

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 738
HAZARDOUS WASTE INJECTION RESTRICTIONS

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AUTHORITY: Implementing Sections 7.2, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993; amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238,

effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1407, effective December 20, 2006.

SUBPART A: GENERAL

Section 738.101 Purpose, Scope, and Applicability

- a) This Part identifies hazardous wastes that are restricted from disposal into Class I wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.
- b) The requirements of this Part apply to owners or operators of the following Class I wells:
 - 1) Hazardous waste injection wells that are used to inject hazardous waste; and
 - 2) Injection wells that are used to inject wastes which once exhibited a prohibited characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C, at the point of generation, and which no longer exhibit the characteristic at the point of injection.
- c) Wastes otherwise prohibited from injection may continue to be injected:
 - 1) If an extension from the effective date of a prohibition has been granted pursuant to Section 738.104; or
 - 2) If an adjusted standard has been granted in response to a petition filed under Section 738.120; or
 - 3) If the waste is generated by a conditionally exempt small quantity generator, as defined in 35 Ill. Adm. Code 721.105.
- d) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited from injection under this Part or 35 Ill. Adm. Code 728 is not prohibited from injection if the following is true of the waste:

- 1) It is disposed into a non-hazardous or hazardous waste injection well, as defined under 35 Ill. Adm. Code 730.106(a); and
- 2) It does not exhibit any prohibited characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C at the point of injection.

BOARD NOTE: Derived from 40 CFR 148.1 (1996).

(Source: Amended at 22 Ill. Reg. 17486, effective September 28, 1998)

Section 738.102 Definitions

“EPA Hazardous Waste Number” means the number assigned by EPA pursuant to each hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D and to each characteristic identified in 35 Ill. Adm. Code 721.Subpart C.

“Injection interval” means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

“Transmissive fault or fracture” is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 148.2 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

Section 738.103 Dilution Prohibited as a Substitute for Treatment

- a) The provisions of 35 Ill. Adm. Code 728.103 shall apply to owners or operators of Class I wells used to inject a waste that is hazardous at the point of generation whether or not the waste is hazardous at the point of injection.
- b) Owners or operators of Class I nonhazardous waste injection wells that inject waste formerly exhibiting a hazardous characteristic which has been removed by dilution may address underlying hazardous constituents by treating the hazardous waste, obtaining an exemption pursuant to a petition filed under Section 738.120, or complying with the provisions set forth in 35 Ill. Adm. Code 728.109.

BOARD NOTE: Derived from 40 CFR 148.3 (1996).

(Source: Amended at 22 Ill. Reg. 238, effective December 16, 1997)

Section 738.104 Case-by-Case Extensions of an Effective Date

The owner or operator of a Class I hazardous or nonhazardous waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B. (See 35 Ill. Adm. Code 728.105.)

BOARD NOTE: Derived from 40 CFR 148.4 (1996).

(Source: Amended at 22 Ill. Reg. 238, effective December 16, 1997)

Section 738.105 Waste Analysis

Generators of hazardous wastes that are disposed of into Class I injection wells must comply with the applicable requirements of 35 Ill. Adm. Code 728.107(a) and (b). Owners or operators of Class I hazardous waste injection wells must comply with the applicable requirements of 35 Ill. Adm. Code 728.107(c).

BOARD NOTE: Derived from 40 CFR 148.5 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

Section 738.106 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1407, effective December 20, 2006)

SUBPART B: PROHIBITIONS ON INJECTION

Section 738.110 Waste Specific Prohibitions - Solvent Wastes

- a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

- F001
 - F002
 - F003
 - F004
 - F005

- b) The requirements of subsection (a) above do not apply:

- 1) If the wastes meet or are treated to meet the standards of 35 Ill. Adm. Code 728.Subpart D; or
- 2) If an adjusted standard has been granted in response to a petition under Subpart C of this Part; or
- 3) During the period of extension of the applicable effective date, if an extension has been granted under Section 738.Subpart D.

BOARD NOTE: Derived from 40 CFR 148.10 (1991), as amended at 57 Fed. Reg. 8088, March 6, 1992.

(Source: Amended at 17 Ill. Reg. 6190, effective April 5, 1993)

Section 738.111 Waste Specific Prohibitions - Dioxin-Containing Wastes

- a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

F020
F021
F022
F023
F026
F027
F028

- b) The requirements of subsection (a) do not apply:
 - 1) If the wastes meet or are treated to meet the standards of 35 Ill. Adm. Code 728.Subpart D; or
 - 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
 - 3) During the period of extension of the applicable effective date, if an extension has been granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.11 (1989).

(Source: Amended at 14 Ill. Reg. 11948, effective July 9, 1990)

Section 738.112 Waste Specific Prohibitions - California List Wastes

- a) The hazardous wastes listed in 35 Ill. Adm. Code 728.132 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.
- b) The following hazardous wastes are prohibited from underground injection:
 - 1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1000 mg/l;
 - 2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:
 - A) Arsenic or compounds (as As) 500 mg/l;
 - B) Cadmium or compounds (as Cd) 100 mg/l;
 - C) Chromium (VI) or compounds (as Cr VI) 500 mg/l;
 - D) Lead or compounds (as Pb) 500 mg/l;
 - E) Mercury or compounds (as Hg) 20 mg/l;
 - F) Nickel or compounds (as Ni) 134 mg/l;
 - G) Selenium or compounds (as Se) 100 mg/l; and
 - H) Thallium or compounds (as Tl) 130 mg/l;
 - 3) Liquid hazardous waste having a pH less than or equal to two (2.0); and
 - 4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1000 mg/kg.
- c) The requirements of subsections (a) and (b) do not apply:
 - 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728.Subpart D; or

- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.12 (1990).

(Source: Amended at 15 Ill. Reg. 11425, effective July 24, 1991)

Section 738.114 .Waste Specific Prohibitions - First Third Wastes

a)

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste number are prohibited from underground injection:

- F006 (wastewaters and nonwastewaters)
- F008
- F009
- F019

- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

- K001
- K004
- K008
- K015 (wastewaters and nonwastewaters)
- K016 (at concentrations greater than or equal to one percent)
- K017
- K018
- K019
- K020
- K021 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes)
- K022 (wastewaters and nonwastewaters)
- K024
- K030
- K031
- K035

K036 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes)

K037

K044

K045

K046 (wastewaters and nonwastewaters)

K047

K048

K049

K050

K051

K052

K060 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes)

K061 (wastewaters and nonwastewaters)

K062

K069 (calcium sulfate nonwastewaters; all wastewaters; and noncalcium sulfate nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes)

K071

K073

K083

K084

K085

K086

K087

K099

K101 (all wastewaters and nonwastewaters)

K102 (all wastewaters and nonwastewaters)

K103

K104

K106

- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

P001

P004

P005
P010
P011
P012
P015
P016
P018
P020
P030
P036
P037
P039
P041
P048
P050
P058
P059
P063
P068
P069
P070
P071
P081
P082
P084
P087
P089
P092
P094
P097
P102
P105
P108
P110
P115
P120
P122
P123
U007
U009
U010
U012
U016
U018

U019
U022
U029
U031
U036
U037
U041
U043
U044
U046
U050
U051
U053
U061
U063
U064
U066
U067
U074
U077
U078
U086
U089
U103
U105
U108
U115
U122
U124
U129
U130
U133
U134
U137
U151
U154
U155
U157
U158
U159
U171
U177
U180
U185

U188
U192
U200
U209
U210
U211
U219
U220
U221
U223
U226
U227
U228
U237
U238
U248
U249

- b) Effective June 7, 1991, the wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste number are prohibited from underground injection:

K016 (at concentrations less than one percent)

- c)

- 1) Effective June 8, 1991, the wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste number are prohibited from underground injection:

F007

- 2) Effective June 8, 1991, the wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

K011 (nonwastewaters)

K013 (nonwastewaters)

- d) Effective May 8, 1992, the wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

K011 (wastewaters)

K013 (wastewaters)
K014

- e) The requirements of subsections (a) through (d) do not apply:
- 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728.Subpart D; or
 - 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.14 (1990).

(Source: Amended at 15 Ill. Reg. 11425, effective July 24, 1991)

Section 738.115 Waste Specific Prohibitions - Second Third Wastes

- a)
- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

F010
F024
 - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

K009 (nonwastewaters)
K010
K025 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes)
K027
K028
K029 (wastewaters and nonwastewaters)
K038
K039
K040
K041

K042
K043
K095 (wastewaters and nonwastewaters)
K096 (wastewaters and nonwastewaters)
K097
K098
K105
K113
K114
K115
K116

- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

P002
P003
P007
P008
P014
P026
P027
P029
P040
P043
P044
P049
P054
P057
P060
P062
P066
P067
P072
P074
P085
P098
P104
P106
P107
P111
P112
P113
P114

U002
U003
U005
U008
U011
U014
U015
U020
U021
U023
U025
U026
U028
U032
U035
U047
U049
U057
U058
U059
U060
U062
U070
U073
U080
U083
U092
U093
U094
U095
U097
U098
U099
U101
U106
U107
U109
U110
U111
U114
U116
U119
U127
U128

U131
U135
U138
U140
U142
U143
U144
U146
U147
U149
U150
U161
U162
U163
U164
U165
U168
U169
U170
U172
U173
U174
U176
U178
U179
U189
U193
U196
U203
U205
U206
U208
U213
U214
U215
U216
U217
U218
U235
U239
U244

- b) The wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste numbers are prohibited from underground injection pursuant to

the treatment standards specified in 35 Ill. Adm. Code 728.141 and 728.143 applicable to F011 and F012 wastewaters and nonwastewaters:

- F011 (nonwastewaters)
- F012 (nonwastewaters)

- c) Effective June 8, 1991, the wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste number are prohibited from underground injection:

- K009 (wastewaters)

- d) The requirements of subsections (a) through (c) do not apply:

- 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728.Subpart D; or
- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.15 (1990).

(Source: Amended at 15 Ill. Reg. 11425, effective July 24, 1991)

Section 738.116 Waste Specific Prohibitions - Third Third Wastes

- a)

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

- F025
- F039 (nonwastewaters)

- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

- K002
- K003
- K005 (wastewaters and nonwastewaters)
- K006

K007 (wastewaters and nonwastewaters)
K023
K026
K032
K033
K034
K093
K094
K100

- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following EPA Hazardous Waste numbers are prohibited from underground injection:

P006
P009
P013
P017
P021
P022
P023
P024
P028
P031
P033
P034
P038
P042
P045
P046
P047
P051
P056
P064
P065
P073
P075
P076
P077
P078
P088
P093
P095
P096
P099

P101
P103
P109
P116
P118
P119
P121
U001
U004
U006
U017
U024
U027
U030
U033
U034
U038
U039
U042
U045
U048
U052
U055
U056
U068
U069
U071
U072
U075
U076
U079
U081
U082
U084
U085
U087
U088
U090
U091
U096
U102
U112
U113
U117

U118
U120
U121
U123
U125
U126
U132
U136
U141
U145
U148
U152
U153
U156
U160
U166
U167
U181
U182
U183
U184
U186
U187
U190
U191
U194
U197
U201
U202
U204
U207
U222
U225
U234
U236
U240
U243
U246
U247

- 4) The wastes specified in 35 Ill. Adm. Code 721.121 or 721.124 by characteristic alone and designated by the following EPA Hazardous Waste numbers are prohibited from underground injection:

D001
D004
D005
D006
D008
D009 (wastewaters)
D010
D011
D012
D013
D014
D015
D016
D017

b) Mixed radioactive/hazardous wastes in 35 Ill. Adm. Code 728.110, 728.111 and 728.112, which are mixed radioactive and hazardous wastes, are prohibited from underground injection.

c)

1) Effective May 8, 1992, the wastes specified in 35 Ill. Adm. Code 721.131 by the following EPA Hazardous Waste number are prohibited from underground injection:

F039 (nonwastewaters)

2) Effective May 8, 1992, the wastes specified in 35 Ill. Adm. Code 721.122, 721.123 or 721.124 as hazardous based on a characteristic alone and designated by the following EPA Hazardous Waste numbers are prohibited from underground injection:

D002 (wastewaters and nonwastewaters)

D003 (wastewaters and nonwastewaters)

D007 (wastewaters and nonwastewaters)

D009 (nonwastewaters)

3) The effective date of subsections (c)(1) and (c)(2) do not apply to the wastes listed in Section 148.112(b) which are prohibited from underground injection effective August 8, 1990.

d) The requirements of subsections (a) through (c) do not apply:

- 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728.Subpart D; or
- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.16 (1990).

(Source: Amended at 15 Ill. Reg. 11425, effective July 24, 1991)

Section 738.117 Waste-Specific Prohibitions - Newly-Listed Wastes

- a) The wastes specified in 35 Ill. Adm. Code 721.Subpart D by the following USEPA hazardous waste numbers are prohibited from underground injection:

F037
F038
K107
K108
K109
K110
K111
K112
K117
K118
K123
K124
K125
K126
K131
K136
U328
U353
U359

- b) The wastes specified in 35 Ill. Adm. Code 721.Subpart D by the following USEPA hazardous waste numbers are prohibited from underground injection:

K141
K142
K143

K144
K145
K147
K148
K149
K150
K151

- c) This subsection corresponds with 40 CFR 148.17(c), removed and marked “reserved” by USEPA at 61 Fed. Reg. 15662 (April 8, 1996). This statement maintains structural consistency with USEPA rules.
- d) Effective June 30, 1995, the wastes specified in 35 Ill. Adm. Code 721.Subpart D by the following USEPA hazardous waste numbers are prohibited from underground injection:

K117
K118
K131
K132

- e) The requirements of subsections (a) and (b) of this Section do not apply:
 - 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728.Subpart D; or
 - 2) If an adjusted standard has been granted in response to a petition under Subpart C of this Part; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.17 (1996).

(Source: Amended at 22 Ill. Reg. 238, effective December 16, 1997)

Section 738.118 Waste-Specific Prohibitions - Newly-Listed and Identified Wastes

- a) All newly identified D004 through D011 wastes and characteristic mineral processing wastes, except those identified in subsection (b) of this Section, are prohibited from underground injection.
- b) Characteristic hazardous wastes from titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004 through D011 or mixed

with newly identified characteristic mineral processing wastes, are prohibited from underground injection.

- c) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 are prohibited from underground injection.
- d) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 that are mixed with radioactive wastes are prohibited from underground injection.
- e) The wastes specified in 35 Ill. Adm. Code 721.132 as having the following USEPA hazardous waste numbers are prohibited from underground injection: K156, K157, K158, K159, K160, K161, P127, P128, P185, P188, P189, P190, P191, P192, P194, P196, P197, P198, P199, P201, P202, P203, P204, P205, U271, U277, U278, U279, U280, U364, U365, U366, U367, U372, U373, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U387, U389, U390, U391, U392, U393, U394, U395, U396, U400, U401, U402, U403, U404, U407, U409, U410, and U411.
- f) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K088 is prohibited from underground injection.
- g) The wastes specified in 35 Ill. Adm. Code 721 as having the following USEPA hazardous waste numbers and Mixed TC/Radioactive wastes are prohibited from underground injection: D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, and D043.
- h) This subsection corresponds with 40 CFR 148.18(h), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the federal regulations.
- i) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K169 through K172 are prohibited from underground injection.
- j) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K174 and K175 are prohibited from underground injection.
- k) Effective May 20, 2002, the wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K176, K177, and K178 are prohibited from underground injection.
- l) The requirements of subsections (a) through (k) of this Section do not apply under any of the following circumstances:

- 1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
- 2) If an exemption from a prohibition has been granted in response to a petition under Subpart C of this Part; or
- 3) During the period of extension of the applicable effective date, if an extension has been granted under Section 738.104.

(Source: Amended at 26 Ill. Reg. 6835, effective April 22, 2002)

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section 738.120 Petitions to Allow Injection of a Prohibited Waste

- a) Any person seeking an exemption from a prohibition under Subpart B for the injection of a restricted hazardous waste, including a hazardous waste that exhibits a characteristic of hazardous waste and which contains underlying hazardous constituents at the point of generation, but which no longer exhibits a characteristic of hazardous waste when injected into a Class I injection well or wells, shall submit a petition for an adjusted standard to the Board, pursuant to 35 Ill. Adm. Code 106.Subpart G, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing that:
 - 1) The hydrogeological and geochemical conditions at the site(s) and the physiochemical nature of the waste stream(s) are such that reliable predictions can be made that:
 - A) Fluid movement conditions are such that the injected fluids will not migrate within 10,000 years:
 - i) Vertically upward out of the injection zone; or
 - ii) Laterally within the injection zone to a point of discharge or interface with an Underground Source of Drinking Water (USDW) as defined in 35 Ill. Adm. Code 730; or
 - B) Before the injected fluids migrate out of the injection zone or to a point of discharge or interface with USDW, the fluid will no longer be hazardous because of attenuation, transformation, or

immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions or other means; and

- 2) For each well the petition has:
- A) Demonstrated that the injection well's area of review complies with the substantive requirements of 35 Ill. Adm. Code 730.163;
 - B) Located, identified, and ascertained the condition of all wells within the injection well's area of review (as specified in 35 Ill. Adm. Code 730.163) that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Board that meets the substantive requirements of 35 Ill. Adm. Code 730.164;
 - C) Submitted a corrective action plan that meets the substantive requirements of 35 Ill. Adm. Code 730.164, the implementation of which shall become a condition of any adjusted standard granted; and
 - D) Submitted the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the Board may require the owner or operator to perform the tests again and submit the results of the new tests.

BOARD NOTE: The requirements of subsection (a)(2) need not be incorporated in a permit at the time the Board grants an adjusted standard.

- b) A demonstration under subsection (a)(1)(A) must identify the strata within the injection zone which will confine fluid movement above the injection interval and include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.
- c) A demonstration under subsection (a)(1)(B) must identify the strata within the injection zone where waste transformation will be accomplished and include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.
- d) A demonstration may include a showing that:

- 1) Treatment methods that reduce the toxicity or mobility of the wastes, the implementation of which will become a condition of any adjusted standard, must be utilized; or
 - 2) A monitoring plan, the implementation of which will become a condition of any adjusted standard, must be utilized to enhance confidence in one or more aspects of the demonstration.
- e) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition for reissuance of the adjusted standard to include an additional restricted waste or wastes or to modify any conditions placed on that adjusted standard by the Board. The Board will reissue the adjusted standard if the petitioner complies with subsections (a), (b) and (c).
- f) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition to modify that adjusted standard to include an additional (hazardous) waste or wastes. The Board may grant the modification if it determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

BOARD NOTE: Derived from 40 CFR 148.20 (1996).

(Source: Amended at 22 Ill. Reg. 238, effective December 16, 1997)

Section 738.121 Required Information to Support Petitions

- a) Information submitted in support of a Section 738.120 petition must meet the following criteria:
- 1) All data from waste analyses and any new testing performed by the petitioner must be approved by the Board and must provide data that are accurate, reproducible, and performed in accordance with quality assurance standards;
 - 2) Estimation and monitoring techniques and identification of applicable existing EPA-certified test protocols:
 - A) All estimation and monitoring techniques must be approved by the Board; and

- B) The petition must identify all applicable USEPA-certified test protocols in existence at the time the estimation and monitoring was performed;
 - 3) Predictive models must have been verified and validated, must be appropriate for the specific site, wastestreams, and injection conditions of the operation, and must be calibrated for existing sites where sufficient data are available;
 - 4) A quality assurance and quality control plan addressing all aspects of the demonstration must be provided to and approved by the Board;
 - 5) Reasonably conservative values must be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements; and
 - 6) An analysis must be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner shall conduct a sensitivity analysis to determine the effect that significant uncertainty may contribute to the demonstration. The demonstration must then be based on conservative assumptions identified in the analysis.
- b) Any petitioner under Section 738.120(a)(1)(A) shall provide sufficient site-specific information to support the demonstration, such as:
- 1) Thickness, porosity, permeability and extent of the various strata in the injection zone;
 - 2) Thickness, porosity, permeability, extent and continuity of the confining zone;
 - 3) Hydraulic gradient in the injection zone;
 - 4) Hydrostatic pressure in the injection zone; and
 - 5) Geochemical conditions of the site.
- c) In addition to the information in subsection 738.121(b), any petitioner under Section 738.120(a)(1)(B) of this Part shall provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner shall provide the information necessary to support the demonstration, such as:

- 1) Description of the chemical processes or other means that will lead to waste transformation; and
- 2) Results of laboratory experiments verifying the waste transformation.

BOARD NOTE: Derived from 40 CFR 148.21 (1988), as added at 53 Fed. Reg. 28156, July 26, 1988.

Section 738.122 Submission, Review, and Approval or Denial of Petitions

- a) Any petition submitted to the Board, pursuant to Section 738.120(a) of this Part, must include the following:
 - 1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
 - 2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;
 - 3) Such additional information as the Board requires to support the petition pursuant to Section 738.120 and Section 738.121 of this Part; and
 - 4) This statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.
- c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).
- d) Upon request by any petitioner who obtains an adjusted standard for a well pursuant to this Subpart C, the Agency must initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous

waste well or wells covered by the adjusted standard for a term not to exceed 10 years.

- e) Each adjusted standard granted pursuant to this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: “This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise.”

BOARD NOTE: Derived from 40 CFR 148.22 (2005).

(Source: Amended at 31 Ill. Reg. 1407, effective December 20, 2006)

Section 738.123 Review of Adjusted Standards

- a)
 - 1) When considering whether to reissue a permit for the operation of a Class I hazardous waste injection well, the Agency shall review any adjusted standard(s) granted by the Board pursuant to this Subpart.
 - 2) If the Agency determines that new information shows that the basis for granting the adjusted standard may no longer be valid, the Agency shall request in writing that the permittee submit a petition to the Board to modify the adjusted standard.
 - 3) All petitions requested by the Agency pursuant to subsection (a)(2) must be filed pursuant to section 738.120(f). Such a petition may seek reaffirmation of the adjusted standard without modification.
 - 4) Permittee’s failure to file a petition, Agency petitions for reconsideration and Board reconsideration of adjusted standards:
 - A) If the permittee fails to file a petition requested by the Agency under subsection (a)(2), the Agency may petition the Board for reconsideration of any adjusted standard granted under this Part at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.300 and 101.301 notwithstanding.
 - B) i) The Board may conduct a plenary review of the substance of any adjusted standard on reconsideration to the same

extent that it would review a new petition for an adjusted standard.

- ii) The Board may treat a motion for reconsideration of an adjusted standard as a new petition under Section 738.120 and require that the full requirements of that section and of 35 Ill. Adm. Code 106.Subpart G apply to the proceeding, with the Agency acting as the petitioner.
- b) Whenever the Board determines that the basis for approval of a petition may no longer be valid, the Board will require a new demonstration in accordance with Section 738.120.

BOARD NOTE: Derived from 40 CFR 148.23 (1988), as added at 53 Fed. Reg. 28157, July 26, 1988.

Section 738.124 Termination of Approved Petition

- a)
- 1) Enforcement actions against owners and operators having adjusted standards and limitations on Agency petitions for reconsideration of adjusted standards:
 - A) Any person may file an enforcement action against an owner or operator of an underground injection well pursuant to Section 33 of the Environmental Protection Act, Ill. Rev. Stat. ch. 111 1/2, par. 1033, for any violation of the Act or Board rules, notwithstanding the existence of any adjusted standard.
 - B) The Agency may petition the Board for reconsideration of any adjusted standard at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.300 and 101.301 notwithstanding.
 - 2) In any action under subsection (a)(1), if the Board finds a violation of the Act or Board regulations, the Board may terminate any adjusted standard granted under Section 738.120 for any of the following causes:
 - A) Noncompliance by the owner or operator with any condition of the adjusted standard;

- B) The owner or operator's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or
 - C) A determination that new information shows that the basis for approval of the petition is no longer valid.
- b) In any action under subsection (a)(1), the Board will terminate an adjusted standard granted under Section 738.120 for the following cases:
- 1) The petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the Board's decision on the petition;
 - 2) A determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the adjusted standard, except that the Board, may at its discretion decide not to terminate where:
 - A) The migration resulted from a mechanical failure of the well that can be corrected promptly through a repair to the injection well itself or from an undetected well or conduit that can be plugged promptly; and
 - B) The requirements of 35 Ill. Adm. Code 730.167 are satisfied.

BOARD NOTE: Derived from 40 CFR 148.24 (1988), as added at 53 Fed. Reg. 28157, July 26, 1988.