the Illinois EPA that is used for the purpose of compliance with ANY provision of the Act, any federal law or regulation for which the Illinois EPA has responsibility for enforcing, or any permit condition there under. Makes any such second or subsequent conviction of such an offense a Class 3 felony.

A companion MCL Prevention law (Public Act 96-1366) became effective on July 28, 2010, requiring community water supplies to develop a corrective action plan for carcinogenic VOCs that threaten exceedence of standards at the entry point to the distribution system.

Press releases issued pursuant to the RTK law are available at <http://www.epa.state.il.us/water/drinking-water-watch/pws-well-contamination/index.html>.

Rick