

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 702
RCRA AND UIC PERMIT PROGRAMS

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AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 Ill. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 Ill. Reg. 19376, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 Ill. Reg. 6673, effective March 28, 1988; amended in R87-39 at 12 Ill. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18452, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3089, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6273, effective April 16, 1990; amended in R92-10 at 17 Ill. Reg. 5769, effective March 26, 1993; amended in R93-16 at 18 Ill. Reg. 6918, effective April 26, 1994; amended in R94-5 at 18 Ill. Reg. 18284, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9913, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11210, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 532, effective December 16, 1997; amended in R99-15 at 23 Ill. Reg. 9359, effective July 26, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18585, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 438, effective December 20, 2006; amended in R11-2/R11-16 at 35 Ill. Reg. 35 Ill. Reg. 17647, effective October 14, 2011; amended in R11-14 at 36 Ill. Reg. 1588, January 20, 2012.

SUBPART A: GENERAL PROVISIONS

Section 702.101 Purpose, Scope, and Applicability

- a) Coverage.
 - 1) The permit regulations of 35 Ill. Adm. Code 702 through 705 include provisions for the following two permit programs:

- A) The RCRA (Resource Conservation and Recovery Act) permit program pursuant to Title V and Title X of the Environmental Protection Act [415 ILCS 5/Title V and Title X].
 - B) The UIC (Underground Injection Control) permit program pursuant to Title III and Title X of the Environmental Protection Act [415 ILCS 5/Title III and Title X].
- 2) The regulations of 35 Ill. Adm. Code 702 through 705 cover basic permitting requirements (35 Ill. Adm. Code 702 through 704) and procedures for processing of permit applications (35 Ill. Adm. Code 705) for the RCRA and UIC permit programs.
 - 3) The regulations of 35 Ill. Adm. Code 702 through 705 are derived from 40 CFR 124, 144, and 270.
- b) Structure.
- 1) The regulations of 35 Ill. Adm. Code 702 through 705 comprise the following four Parts:
 - A) This Part contains definitions applicable to 35 Ill. Adm. Code 702 through 705. It also contains basic permitting requirements for the RCRA and UIC programs.
 - B) The regulations of 35 Ill. Adm. Code 703 contain requirements specific to RCRA permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 703, 35 Ill. Adm. Code 703 will control.
 - C) The regulations of 35 Ill. Adm. Code 704 contain requirements specific to UIC permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 704, 35 Ill. Adm. Code 704 will control.
 - D) The regulations of 35 Ill. Adm. Code 705 establish procedures for issuance of RCRA and UIC permits by the Agency.
 - 2) The structure and coverage of 35 Ill. Adm. Code 702 through 704 are indicated in the following table:

	RCRA AND UIC Subpart of 35 Ill. Adm. Code 702	RCRA Subpart of 35 Ill. Adm. Code 703	UIC Subpart of 35 Ill. Adm. Code 704
General	A	A	A
Prohibitions	—	B	B
Authorization by Rule	—	C	C
Permit Application	B	D	D

Special Forms of Permits	—	E	—
Permit Conditions	C	F	E
Issued Permits	D	—	H
Permit Modification	—	G	—
Remedial Action Plans	—	H	—
Integration with MACT Standards	—	I	—
RCRA Standardized Permits	—	J	—
Requirements Applicable to Hazardous Waste Injection Wells	—	—	F
Financial Responsibility for Class I Hazardous Waste Injection Wells	—	—	G
Requirements Applicable to Class V Injection Wells	—	—	I
Requirements Applicable to Class V Injection Wells	—	—	I
Requirements Applicable to Class VI Injection Wells	—	—	J

c) Relation to other requirements.

- 1) Permit application forms. An applicant for a RCRA or UIC permit or a person seeking interim status under RCRA must submit its application on an Agency permit application form when such is available.
- 2) Technical regulations. Each of the two permit programs that are covered in these permit regulations has separate additional regulations that contain technical requirements for that program. These separate regulations are used by the Agency to determine the requirements that must be placed in any permit that it issues. These separate regulations are located as follows:

RCRA	35 Ill. Adm. Code 720 through 728, 733, and 739
UIC	35 Ill. Adm. Code 730 and 738

BOARD NOTE: Derived in significant part from 40 CFR 144.1 and 270.1 (2011).

(Source: Amended at 36 Ill. Reg. 1588, January 20, 2012)

Section 702.102 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 and 145.11(a)(33), 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: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.103 Trade Secret or Non-Disclosable Information Submitted to the Agency or Board

- a) In accordance with Section 7 of the Environmental Protection Act [415 ILCS 5/7], and as federally required by 40 CFR 2, a person submitting certain information to the Agency or Board pursuant to this Part and 35 Ill. Adm. Code 703 through 705 may claim that information as trade secret or non-disclosable information. Any such claim of trade secret or non-disclosable information must be asserted at the time of submission in the manner prescribed by 35 Ill. Adm. Code 130. If no claim is made at the time of submission, the Agency or Board may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with 35 Ill. Adm. Code 130 and Board and Agency procedures.
- b) Claims of trade secret or non-disclosable information for the following information will be denied:
 - 1) The name and address of any permit applicant or permittee;
 - 2) The identity of substances being placed or to be placed in landfills or hazardous waste treatment, storage, or disposal facilities; and
 - 3) For UIC permits, information that deals with the existence, absence, or level of contaminants in drinking water.

BOARD NOTE: Derived from 40 CFR 144.5 and 270.12 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.104 References

The centralized incorporation by reference provisions of 35 Ill. Adm. Code 720.111 include the incorporation of all documents by reference that are used to establish compliance with the requirements of the Illinois RCRA and UIC programs.

BOARD NOTE: This Section corresponds with 40 CFR 270.6 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.105 Rulemaking

- a) Identical-in-Substance Regulations.
 - 1) Generally applicable federal rules. Twice each year, the Board reserves identical-in-substance rulemaking dockets pursuant to Sections 7.2, 13(c), and 22.4(a) of the Act [415 ILCS 5/7.2, 13(c), and 22.4(a)]. The Board's intent is generally to include all federal RCRA or UIC amendments that occurred in the appropriate of the prior concluded update periods of January 1 through June 30 or July 1 through December 31. The Board reviews the federal actions that occurred in the period of interest and includes those that require Board action in the reserved docket. The Board itself initiates any necessary amendments to the RCRA or UIC program, so no person needs to file a rulemaking proposal for the included amendments. The Board routinely excludes from these identical-in-substance proposals those federal amendments that pertain to facilities or activities that exist or occur outside Illinois.
 - 2) The Board does not generally include site-specific federal amendments in an identical-in-substance rulemaking proposal without a request from a member of the regulated community. The owner or operator of a facility subject to a site-specific federal rule that wishes the Board to incorporate that rule into the Illinois regulations should submit a request to the Clerk of the Board for inclusion of that site-specific rule in a future identical-in-substance rulemaking proposal. Any person wishing such inclusion may petition the Board to adopt appropriate amendments to the Illinois RCRA or UIC program pursuant to Sections 7.2 and 13(c) or 22.4(a) of the Act. The petition must take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 101 and 102. The proposal must include a listing of all amendments of interest to the petitioner together with copies of the Federal Register notices on which the amendments are to be based.
- b) Other Regulations. With respect to the Illinois RCRA or UIC program or permit issuance, any person may petition the Board to adopt amendments or additional regulations that are not identical in substance to federal regulations. Such proposal must conform to 35 Ill. Adm. Code 101 and 102 and Sections 13(d), 22.4(b) and (c), and Title VII of the Act [415 ILCS 5/13(d), 22.4(b), and (c) and Title VII].

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.106 Adoption of Agency Criteria

- a) The Agency may, in its sole discretion, adopt criteria that will give guidance to the public as to what it will approve in RCRA and UIC permit applications and as to what conditions it will impose in permit issuance. The statutory authority for the Agency adopting such criteria is the Agency's authority to issue permits

pursuant to Sections 4 and 39 of the Act [415 ILCS 5/4 and 39], and the requirement of the Administrative Procedure Act [5 ILCS 100] that agencies codify as rules those policies or interpretations of general applicability that affect persons outside the Agency.

- b) With respect to review of permit applications and establishment of permit conditions, the Agency must adopt as criteria any policies and interpretations of general applicability that affect persons outside the Agency.
- c) Any criteria that the Agency adopts must include each of the following:
 - 1) Clear references to related provisions of the Act and Board regulations;
 - 2) A statement that the criteria are not Board regulations;
 - 3) A statement that the criteria apply only to review of permit applications and establishment of conditions; and
 - 4) Procedures to be followed if an applicant wishes to deviate from Agency criteria.
- d) For purposes of permit issuance, proof of compliance with Agency-adopted criteria is prima facie proof of compliance with related provisions of the appropriate Act and Board regulations. However, persons other than the Agency may challenge Agency-adopted criteria as applied in the context of permit issuance.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.107 Permit Appeals and Review of Agency Determinations

Unless the contrary intention is indicated, all actions taken by the Agency pursuant to 35 Ill. Adm. Code 702 through 704, 721 through 728, 730, 733, 738, or 739 are to be done as part of an original permit application or a proceeding for modification of an issued permit. Such actions are subject to the procedural requirements of 35 Ill. Adm. Code 705.

- a) Any final Agency action on an original permit application, a proceeding for modification of an issued permit, or any action for review of a final Agency determination required by these regulations may be appealed to the Board pursuant to Title X of the Environmental Protection Act [415 ILCS 5/Title X] and 35 Ill. Adm. Code 105 and 705.212.
- b) Other actions that are not required by these regulations, whether undertaken by the Agency gratuitously or pursuant to a statutory authorization, such as one taken to enforce a bond, insurance policy, or similar instrument of a contractual nature or one intended to guide a regulated person in seeking compliance with the regulations, may not be permit modifications reviewable by the Board. The

affected person may seek review of an Agency determination that is not a permit determination in any court of competent jurisdiction.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.108 Variances and Adjusted Standards

- a) The Agency has no authority to issue any permit that is inconsistent with Board regulations. If an applicant seeks a permit that would authorize actions that are inconsistent with Board regulations, including delayed compliance dates, the applicant should file for either of the following two forms of relief:
 - 1) A petition for a variance pursuant to Title IX of the Environmental Protection Act (Act) [415 ILCS 5/Title IX] and Subtitle B of 35 Ill. Adm. Code 104; or
 - 2) A petition for an adjusted standard pursuant to Section 28.2 of the Act [415 ILCS 5/28.2] and Subtitle D of 35 Ill. Adm. Code 104.
- b) The Agency must file a recommendation within prescribed times following the filing of a petition for a variance or adjusted standard. The recommendation must include a draft of the language the Agency proposes to include in the permit if its recommendation is accepted.
- c) If the Board grants a variance or adjusted standard, it will order the Agency to issue or modify the permit pursuant to the variance.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.109 Enforcement Actions

Any person may file a civil complaint with the Board alleging violation of the RCRA or UIC regulations, a permit requirement, or permit conditions, pursuant to Title VIII of the Act [415 ILCS 5/Title VIII] and 35 Ill. Adm. Code 103.

- a) A formal complaint filed with the Board will initiate a civil enforcement action in which the complainant bears the burden of proving that the respondent committed the alleged violations.
- b) The Board will forward any informal complaint to the Agency, and the Agency must investigate the alleged violations set forth in the complaint.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.110 Definitions

The following definitions apply to 35 Ill. Adm. Code 702, 703, 704, and 705. Terms not defined in this Section have the meaning given by the appropriate act and regulations, as such are defined

in this Section. When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

“Act” or “Environmental Protection Act” means the Environmental Protection Act [415 ILCS 5].

“Administrator” means the Administrator of the United States Environmental Protection Agency or an authorized representative.

“Agency” means the Illinois Environmental Protection Agency.

“Application” means the Agency forms for applying for a permit. For RCRA, application also includes the information required by the Agency pursuant to 35 Ill. Adm. Code 703.182 through 703.212 (contents of Part B of the RCRA application).

“Appropriate act and regulations” means the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) (RCRA), the federal Safe Drinking Water Act (42 USC 300f et seq.) (SDWA), or the Environmental Protection Act, whichever is applicable, and the applicable regulations promulgated under those statutes.

“Approved program or approved state” means a state or interstate program that has been approved or authorized by USEPA pursuant to 40 CFR 271 (RCRA) or section 1422 of the SDWA (42 USC 300h-1) (UIC).

“Aquifer” (RCRA and UIC) means a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

“Area of review” (UIC) means the area surrounding an injection well described according to the criteria set forth in 35 Ill. Adm. Code 730.106, or in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (one-quarter of a mile) or a number calculated according to the criteria set forth in 35 Ill. Adm. Code 730.106.

“Board” (RCRA and UIC) means the Illinois Pollution Control Board.

“Cesspool” (UIC) means a drywell that receives untreated sanitary waste containing human excreta and which sometimes has an open bottom or perforated sides.

“Closure” (RCRA) means the act of securing a Hazardous waste management facility pursuant to 35 Ill. Adm. Code 724.

“Component” (RCRA) means any constituent part of a unit or any group of constituent parts of a unit that are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, or kiln thermocouple).

“Contaminant” (UIC) means any physical, chemical, biological, or radiological substance or matter in water.

“Corrective action management unit” or “CAMU” (RCRA) means an area within a facility that is designated by the Agency pursuant to Subpart S of 35 Ill. Adm. Code 724 for the purpose of implementing corrective action requirements pursuant to 35 Ill. Adm. Code 724.201 and RCRA section 3008(h) (42 USC 6928(h)). A CAMU must only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility. BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

“CWA” (RCRA and UIC) means the Clean Water Act (33 USC 1251 et seq.), as amended.

“Date of approval by USEPA of the Illinois UIC program” (UIC) means March 3, 1984.

“Director” (RCRA and UIC) means the Director of the Illinois Environmental Protection Agency or the Director’s designee.

“Disposal” (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

“Disposal facility” (RCRA) means a facility or part of a facility at which hazardous waste is intentionally placed into or on the land or water, and at which hazardous waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

“Draft permit” (RCRA and UIC) means a document prepared pursuant to 35 Ill. Adm. Code 705.141 indicating the Agency’s tentative decision to issue, deny, modify, terminate, or reissue a permit. A notice of intent to deny a permit, as discussed in 35 Ill. Adm. Code 705.141, is a type of draft permit. A denial of a request for modification, as discussed in 35 Ill. Adm. Code 705.128, is not a draft permit. A proposed permit is not a draft permit.

“Drywell” (UIC) means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom and sides are typically dry, except when receiving fluids.

“Drilling mud” (UIC) means a heavy suspension used in drilling an injection well, introduced down the drill pipe and through the drill bit.

“Elementary neutralization unit” (RCRA) means a device of which the following is true:

It is used for neutralizing wastes that are hazardous wastes only because they exhibit the corrosivity characteristics defined in 35 Ill. Adm. Code 721.122, or are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in 35 Ill. Adm. Code 720.110.

“Emergency permit” (RCRA and UIC) means a RCRA or UIC permit issued in accordance with 35 Ill. Adm. Code 703.221 or 704.163, respectively.

“Environmental Protection Agency” or “EPA” or “USEPA” (RCRA and UIC) means the United States Environmental Protection Agency.

“Exempted aquifer” (UIC) means an aquifer or its portion that meets the criteria in the definition of “underground source of drinking water” but which has been exempted according to the procedures in 35 Ill. Adm. Code 702.105, 704.104, and 704.123(b).

“Existing hazardous waste management (HWM) facility” or “existing facility” (RCRA) means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if the following occurs:

The owner or operator has obtained the federal, State, and local approvals or permits necessary to begin physical construction; and

Either of the following has transpired:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial loss and which are to be completed within a reasonable time.

“Existing injection well” (UIC) means an injection well that is not a new injection well.

“Facility mailing list” (RCRA) means the mailing list for a facility maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163(a).

“Facility or activity” (RCRA and UIC) means any HWM facility, UIC injection well, or any other facility or activity (including land or appurtenances thereto) that is subject to regulations under the Illinois RCRA or UIC program.

“Federal, State, and local approvals or permits necessary to begin physical construction” (RCRA) means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances.

“Final authorization” (RCRA) means January 31, 1986, the date of approval by USEPA of the Illinois Hazardous Waste Management Program that has met the requirements of section 3006(b) of RCRA (42 USC 6926(b)) and the applicable requirements of subpart A of 40 CFR 271.

“Fluid” (UIC) means any material or substance that flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

“Formation” (UIC) means a body of rock characterized by a degree of lithologic homogeneity that is prevailingly, but not necessarily, tabular and is mappable on the earth’s surface or traceable in the subsurface.

“Formation fluid” (UIC) means fluid present in a formation under natural conditions, as opposed to introduced fluids, such as drilling mud.

“Functionally equivalent component” (RCRA) means a component that performs the same function or measurement and which meets or exceeds the performance specifications of another component.

“Generator” (RCRA) means any person, by site location, whose act or process produces hazardous waste.

“Geologic sequestration” means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in a subsurface geologic formation. This term does not apply to carbon dioxide capture or transport.

“Groundwater” (RCRA and UIC) means a water below the land surface in a zone of saturation.

“Hazardous waste” (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

“Hazardous waste management facility” or “HWM facility” (RCRA) means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

“HWM facility” (RCRA) means hazardous waste management facility.

“Improved sinkhole” (UIC) means a naturally occurring karst depression or other natural crevice that is found in volcanic terrain and other geologic settings that have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

“Injection well” (RCRA and UIC) means a well into which fluids are being injected.

“Injection zone” (UIC) means a geologic formation, group of formations, or part of a formation receiving fluids through a well.

“In operation” (RCRA) means a facility that is treating, storing, or disposing of hazardous waste.

“Interim authorization” (RCRA) means May 17, 1982, the date of approval by USEPA of the Illinois hazardous waste management program that has met the requirements of section 3006(g)(2) of RCRA (42 USC 6926(g)(2)) and applicable requirements of 40 CFR 271.

“Interstate agency” means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the appropriate act and regulations.

“Major facility” means any RCRA or UIC facility or activity classified as such by the Regional Administrator or the Agency.

“Manifest” (RCRA and UIC) means the shipping document originated and signed by the generator that contains the information required by Subpart B of 35 Ill. Adm. Code 722.

“National Pollutant Discharge Elimination System” means the program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements pursuant to Section 12(f) of the Environmental Protection Act and Subpart A of 35 Ill. Adm. Code 309 and 35 Ill. Adm. Code 310. The term includes an approved program.

“New HWM facility” (RCRA) means a hazardous waste management facility that began operation or for which construction commenced after November 19, 1980.

“New injection well” (UIC) means a well that began injection after March 3, 1984, the date of USEPA approval of the UIC program for the State of Illinois.

BOARD NOTE: See 40 CFR 147.700 (2011) and 49 Fed. Reg. 3991 (Feb. 1, 1984).

“Off-site” (RCRA) means any site that is not on-site.

“On-site” (RCRA) means on the same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as

opposed to going along, the rights-of-way. Non-contiguous properties owned by the same person, but connected by a right-of-way that the person controls and to which the public does not have access, is also considered on-site property.

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under the RCRA or UIC program.

“Permit” means an authorization, license, or equivalent control document issued to implement this Part and 35 Ill. Adm. Code 703, 704, and 705. “Permit” includes RCRA permit by rule (35 Ill. Adm. Code 703.141), RCRA standardized permit (35 Ill. Adm. Code 703.238), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC “Emergency Permit” (35 Ill. Adm. Code 703.221 and 704.163). “Permit” does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency, or assigns.

“Physical construction” (RCRA) means excavation, movement of earth, erection of forms or structures, or similar activity to prepare an HWM facility to accept hazardous waste.

“Plugging” (UIC) means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

“Point of injection” means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box—the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

“POTW” means publicly owned treatment works.

“Project” (UIC) means a group of wells in a single operation.

“Publicly owned treatment works” or “POTW” is as defined in 35 Ill. Adm. Code 310.

“Radioactive waste” (UIC) means any waste that contains radioactive material in concentrations that exceed those listed in table II, column 2 in appendix B to 10 CFR 20, incorporated by reference in 35 Ill. Adm. Code 720.111.

“RCRA” (RCRA) means the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.). For the purposes of regulation pursuant to 35 Ill. Adm. Code 700 through 705, 720 through 728, 733, 738, and 739, “RCRA” refers only to RCRA Subtitle C. This does not include the RCRA Subtitle D (municipal solid waste landfill) regulations, found in 35 Ill. Adm. Code 810 through 815, and the RCRA Subtitle I (underground storage tank) regulations found in 35 Ill. Adm. Code 731 and 732.

“RCRA permit” (RCRA) means a permit required pursuant to Section 21(f) of the Act [415 ILCS 5/21(f)].

“RCRA standardized permit” (RCRA) means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 705 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued for all RCRA standardized permits and a supplemental portion issued at the discretion of the Agency.

“Regional Administrator” (RCRA and UIC) means the Regional Administrator of the USEPA Region in which the facility is located or the Regional Administrator’s designee.

BOARD NOTE: Illinois is in USEPA Region 5.

“Remedial action plan” or “RAP” (RCRA) means a special form of RCRA permit that a facility owner or operator may obtain pursuant to Subpart H of 35 Ill. Adm. Code 703, instead of a RCRA permit issued pursuant to this Part and 35 Ill. Adm. Code 703, to authorize the treatment, storage, or disposal of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site.

“Sanitary waste” (UIC) means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities, provided the waste is not mixed with industrial waste.

“Schedule of compliance” (RCRA and UIC) means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the appropriate act and regulations.

“SDWA” (UIC) means the Safe Drinking Water Act (42 USC 300f et seq.).

“Septic system” (UIC) means a well, as defined in this Section, that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

“Site” (RCRA and UIC) means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

“SIC code” (RCRA and UIC) means “Standard Industrial Classification code.” This is the code assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication, “Standard Industrial Classification Manual,” incorporated by reference in 35 Ill. Adm. Code 720.111.

“State” (RCRA and UIC) means the State of Illinois.

“State Director” (RCRA and UIC) means the Director of the Illinois Environmental Protection Agency.

“State/USEPA agreement” (RCRA and UIC) means an agreement between the Regional Administrator and the State that coordinates USEPA and State activities, responsibilities, and programs, including those under the RCRA and SDWA.

“Storage” (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

“Stratum” (plural “strata”) (UIC) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

“Subsurface fluid distribution system” (UIC) means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

“Total dissolved solids” (UIC) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR 136.3 (Identification of Test Procedures; the method for filterable residue), incorporated by reference in 35 Ill. Adm. Code 720.111.

“Transfer facility” (RCRA) means any transportation related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous wastes are held during the normal course of transportation.

“Transferee” (UIC) means the owner or operator receiving ownership or operational control of the well.

“Transferor” (UIC) means the owner or operator transferring ownership or operational control of the well.

“Transporter” (RCRA) means a person engaged in the off-site transportation of “hazardous waste” by air, rail, highway, or water.

“Treatment” (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical, or biological character or composition of any “hazardous waste” so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

“UIC” (UIC) means the Underground Injection Control program.

“Underground injection” (UIC) means a well injection.

“Underground source of drinking water” or “USDW” (RCRA and UIC) means an aquifer or its portion that is not an exempted aquifer and of which either of the following is true:

It supplies any public water system; or

It contains a sufficient quantity of groundwater to supply a public water system; and

It currently supplies drinking water for human consumption; or

It contains less than 10,000 mg/ℓ total dissolved solids.

“USDW” (RCRA and UIC) means an underground source of drinking water.

“Wastewater treatment unit” (RCRA) means a device of which the following is true:

It is part of a wastewater treatment facility that is subject to regulation pursuant to Subpart A of 35 Ill. Adm. Code 309 or 35 Ill. Adm. Code 310; and

It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in 35 Ill. Adm. Code 720.110.

“Well” (UIC) means a bored, drilled, or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension; a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or, a subsurface fluid distribution system.

“Well injection” (UIC) means the subsurface emplacement of fluids through a well.

BOARD NOTE: Derived from 40 CFR 124.2, 144.3 and 270.2 (2011).

(Source: Amended at 36 Ill. Reg. 1588, January 20, 2012)

SUBPART B: PERMIT APPLICATIONS

Section 702.120 Permit Application

- a) Applying for a UIC permit. Any person that is required to have a permit (including new applicants and permittees with expiring permits) must complete, sign, and submit an application to the Agency as described in this Section and in 35 Ill. Adm. Code 704.161 (UIC). Any person that is currently authorized with UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704) must apply for a permit when required to do so by the Agency. The procedure for application, issuance, and administration of an emergency permit is found exclusively in 35 Ill. Adm. Code 704.163 (UIC).
- b) Applying for a RCRA permit. The following information outlines how to obtain a permit and where to find requirements for specific permits:
 - 1) If the facility is covered by RCRA permits by rule (35 Ill. Adm. Code 703.141), the owner or operator needs not apply for a permit.
 - 2) If the facility owner or operator currently has interim status pursuant to RCRA (Subpart C of 35 Ill. Adm. Code 703), it must apply for a permit when required by the Agency.
 - 3) If the facility owner or operator is required to have a permit (including new applicants and permittees with expiring permits), it must complete, sign, and submit an application to the Agency, as described in this Section; in Sections 702.121 through 702.124; and in 35 Ill. Adm. Code 703.125, 703.126, 703.150 through 703.157, 703.186, and 703.188.
 - 4) If the facility owner or operator is seeking an emergency permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.220.
 - 5) If the facility owner or operator is seeking a research, development, and demonstration permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.231.

- 6) If the facility owner or operator is seeking a RCRA standardized permit, the procedures for application and issuance are found in Subpart G of 35 Ill. Adm. Code 705 and Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 144.31(a) (2010), and subsection (b) of this Section is derived from 40 CFR 270.10(a) (2010).

(Source: Amended at 35 Ill. Reg. 17647, effective October 14, 2011)

Section 702.121 Who Applies

When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application.

BOARD NOTE: Derived from 40 CFR 144.31(b) (1993) and 270.10(b) (1992).

(Source: Amended at 18 Ill. Reg. 18284, effective December 20, 1994)

Section 702.122 Completeness

The Agency must not issue a permit under a program (RCRA or UIC) before receiving a complete application for a permit under that program, except for emergency permits. An application for a permit under a program is complete when the Agency receives an application form and any supplemental information that is completed to its satisfaction. (35 Ill. Adm. Code 705.122). An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in 35 Ill. Adm. Code 703.186 (RCRA).

BOARD NOTE: Derived from 40 CFR 144.31(d) and 270.10(c) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.123 Information Requirements

An applicant for a RCRA or UIC Class I, III, or V permit must provide the following information to the Agency, using the application form provided by the Agency (additional information required of applicants is set forth in Subpart D of 35 Ill. Adm. Code 703 (RCRA) and 35 Ill. Adm. Code 704.161 (UIC)). An applicant for a Class VI injection well permit must follow the criteria provided in 35 Ill. Adm. Code 730.182.

- a) The activities conducted by the applicant that require it to obtain a permit under RCRA or UIC.
- b) The name, mailing address, and location of the facility for which the application is submitted.
- c) Up to four SIC codes that best reflect the principal products or services provided by the facility.

- d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.
- e) This subsection (e) corresponds with 40 CFR 144.31(e)(5) and 270.13(f), relating to facilities on Indian lands. The Board has replaced the corresponding federal text with this statement to maintain structural parity with the corresponding federal rules.
- f) A listing of all permits or construction approvals received or applied for under any of the following programs:
 - 1) The hazardous waste management program under RCRA, this Part, and 35 Ill. Adm. Code 703;
 - 2) The UIC program under SDWA, this Part, and 35 Ill. Adm. Code 704;
 - 3) The National Pollutant Discharge Elimination System (NPDES) program under the federal CWA (33 USC 1251 et seq.) and 35 Ill. Adm. Code 309;
 - 4) The Prevention of Significant Deterioration (PSD) program under the federal Clean Air Act (42 USC 7401 et seq.);
 - 5) The nonattainment program under the federal Clean Air Act;
 - 6) The National Emission Standards for Hazardous Pollutants (NESHAPs) preconstruction approval under the federal Clean Air Act;
 - 7) Any ocean dumping permits under the federal Marine Protection Research and Sanctuaries Act (33 UCS 1401 et seq.);
 - 8) Any dredge or fill permits under Section 404 of CWA (33 USC 1344); and
 - 9) Any other relevant environmental permits, including any State-issued permits.
- g) A topographic map (or other map if a topographic map is unavailable) extending 1609 meters (one mile) beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or which are otherwise known to the applicant within 402 meters (one-quarter mile) of the facility property boundary.
- h) A brief description of the nature of the business.

BOARD NOTE: Derived from 40 CFR 144.31(e)(1) through (e)(8), 270.10(d), and 270.13(a) through (f) and (k) through (m) (2011).

(Source: Amended at 36 Ill. Reg. 1588, January 20, 2012)

Section 702.124 Recordkeeping

An applicant must keep records of all data used to complete permit applications and any supplemental information submitted pursuant to 35 Ill. Adm. Code 702.123, Subpart D of 35 Ill. Adm. Code 703 (RCRA); and 35 Ill. Adm. Code 704.161 (UIC) for a period of at least three years from the date the application is signed.

BOARD NOTE: Derived from 40 CFR 144.31(f) and 270.10(i) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.125 Continuation of Expiring Permits

- a) The conditions of an expired permit continue in force until the effective date of a new permit (see 35 Ill. Adm. Code 705.201) if both of the following conditions are fulfilled:
 - 1) The permittee has submitted a timely application pursuant to 35 Ill. Adm. Code 703.181 (RCRA) or 704.161 (UIC) that is a complete (pursuant to Section 702.122) application for a new permit; and
 - 2) The Agency, through no fault of the permittee, does not issue a new permit with an effective date pursuant to 35 Ill. Adm. Code 705.201 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).
- b) Effect. Permits continued pursuant to this Section remain fully effective and enforceable.
- c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Agency may choose to do any or all of the following:
 - 1) Initiate enforcement action based upon the permit that has been continued;
 - 2) Issue a notice of intent to deny the new permit pursuant to 35 Ill. Adm. Code 705.141. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
 - 3) Issue a new permit pursuant to 35 Ill. Adm. Code 705 with appropriate conditions; or
 - 4) Take other actions authorized by the Environmental Protection Act [415 ILCS 5], or regulations adopted thereunder.

- d) This subsection (d) corresponds with 40 CFR 144.37(d) and 270.51(d), which pertain to continuation of USEPA-issued permits until disposition of a permit application filed with an authorized state. A corresponding provision is unnecessary in the Illinois regulations. This statement maintains structural consistency with the corresponding federal rules.
- e) RCRA standardized permits.
 - 1) The conditions of an owner's or operator's expired RCRA standardized permit continue until the effective date of its new permit (see 35 Ill. Adm. Code 705.201) if all of the following conditions are fulfilled:
 - A) If the Agency is the permit-issuing authority;
 - B) If the owner or operator has submitted a timely and complete Notice of Intent pursuant to 35 Ill. Adm. Code 705.301(a)(2) requesting coverage under a RCRA standardized permit; and
 - C) If the Agency, through no fault of the owner or operator, does not issue the permit before the previous permit expires (for example, where it is impractical to make the permit effective by that date because of time or resource constraints).
 - 2) In some instances, the Agency may notify the owner or operator that it is not eligible for a RCRA standardized permit (see 35 Ill. Adm. Code 705.302(c)). In such an instance, the conditions of the owner's or operator's expired permit will continue if the owner or operator submits the information specified in subsection (a)(1) of this Section (that is, a complete application for a new permit) within 60 days after it receives an Agency notification that the owner or operator is not eligible for a RCRA standardized permit.

BOARD NOTE: Derived from 40 CFR 144.37 and 270.51 (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.126 Signatories to Permit Applications and Reports

- a) Applications. A permit application must be signed as follows:
 - 1) For a corporation: a permit application must be signed by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means either of the following persons:
 - A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other

person that performs similar policy or decision-making functions for the corporation; or

- B) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

BOARD NOTE: The Board does not require specific assignments or delegations of authority to responsible corporate officers identified in subsection (a)(1)(A) of this Section. The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications, unless the corporation has notified the Agency to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions pursuant to subsection (a)(1)(B) of this Section, rather than to specific individuals.

- 2) For a partnership or sole proprietorship: a permit application must be signed by a general partner or the proprietor, respectively; or
 - 3) For a municipality, State, federal, or other public agency: a permit application must be signed by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes either of the following persons:
 - A) The chief executive officer of the agency, or
 - B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA).
- b) Reports. All reports required by permits or other information requested by the Agency must be signed by a person described in subsection (a) of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if each of the following conditions are fulfilled:
- 1) The authorization is made in writing by a person described in subsection (a) of this Section;
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly

authorized representative may thus be either a named individual or any individual occupying a named position); and

- 3) The written authorization is submitted to the Agency.
- c) Changes to authorization. If an authorization pursuant to subsection (b) of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d) Certification.
 - 1) Any person signing a document pursuant to subsection (a) or (b) of this Section must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons that manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- 2) Alternative owner certification. For remedial action plans (RAPs) pursuant to Subpart H of this Part, if the operator certifies according to subsection (d)(1) of this Section, then the owner may choose to make the following certification instead of the certification in subsection (d)(1) of this Section:

Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons that manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOARD NOTE: Derived from 40 CFR 144.32 and 270.11 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

SUBPART C: PERMIT CONDITIONS

Section 702.140 Conditions Applicable to all Permits

The conditions of this Subpart C apply to all RCRA and UIC permits. For additional conditions applicable to all permits for each of the programs individually, see Subpart F of 35 Ill. Adm. Code 703 (RCRA) and Subpart E of 704 (UIC). All conditions applicable to all permits and all additional conditions applicable to all permits for individual programs must be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.51 preamble and 270.30 preamble (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.141 Duty to Comply

The permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and is grounds for one or more of the following actions: for an enforcement action, for permit revocation or modification, or for denial of a permit renewal application.

BOARD NOTE: Sections 703.242 (RCRA) and 704.181(a) (UIC) contain additional information on operation under an emergency permit. Derived from 40 CFR 144.51(a) and 270.30(a) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.142 Duty to Reapply

If a permittee wishes to continue an activity regulated by its permit after the expiration date of the permit, the permittee must apply for and obtain a new permit.

BOARD NOTE: Derived from 40 CFR 144.51(b) and 270.30(b) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.143 Need to Halt or Reduce Activity Not a Defense

It will not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its permit.

BOARD NOTE: Derived from 40 CFR 144.51(c) and 270.30(c) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.144 Duty to Mitigate

- a) For RCRA permits, in the event of noncompliance with its permit, the permittee must take all reasonable steps to minimize releases to the environment, and must carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.
- b) For UIC permits, the permittee must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from non-compliance with its permit.

BOARD NOTE: Derived from 40 CFR 144.51(d) and 270.30(d) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.145 Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of its permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

BOARD NOTE: Derived from 40 CFR 144.51(e) and 270.30(e) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.146 Permit Actions

A permit may be modified or revoked for cause. The filing of a request by the permittee for a permit modification or reissuance, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

BOARD NOTE: Derived from 40 CFR 144.51(f) and 270.30(f) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.147 Property Rights

A permit conveys no property rights of any sort, nor does a permit convey any exclusive privilege.

BOARD NOTE: Derived from 40 CFR 144.51(g) and 270.30(g) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.148 Duty to Provide Information

A permittee must furnish to the Agency, within a reasonable time, any relevant information that the Agency may request to determine whether cause exists for modifying or reissuing this permit or to determine compliance with this permit. The permittee must also furnish to the Agency, upon request, copies of records required to be kept by this permit.

BOARD NOTE: Derived from 40 CFR 144.51(h) and 270.30(h) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.149 Inspection and Entry

A permittee must allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to do any of the following:

- a) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Act, any substances or parameters at any location.

BOARD NOTE: Derived from 40 CFR 144.51(i) and 270.30(i) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.150 Monitoring and Records

- a) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.
- b) The permittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of all reports required by its permit; and records of all data used to complete the application for its permit for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Agency at any time.
- c) Records of monitoring information must include all of the following information:

- 1) The date, exact place, and time of sampling or measurements;
 - 2) The individuals who performed the sampling or measurements;
 - 3) The dates analyses were performed;
 - 4) The individuals who performed the analyses;
 - 5) The analytical techniques or methods used; and
 - 6) The results of such analyses.
- d) The owner or operator of a Class VI injection well must retain records as specified in Subpart H of 35 Ill. Adm. Code 730, including Sections 730.184(g), 730.191(f), 730.192(d), 730.193(f), and 730.193(h).

BOARD NOTE: Derived from 40 CFR 144.51(j) and 270.30(j) (2011).

(Source: Amended at 36 Ill. Reg. 1588, January 20, 2012)

Section 702.151 Signature Requirements

All applications, reports, or information submitted to the Agency must be signed and certified in accordance with Section 702.126.

BOARD NOTE: Derived from 40 CFR 144.51(k) and 270.30(k) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.152 Reporting Requirements

- a) Planned changes. The permittee must give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- b) Anticipated noncompliance. The permittee must give advance notice to the Agency of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. For RCRA, see also 35 Ill. Adm. Code 703.247.
- c) Transfers. This permit is not transferable to any person, except after notice to the Agency. The Agency may require modification of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Sections 702.182 and 702.183, in some cases modification is mandatory.)
- d) Monitoring reports. Monitoring results must be reported at the intervals specified in the permit.

- e) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit must be submitted no later than specified in Section 702.162.
- f) Twenty-four hour reporting as required in 35 Ill. Adm. Code 703.245 or 704.181(d).
- g) Other noncompliance. The permittee must report all instances of noncompliance not reported pursuant to subsections (d), (e), and (f) of this Section at the time monitoring reports are submitted. The reports must contain the information referenced in subsection (f) of this Section.
- h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Agency, it must promptly submit such facts or information.

BOARD NOTE: Derived from 40 CFR 144.51(l) and 270.30(l) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.160 Establishing Permit Conditions

- a) In addition to conditions required in permits for both programs (Sections 702.140 through 702.152), the Agency must establish conditions in RCRA and UIC permits, as required on a case-by-case basis, pursuant to Section 702.150 (monitoring and records), Section 702.161 (duration of permits), Section 702.162 (schedules of compliance), Section 702.163 (alternate schedules of compliance), and Section 702.164 (Recording and Reporting). For UIC only, permits for owners and operators of hazardous waste injection wells must include conditions meeting the requirements of 35 Ill. Adm. Code 704.201 through 704.203 (requirements for wells injecting hazardous waste), 704.189 (financial responsibility), and 704.191 (additional conditions), and Subpart G of 35 Ill. Adm. Code 730 (criteria and standards applicable to Class I hazardous waste injection wells). Permits for other wells must contain the requirements set forth in Subpart E of 35 Ill. Adm. Code 704 (permit conditions) when applicable.
- b) Additional conditions.
 - 1) In addition to conditions required in all permits for a particular program (Subpart F of 35 Ill. Adm. Code 703 for RCRA and Subpart C of 35 Ill. Adm. Code 704 for UIC), the Agency must establish conditions in permits for the individual programs, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the appropriate act and regulations.

- 2) An applicable requirement is a statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. The provisions of 35 Ill. Adm. Code 705.184 (reopening of comment period) provide a means for reopening permit proceedings at the discretion of the Agency where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement that takes effect prior to the modification of a permit, to the extent allowed in 35 Ill. Adm. Code 705.201.
 - 3) A new or reissued permit, and a modified permit to the extent allowed pursuant to 35 Ill. Adm. Code 705.201, must incorporate each of the applicable requirements referenced in Subpart F of 35 Ill. Adm. Code 703 (RCRA) and Subpart E of 35 Ill. Adm. Code 704 (UIC).
- c) Incorporation. All permit conditions must be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.52 and 270.32 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.161 Duration of Permits

- a) Permit duration.
 - 1) RCRA. A RCRA permit must be effective for a fixed term to be determined by the Agency on a case-by-case basis, but not to exceed 10 years.
 - 2) UIC. A UIC permit for a Class I or Class V injection well must be effective for a fixed term to be determined by the Agency on a case-by-case basis, but not to exceed 10 years. A UIC permit for a Class III injection well must be issued for a period not to exceed five years; provided, however, that the Agency must, without requiring a new application, renew such permits for a period not to exceed five years per renewal, up to the operating life of the facility, unless the Agency determines that the permit should be modified, reissued, or a minor modification made, as provided in Sections 702.183 through 702.187, in which case the permittee must file a new permit application. A UIC permit for a Class VI injection well must be issued for a period not to exceed five years; provided, however, that the Agency must, without requiring a new application, renew a Class VI injection well permit for a period not to exceed five years per renewal, up to the operating life of the facility and the post-injection site care period, unless the Agency determines that the permit should be modified, reissued, or a minor

modification made, as provided in Sections 702.183 through 702.187, in which case the permittee must file a new permit application.

- b) Except as provided in Section 702.125, the term of a permit must not be extended by modification beyond the maximum duration specified in this Section.
- c) The Agency may issue any permit for a duration that is less than the full allowable term pursuant to this Section.
- d) The Agency must review each RCRA permit for a land disposal facility no later than five years after the date of permit issuance or reissuance, and the Agency must modify the permit as necessary, as provided in Section 702.183 and 702.184.

BOARD NOTE: Derived from 40 CFR 144.36 and 270.50 (2011).

(Source: Amended at 36 Ill. Reg. 1588, January 20, 2012)

Section 702.162 Schedules of Compliance

The permit may, when appropriate, specify a schedule of compliance leading to compliance with the appropriate act and regulations.

- a) Time for compliance. Any schedules of compliance pursuant to this Section must require compliance as soon as possible. For UIC, in addition, schedules of compliance must require compliance not later than three years after the effective date of the permit.
- b) Interim dates. If a permit establishes a schedule of compliance that exceeds one year from the date of permit issuance, the schedule must set forth interim requirements and the dates for their achievement.
 - 1) The time between interim dates must not exceed one year.
 - 2) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit must specify interim dates for the submission of reports of progress toward compliance of the interim requirements and indicate a projected completion date.
- c) Reporting. A RCRA permit must be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee must notify the Agency in writing of its compliance or noncompliance with the interim or final requirements. A UIC permit must be written to require that if subsection (a) of this Section is applicable progress reports be submitted no later than 30 days following each interim date and the final date of compliance.
- d) The Agency may not permit a schedule of compliance involving violation of regulations adopted by the Board unless the permittee has been granted a

variance. To avoid delay, an applicant seeking a schedule of compliance should file a variance petition pursuant to Subpart B of 35 Ill. Adm. Code 104 at the same time the permit application is filed.

BOARD NOTE: Derived from 40 CFR 144.53(a) and 270.33(a) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.163 Alternative Schedules of Compliance

A RCRA or UIC permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment or storage HWM facilities, by closing pursuant to applicable requirements; for disposal HWM facilities, by closing and conducting post-closure care pursuant to applicable requirements; or, for UIC wells, by plugging and abandonment), rather than continuing to operate and meet permit requirements as follows:

- a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit that has already been issued, either of the following must occur:
 - 1) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or
 - 2) The permittee must cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
- b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit must contain a schedule leading to termination that will ensure timely compliance with applicable requirements.
- c) If the permittee is undecided whether to cease conducting regulated activities, the Agency may issue or modify a permit to contain two alternative schedules, as follows:
 - 1) Both schedules must contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
 - 2) One schedule must lead to timely compliance with applicable requirements;
 - 3) The second schedule must lead to cessation of regulated activities by a date that will ensure timely compliance with applicable requirements.

- 4) Each permit containing two alternative schedules must include a requirement that, after the permittee has made a final decision pursuant to subsection (c)(1) of this Section, it must follow the schedule leading to compliance, if the decision is to continue conducting regulated activities, or follow the schedule leading to termination, if the decision is to cease conducting regulated activities.
- d) The applicant's or permittee's decision to cease conducting regulated activities must be evidenced by a firm public commitment satisfactory to the Agency, such as a written resolution of the board of directors of a corporation.

BOARD NOTE: Derived from 40 CFR 144.53(b) and 270.33(b) (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.164 Recording and Reporting

A permit must specify the following:

- a) Requirements as to the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods, when appropriate);
- b) Required monitoring, including type, intervals, and frequency sufficient to yield data that are representative of the monitored activity including, when appropriate, continuous monitoring; and
- c) Applicable reporting requirements based on the impact of the regulated activity and as specified in 35 Ill. Adm. Code 724 (RCRA) and 35 Ill. Adm. Code 730 (UIC). Reporting must be no less frequent than specified in the above regulations.

BOARD NOTE: Derived from 40 CFR 144.54 and 270.31 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

SUBPART D: ISSUED PERMITS

Section 702.181 Effect of a Permit

- a) The existence of a RCRA or UIC permit does not constitute a defense to a violation of the Environmental Protection Act or this Subtitle G, except for prohibitions against development, modification, or operation without a permit. A permit may be modified or reissued during its term for cause, as set forth in Subpart G of 35 Ill. Adm. Code 703 (RCRA) or Subpart H of 35 Ill. Adm. Code 704 (UIC) and Section 702.186, or a permit may be modified upon the request of the permittee, as provided by 35 Ill. Adm. Code 703.280 through 703.283.

BOARD NOTE: 40 CFR 270.4(a) differs from this subsection (a) in two significant aspects: (1) 40 CFR 270.4(a)(1) states that compliance with the permit is compliance with federal law; and (2) 40 CFR 270.4(a)(1)(i) through (a)(1)(iv) enumerate exceptions when compliance with the permit can violate federal law. The exceptions under which compliance with a permit can violate federal law are the following intervening events: (1) new or amended statutory requirements; (2) new or amended 40 CFR 268 land disposal restrictions; (3) the adoption of the 40 CFR 264 leak detection requirements; and (4) the adoption of the air emissions limitations of subparts AA, BB, and CC of 40 CFR 265. By not codifying the federal exceptions, since they are not necessary in the Illinois program to accomplish the intended purpose, the Board does not intend to imply that compliance with a RCRA permit obviates immediate compliance with any of the events included in the federal exceptions.

- b) The issuance of a permit does not convey property rights of any sort, nor does issuance convey any exclusive privilege.
- c) The issuance of a permit does not authorize injury to persons or property or invasion of other private rights, nor does issuance authorize any infringement of State or local law or regulations, except as noted in subsection (a) of this Section.

BOARD NOTE: Derived from 40 CFR 144.35 and 40 CFR 270.4 (2010).

(Source: Amended at 35 Ill. Reg. 17647, effective October 14, 2011)

Section 702.182 Transfer

For RCRA, see 35 Ill. Adm. Code 703.260. For UIC, see 35 Ill. Adm. Code 704.260.

(Source: Amended at 14 Ill. Reg. 3089, effective February 20, 1990)

Section 702.183 Modification

For RCRA, see 35 Ill. Adm. Code 703.270. For UIC, see 35 Ill. Adm. Code 704.261.

(Source: Amended at 14 Ill. Reg. 3089, effective February 20, 1990)

Section 702.184 Causes for Modification

For RCRA, see 35 Ill. Adm. Code 703.271 and 703.272. For UIC, see 35 Ill. Adm. Code 704.262.

(Source: Amended at 14 Ill. Reg. 3089, effective February 20, 1990)

Section 702.185 Facility Siting

For RCRA, see 35 Ill. Adm. Code 703.273. For UIC, see 35 Ill. Adm. Code 704.263.

(Source: Amended at 14 Ill. Reg. 3089, effective February 20, 1990)

Section 702.186 Revocation

The Board will revoke a permit during its term in accordance with Title VIII of the Environmental Protection Act [415 ILCS 5/Title VIII] for the following causes:

- a) The permittee's violation of the Environmental Protection Act [415 ILCS 5] or regulations adopted thereunder;
- b) Noncompliance by the permittee with any condition of the permit;
- c) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, reissuance, or revocation.

BOARD NOTE: Derived from 40 CFR 270.43 and 144.40 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.187 Minor Modifications

For RCRA, see 35 Ill. Adm. Code 703.280. For UIC, see 35 Ill. Adm. Code 704.264.

(Source: Amended at 14 Ill. Reg. 3089, effective February 20, 1990)