Will New Illinois Right-to-Know Law Protect Communities or Stifle Voluntary Cleanups and Breed Litigation?

New amendments to the Illinois Environmental Protection Act (P.A. 94-0314) have potential far-reaching consequences for owners of contaminated property and those who live nearby. One significant feature of the new law is that it requires the Illinois Environmental Protection Agency (IEPA) to notify landowners of contamination that migrates onto their property from a nearby release. Thus, if a property owner or developer voluntarily enters the Illinois Site Remediation Program (SRP) to obtain a “no further remediation” letter from the IEPA, it may unwittingly generate data showing off-site impacts that will require IEPA to inform the local community; once given, the notice may stir up local concern and breed toxic tort lawsuits. Consequently, the law may discourage entry into the voluntary cleanup program because of the notification requirement.