**Section 616.209 Preventive Notification and Preventive Response**

a) Preventive notification is required for each well in which:

1) A MAR is exceeded (except for pH); or

2) There is a detection of any contaminant:

A) Required to be monitored under Section 616.207(a);

B) Listed under 35 Ill. Adm. Code 620.310(a)(3)(A) (except due to natural causes and except for pH);

C) Denoted as a carcinogen under 35 Ill. Adm. Code 620.410(b); or

D) Subject to a standard under 35 Ill. Adm. Code 620.430 (except due to natural causes).

b) Whenever preventive notification is required under subsection (a), the owner or operator of the unit must confirm the detection by resampling the monitoring well or wells. This resampling must be analyzed for each parameter found to be present in the first sample and be performed within 30 days after the date on which the first sample analyses are received. The owner or operator must provide preventive notification of the results of the resampling analyses within 30 days after the date on which those analyses are received, but no later than 90 days after the results of the first sample are received.

c) If preventive notification is provided under subsection (b) by the owner or operator and the applicable standard has not been exceeded, the Agency must determine whether the levels for each parameter as set forth in 35 Ill. Adm. Code 620.310(a)(3)(A) are exceeded. If an exceedance is determined, the Agency must notify the owner or operator in writing regarding the finding.

d) Within 60 days after receiving a notification from the Agency of its finding that an exceedance has occurred, the owner or operator must submit to the Agency a report that includes the degree and extent of contamination and the measures that are being taken to minimize or eliminate the contamination, in compliance with a prescribed schedule. The owner or operator may also provide a demonstration that:

1) The contamination is the result of contaminants remaining in groundwater from a prior release for which appropriate action was taken in compliance with the laws and regulations in existence at the time of the release;

2) The source of contamination is not due to the on-site release of contaminants; or

3) The detection resulted from error in sampling analysis or evaluation.

e) Based upon the report in subsection (d) as well as any other relevant information available to the Agency, the Agency must provide a written response to the owner or operator that specifies either:

1) Concurrence with the preventive response being undertaken; or

2) Non-concurrence with the preventive response being undertaken and a description of the inadequacies of such action.

f) An owner or operator who receives a written response of concurrence under subsection (e) must provide periodic program reports to the Agency regarding the implementation of the preventive response.

g) An owner or operator who receives a written response of non-concurrence under subsection (e) must, within 30 days after receiving the response, correct the inadequacies and resubmit the report to the Agency or request a conference with the Agency. Within 30 days after receiving a written request for conference, the Agency must schedule and hold the conference. Following the conference, the Agency must provide the owner or operator with a final determination regarding the adequacy of the preventive response.

h) An owner or operator is responsible for implementing adequate preventive response as determined under this Section.

i) After completion of preventive response, the concentration of a contaminant listed in 35 Ill. Adm. Code 620.310(a)(3)(A) in groundwater may exceed 50 percent of the applicable numerical standard in 35 Ill. Adm. Code 620.Subpart D only if the following conditions are met:

1) The exceedance has been minimized to the extent practicable;

2) Beneficial use, as appropriate for the class of groundwater, has been assured; and

3) Any threat to public health or the environment has been minimized.

j) Nothing in this Section limits the authority of the State or the United States to require or perform any corrective action process.

(Source: Amended at 47 Ill. Reg. 7631, effective May 16, 2023)