

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: UIC Permit Program
- 2) Code Citation: 35 Ill. Adm. Code 704

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
704.101	Amendment
704.102	Amendment
704.106	Amendment
704.122	Amendment
704.123	Amendment
704.124	Amendment
704.129	Amendment
704.141	Amendment
704.142	Amendment
704.145	Amendment
704.147	Amendment
704.148	Amendment
704.149	Amendment
704.150	Amendment
704.161	Amendment
704.162	Amendment
704.163	Amendment
704.181	Amendment
704.186	Amendment
704.189	Amendment
704.192	Amendment
704.193	Amendment
704.202	Amendment
704.212	Amendment
704.214	Amendment
704.215	Amendment
704.216	Amendment
704.218	Amendment
704.219	Amendment
704.260	Amendment
704.263	Amendment
704.279	Amendment
704.282	Amendment
704.283	Amendment
704.284	Amendment

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704.285	Amendment
704.286	Amendment
704.287	Amendment
704.288	Amendment
704.289	Amendment

- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 704 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 702 through 705, 720, and 721. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 704 make several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 7) Does this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2016)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

Michael J. McCambridge
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312/814-6924
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Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2016)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2016)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2016)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018.

The full text of the Proposed Amendments begins on the next page:

1ST NOTICE VERSION

JCAR350704-1809774r01

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER b: PERMITS
5

6 PART 704
7 UIC PERMIT PROGRAM
8

9 SUBPART A: GENERAL PROVISIONS
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15	704.104	Exempted Aquifers
16	704.105	Specific Inclusions and Exclusions
17	704.106	Classification of Injection Wells
18	704.107	Definitions
19	704.108	Electronic Reporting

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26	704.123	Identification of USDWs and Exempted Aquifers
27	704.124	Prohibition Against Class IV Injection Wells
28	704.125	Prohibition Against Non-Experimental Class V Injection Wells for Geologic Sequestration
29		
30	704.128	Requirements for Class VI Injection Wells
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37	704.142	Prohibitions Against Injection into Wells Authorized by Rule
38	704.143	Expiration of Authorization
39	704.144	Requirements
40	704.145	Existing Class IV Injection Wells
41	704.146	Class V Injection Wells
42	704.147	Requiring a Permit
43	704.148	Inventory Requirements

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- 44 704.149 Requiring other Information
- 45 704.150 Requirements for Class I and III Injection Wells Authorized by Rule
- 46 704.151 RCRA Interim Status for Class I Injection Wells

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48 SUBPART D: APPLICATION FOR PERMIT

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- 51 704.161 Application for Permit; Authorization by Permit
- 52 704.162 Area Permits
- 53 704.163 Emergency Permits
- 54 704.164 Signatories to Permit Applications

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- 60 704.182 Establishing UIC Permit Conditions
- 61 704.183 Construction Requirements
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- 64 704.186 Hazardous Waste Requirements
- 65 704.187 Monitoring and Reporting
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- 70 704.192 Waiver of Requirements by Agency
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74 SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

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103

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704.264

Minor Modifications

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112

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113

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General

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704.280

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704.281

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704.282

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704.283

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704.284

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704.286

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704.287

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122

704.288

Additional Requirements

123

704.289

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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].

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127

128

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-

129

19, at 7 Ill. Reg. 14402, effective March 3, 1984; amended in R83-39, at 55 PCB 319, at 7 Ill.

130 Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 Ill. Reg. 13290, effective
 131 July 29, 1986; amended in R87-29 at 12 Ill. Reg. 6687, effective March 28, 1988; amended in
 132 R88-2 at 12 Ill. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 Ill. Reg. 478,
 133 effective December 30, 1988; amended in R89-2 at 14 Ill. Reg. 3116, effective February 20,
 134 1990; amended in R94-17 at 18 Ill. Reg. 17641, effective November 23, 1994; amended in R94-
 135 5 at 18 Ill. Reg. 18351, effective December 20, 1994; amended in R00-11/R01-1 at 24 Ill. Reg.
 136 18612, effective December 7, 2000; amended in R01-30 at 25 Ill. Reg. 11139, effective August
 137 14, 2001; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 605, effective December 20, 2006;
 138 amended in R11-14 at 36 Ill. Reg. 1613, effective January 20, 2012; amended in R13-15 at 37 Ill.
 139 Reg. 17708, effective October 24, 2013; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg.
 140 _____, effective _____.

142 **SUBPART A: GENERAL PROVISIONS**

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 144 **Section 704.101 Content**

145
 146 The regulations in this Subpart A set forth the specific requirements for the UIC (Underground
 147 Injection Control) permit program. These rules are intended to implement the UIC permit
 148 requirement of Section 12(g) of the ~~Environmental Protection Act (Act)~~ [415 ILCS 5/12(g)].
 149 These rules are intended to be identical in substance to United States Environmental Protection
 150 Agency (USEPA) rules found in 40 CFR 144. The regulations in this Subpart A are
 151 supplemental to the requirements in 35 Ill. Adm. Code 702, which contains requirements for
 152 both the RCRA and UIC permit programs. Operating requirements for injection wells are
 153 included in 35 Ill. Adm. Code 730.

154
 155 BOARD NOTE: Derived from 40 CFR 144.1(20172005).

156
 157 (Source: Amended at 42 Ill. Reg. _____, effective _____)

158
 159 **Section 704.102 Scope of the Permit or Rule Requirement**

160
 161 Although six classes of wells are set forth in Section 704.106, the UIC (Underground Injection
 162 Control) permit program described in 35 Ill. Adm. Code 702, 704, 705, and 730 regulates
 163 underground injection for only five classes of wells (see definition of "well injection," 35 Ill.
 164 Adm. Code 702.110). Class II wells (Section 704.106(b)) are not subject to the requirements
 165 found in 35 Ill. Adm. Code 702, 704, 705, and 730. The UIC permit program for Class II wells is
 166 regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, Oil
 167 and Gas Division, pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm.
 168 Code 240). The owner or operator of a Class I, Class III, Class IV, or Class V injection well
 169 must be authorized either by permit or by rule. In carrying out the mandate of the SDWA, this
 170 Part provides that no injection may be authorized by permit or by rule if it results in movement
 171 of fluid containing any contaminant into underground sources of drinking water (USDWs)
 172 (Section 704.122), if the presence of that contaminant may cause a violation of any primary

173 drinking water regulation under 35 Ill. Adm. Code 611, or if the presence of that contaminant
174 may adversely affect the health of persons (Section 704.122). Section 704.124 prohibits the
175 construction, operation, or maintenance of a Class IV injection well. A Class V injection well is
176 regulated under Subpart I ~~of this Part~~. If remedial action appears necessary for a Class V
177 injection well, an individual permit may be required (Subpart C ~~of this Part~~) or the Agency must
178 require remedial action or closure by order (see Section 704.122(c)).
179

180 BOARD NOTE: Derived from 40 CFR 144.1(g) preamble (20172011).

181
182 (Source: Amended at 42 Ill. Reg. _____, effective _____)
183

184 **Section 704.106 Classification of Injection Wells**

185

186 Injection wells are classified as follows:

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188 a) Class I injection wells. Any of the following is a Class I injection well:

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190 1) A well used by a generator of hazardous waste or the owner or operator of
191 a hazardous waste management facility to inject hazardous waste beneath
192 the lowermost formation containing a USDW within 402 meters (one-
193 quarter mile) of the well bore.

194

195 2) Any other industrial and municipal disposal well that injects fluids beneath
196 the lowermost formation containing a USDW within 402 meters (one-
197 quarter mile) of the well bore.

198

199 3) A radioactive waste disposal well that injects fluids below the lowermost
200 formation containing a USDW within 402 meters (one-quarter mile) of the
201 well bore.

202

203 b) Class II injection wells. Any well that injects any of the following fluids is a
204 Class II injection well:

205

206 1) Fluids that are brought to the surface in connection with natural gas
207 storage operations, or conventional oil or natural gas production, and
208 which may be commingled with waste waters from gas plants that are an
209 integral part of production operations, unless those waters are classified as
210 a hazardous waste at the time of injection;

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212 2) Fluids injected for enhanced recovery of oil or natural gas; and

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214 3) Fluids injected for storage of hydrocarbons that are liquid at standard
215 temperature and pressure.

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- 2) An injection well that is used for geologic sequestration of carbon dioxide which has been granted a permit that includes alternative injection well depth requirements pursuant to Section 730.195; or
 - 3) An injection well that is used for geologic sequestration of carbon dioxide which has received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 704.123(d) and 35 Ill. Adm. Code 730.104.

269 BOARD NOTE: Derived from 40 CFR 144.6 (20172011).

270
271 (Source: Amended at 42 Ill. Reg. _____, effective _____)

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273 SUBPART B: PROHIBITIONS

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275 **Section 704.122 Prohibition Against Movement of Fluid into USDW**

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- a) No owner or operator may construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into a USDW, if the presence of that contaminant could cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR 141) or could otherwise adversely affect the health of persons. The applicant for a permit has the burden of showing that the requirement of this subsection (a) is met.
 - b) For a Class I, III, or VI injection well, if any water quality monitoring of a USDW indicates the movement of any contaminant into the USDW, except as authorized under 35 Ill. Adm. Code 730, the Agency must prescribe such additional requirements for construction, corrective action, operation, monitoring or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of a well authorized by permit, these additional requirements must be imposed by modifying the permit in accordance with 35 Ill. Adm. Code 702.183 through 702.185, or appropriate enforcement action may be taken if the permit has been violated, and the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists. In the case of wells authorized by rule, see Section 704.141 through 704.146.
 - c) For a Class V injection well, if at any time the Agency learns that a Class V injection well could cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR 141), it must undertake one of the following actions:

- 302 1) It must require the injector to obtain an individual permit;
- 303
- 304 2) It must issue a permit that requires the injector to take such actions
- 305 (including, where necessary, closure of the injection well) as may be
- 306 necessary to prevent the violation; or
- 307
- 308 3) It may initiate enforcement action.
- 309
- 310 d) Whenever the Agency learns that a Class V injection well may be otherwise
- 311 adversely affecting the health of persons, it may prescribe such actions as may be
- 312 necessary to prevent the adverse effect, including any action authorized under
- 313 subsection (c) of this Section.
- 314
- 315 e) Notwithstanding any other provision of this Section, the Agency may take
- 316 emergency action upon receipt of information that a contaminant that is present in
- 317 or is likely to enter a public water system or a USDW may present an imminent
- 318 and substantial endangerment to the health of persons. The Agency may declare
- 319 an emergency and affix a seal pursuant to Section 34 of the Act ~~[415 ILCS 5/34]~~.
- 320

BOARD NOTE: Derived from 40 CFR 144.12 (20172014).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.123 Identification of USDWs and Exempted Aquifers

- 325 a) The Agency may identify (by narrative description, illustrations, maps, or other
- 326 means) and must protect as a USDW, any aquifer or part of an aquifer that meets
- 327 the definition of a USDW set forth in 35 Ill. Adm. Code 702.110, except as one of
- 328 the exceptions of subsections (a)(1) and (a)(2) of this Section applies. Other than
- 329 Agency-approved aquifer exemption expansions that meet the criteria set forth in
- 330 35 Ill. Adm. Code 730.104, a new aquifer exemption must not be issued for a
- 331 Class VI injection well. Even if an aquifer has not been specifically identified by
- 332 the Agency, it is a USDW if it meets the definition in 35 Ill. Adm. Code 702.110.
- 333 Identification of USDWs must be made according to criteria adopted by the
- 334 Agency pursuant to 35 Ill. Adm. Code 702.106.
- 335
- 336 1) The Agency may not identify an aquifer or part of an aquifer as a USDW
- 337 to the extent that there is an applicable aquifer exemption under subsection
- 338 (b) of this Section.
- 339
- 340 2) The Agency may not identify an aquifer or part of an aquifer as a USDW
- 341 to the extent that the aquifer or part of an aquifer is an expansion to the
- 342 areal extent of an existing Class II enhanced oil recovery or is subject to
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- c) Class III injection wells. Any well that injects fluids for the extraction of minerals, including the following:
 - 1) The mining of sulfur by the Frasch process;
 - 2) The in-situ production of uranium or other metals. This category includes only in-situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included as a Class V injection well; and
 - 3) Solution mining of salts or potash.
- d) Class IV injection wells. Any of the following is a Class IV injection well:
 - 1) A well used by a generator of hazardous waste or of radioactive waste, by the owner or operator of a hazardous waste management facility or by the owner or operator of a radioactive waste disposal site to dispose of hazardous wastes or radioactive wastes into a formation that contains a USDW within 402 meters (one-quarter mile) of the well.
 - 2) A well used by a generator of hazardous waste or of radioactive waste, by the owner or operator of a hazardous waste management facility, or by the owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste above a formation that contains a USDW within 402 meters (one-quarter mile) of the well.
 - 3) A well used by a generator of hazardous waste or the owner or operator of a hazardous waste management facility to dispose of hazardous waste that cannot be classified under any of subsections (a)(1), (d)(1), or (d)(2) of this Section (e.g., a well that is used to dispose of hazardous waste into or above a formation that contains an aquifer that has been exempted pursuant to 35 Ill. Adm. Code 730.104).
- e) Class V injection wells. Any injection well that is not classified as a Class I, II, III, IV, or VI injection well. Section 704.281 describes specific types of Class V injection wells.
- f) Class VI injection wells.
 - 1) An injection well that is not experimental in nature which is used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW;

345 an enhanced gas recovery aquifer exemption for the exclusive purpose of
 346 Class VI injection for geologic sequestration under subsection (d) of this
 347 Section.
 348

349 b) Identification of an exempted aquifer.

- 351 1) The Agency may identify (by narrative description, illustrations, maps, or
 352 other means) and describe in geographic or geometric terms (such as
 353 vertical and lateral limits and gradient) that are clear and definite, any
 354 aquifer or part of an aquifer that the Agency desires the Board to designate
 355 as an exempted aquifer using the criteria in 35 Ill. Adm. Code 730.104, as
 356 described in this subsection (b).
 357
- 358 2) No designation of an exempted aquifer may be final until approved by
 359 USEPA as part of the State program.
 360
- 361 3) Subsequent to program approval, the Board may identify additional
 362 exempted aquifers.
 363
- 364 4) Identification of exempted aquifers must be by rulemaking pursuant to 35
 365 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act [415
 366 HCS 5/27 and 28], considering the criteria set forth in 35 Ill. Adm. Code
 367 730.104.
 368

369 c) For a Class III injection well, an applicant for a permit that necessitates an aquifer
 370 exemption under 35 Ill. Adm. Code 730.104(b)(1) must furnish the data necessary
 371 to demonstrate that the aquifer is expected to be mineral or hydrocarbon
 372 producing. Information contained in the mining plan for the proposed project,
 373 such as a map and general description of the mining zone, general information on
 374 the mineralogy and geochemistry of the mining zone, analysis of the amenability
 375 of the mining zone to the proposed mining method, and a timetable of planned
 376 development of the mining zone must be considered by the Board in addition to
 377 the information required by Section 704.161(c). Approval of the exempted
 378 aquifer must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105
 379 and Sections 27 and 28 of the Act [415 HCS 5/27 and 28]. Rules will not
 380 become final until approved by USEPA as a program revision.
 381

382 d) Expansion to the Areal Extent of Existing Class II Aquifer Exemptions for Class
 383 VI Wells. The owner or operator of a Class II enhanced oil recovery or enhanced
 384 gas recovery well may request that the Agency approve an expansion to the areal
 385 extent of an aquifer exemption already in place for a Class II enhanced oil
 386 recovery or enhanced gas recovery well for the exclusive purpose of Class VI
 387 injection for geologic sequestration. A request for areal expansion must be

388 treated as a revision to the applicable federal UIC program under 40 CFR 147 or
 389 as a substantial program revision to an approved state UIC program under 40 CFR
 390 145.32 and will not be final until approved by USEPA.
 391

- 392 1) The request for an expansion of the areal extent of an existing aquifer
 393 exemption for the exclusive purpose of Class VI injection for geologic
 394 sequestration must define (by narrative description, illustrations, maps, or
 395 other means) and describe in geographic or geometric terms (such as
 396 vertical and lateral limits and gradient) that are clear and definite, all
 397 aquifers or parts of aquifers that are requested to be designated as
 398 exempted using the criteria in 35 Ill. Adm. Code 730.104.
 399
- 400 2) In making a determination to expand the areal extent of an aquifer
 401 exemption of a Class II enhanced oil recovery or enhanced gas recovery
 402 well for the purpose of Class VI injection, the Agency must determine that
 403 the request meets the criteria for exemptions in 35 Ill. Adm. Code
 404 730.104. In evaluating a request, the Agency must consider:
 405
- 406 A) Any current and potential future use of the USDWs to be exempted
 407 as drinking water resources;
 408
 - 409 B) The predicted extent of the injected carbon dioxide plume, and any
 410 mobilized fluids that may result in degradation of water quality,
 411 over the lifetime of the geologic sequestration project, as informed
 412 by computational modeling performed pursuant to 35 Ill. Adm.
 413 Code 730.184(c)(1), in order to ensure that the proposed injection
 414 operation will not at any time endanger USDWs including non-
 415 exempted portions of the injection formation;
 416
 - 417 C) Whether the areal extent of the expanded aquifer exemption is of
 418 sufficient size to account for any possible revisions to the
 419 computational model during reevaluation of the area of review,
 420 pursuant to 35 Ill. Adm. Code 730.184(e); and
 421
 - 422 D) Any information submitted to support a request by the owner or
 423 operator for a permit that includes alternative injection well depth
 424 requirements pursuant to 35 Ill. Adm. Code 730.195, if
 425 appropriate.
 426

427 BOARD NOTE: Derived from 40 CFR 144.7 (20172014).

428 (Source: Amended at 42 Ill. Reg. _____, effective _____)
 429
 430

431 **Section 704.124 Prohibition Against Class IV Injection Wells**

- 432
- 433 a) The following are prohibited, except as provided in subsection (c) of this Section:
- 434
- 435 1) The construction of any Class IV injection well.
- 436
- 437 2) The operation or maintenance of any Class IV injection well.
- 438
- 439 3) Any increase in the amount of hazardous waste or change in the type of
- 440 hazardous waste injected into a Class IV injection well.
- 441
- 442 b) A Class IV injection well must comply with the requirements of Section 704.203
- 443 and the Class IV injection well closure requirements of Section 704.145.
- 444
- 445 c) A well used to inject contaminated groundwater that has been treated and is being
- 446 reinjected into the same formation from which it was originally drawn is not
- 447 prohibited by this Section if such injection is approved by the Agency pursuant to
- 448 provisions in the Act for preventive or corrective action, by the USEPA pursuant
- 449 to provisions for cleanup of releases under the Comprehensive Environmental
- 450 Response Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9601 et
- 451 seq.), by USEPA pursuant to requirements and provisions under the Resource
- 452 Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.), or by the
- 453 Agency pursuant to Section 39 of the Act [415 ILCS 5/39].
- 454
- 455 d) Clarification. This Section does not prohibit any of the following injection wells:
- 456
- 457 1) A well used to inject hazardous waste into an aquifer or a portion of an
- 458 aquifer that has been exempted pursuant to 35 Ill. Adm. Code 730.104 if
- 459 the exempted aquifer into which waste is injected underlies the lowermost
- 460 formation containing a USDW. Such a well is a Class I injection well, as
- 461 specified in Section 704.106(a)(1), and the owner or operator must comply
- 462 with the requirements applicable to a Class I injection well.
- 463
- 464 2) A well used to inject hazardous waste where no USDW exists within one
- 465 quarter mile of the well bore in any underground formation, provided that
- 466 the Agency determines that such injection is into a formation sufficiently
- 467 isolated to ensure that injected fluids do not migrate from the injection
- 468 zone. Such a well is a Class I injection well, as specified in Section
- 469 704.106(a)(1), and the owner or operator must comply with the
- 470 requirements applicable to a Class I injection well.
- 471

472 BOARD NOTE: Derived from 40 CFR 144.13 (20172005).

473

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.129 Transitioning from a Class II Injection Well to a Class VI Injection Well

a) The owner or operator of a Class II injection well that is injecting carbon dioxide into an oil and gas reservoir for the primary purpose of long-term storage must apply for and obtain a Class VI injection well geologic sequestration permit when there is an increased risk to a USDW compared to usual Class II injection well operations. In determining if there is an increased risk to a USDW, the owner or operator must consider the factors specified for Agency consideration in subsection (b) ~~of this Section~~.

b) The Agency must determine when there is an increased risk to a USDW from injecting carbon dioxide into an oil and gas reservoir for the primary purpose of long-term storage compared to usual Class II injection well operations and that a Class VI injection well permit is required. In order to make this determination, the Agency must consider the following factors:

- 1) Any increase in reservoir pressure within the injection zones;
- 2) Any increase in carbon dioxide injection rates;
- 3) Any decrease in reservoir production rates;
- 4) The distance between the injection zones and USDWs;
- 5) The suitability of the Class II injection well area of review delineation;
- 6) The quality of abandoned well plugs within the area of review;
- 7) The owner's or operator's plan for recovery of carbon dioxide after the cessation of injection;
- 8) The source and properties of injected carbon dioxide; and
- 9) Any additional site-specific factors that the Agency determines are necessary to determine whether the injection poses greater risk than usual Class II operations.

BOARD NOTE: Derived from 40 CFR 144.19 (20172014).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section 704.141 Existing Class I and III Injection Wells

Authorization by rule is no longer possible for Class I or Class III injection wells. The owners or operators of Class I and Class III injection wells were required by 40 CFR 144.21(c)(8)(i) to submit a permit application before March 3, 1989 (five years after the effective date of USEPA authorization of the Illinois program).

a) ~~Injection into an existing Class I or Class III injection well is authorized by rule if the owner or operator fulfills either of the conditions of subsection (a)(1) or (a)(2) of this Section, subject to subject (a)(3) of this Section:~~

~~1) It injected into the existing well within one year after March 3, 1984, or~~

~~2) It inventories the well pursuant to Section 704.148.~~

~~3) The owner or operator of a well that is authorized by rule pursuant to this Section must rework, operate, maintain, convert, plug, abandon, or inject into the well in compliance with applicable regulations.~~

b) ~~Class III injection wells in existing fields or projects. Notwithstanding the prohibition in Section 704.121, this Section authorizes Class III injection wells or projects in existing fields or projects to continue normal operations until permitted, including construction, operation, and plugging and abandonment of wells as part of the operation provided the owner or operator maintains compliance with all applicable requirements.~~

BOARD NOTE: Derived from 40 CFR 144.21(a) and (d) (2017)-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.142 Prohibitions Against Injection into Wells Authorized by Rule

An owner or operator of a well authorized by rule pursuant to this Subpart C is prohibited from injecting into the well on the occurrence of any of the following:

a) Upon the effective date of an applicable permit denial;

b) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;

c) Upon a failure to submit inventory information in a timely manner pursuant to

560 Section 704.148;

- 561
- 562 d) Upon a failure to comply with a request for information in a timely manner
- 563 pursuant to Section 704.149;
- 564
- 565 e) Upon a failure to provide alternative financial assurance pursuant to Section
- 566 704.150(d)(6);
- 567
- 568 f) 48 hours after receipt of a determination by the Agency pursuant to Section
- 569 704.150(f)(3) that the well lacks mechanical integrity, unless the Agency orders
- 570 immediate cessation pursuant to Section 34 of the Act or as ordered by a court
- 571 pursuant to Section 43 of the Act ~~[415 ILCS 5/43]; or~~
- 572
- 573 g) Upon receipt of notification from the Agency that the transferee has not
- 574 demonstrated financial assurance pursuant to Section 704.150(d);
- 575
- 576 h) ~~For Class I and Class III injection wells: after March 3, 1989, unless a timely and~~
- 577 ~~complete permit application for a permit was pending the Agency's decision; or~~
- 578
- 579 i) ~~This subsection (i) corresponds with 40 CFR 144.21(c)(9), a provision related to~~
- 580 ~~Class II injection wells, which are regulated by the Illinois Department of Natural~~
- 581 ~~Resources, Office of Mines and Minerals, and not by the Board. This statement~~
- 582 ~~maintains structural consistency with USEPA rules.~~

583

584 BOARD NOTE: Derived from 40 CFR 144.21(c) (20172011).

585

586 (Source: Amended at 42 Ill. Reg. _____, effective _____)

587

588 **Section 704.145 Existing Class IV Injection Wells**

589

- 590 a) Injection into a Class IV injection well, as defined in Section 704.106(d)(1), is not
- 591 authorized. The owner or operator of any such well must comply with Sections
- 592 704.124 and 704.203.
- 593
- 594 b) Closure.
- 595
- 596 1) Prior to abandoning any Class IV injection well, the owner or operator
- 597 must plug or otherwise close the well in a manner acceptable to the
- 598 Agency.
- 599
- 600 2) ~~The~~ By September 27, 1986, the owner and operator of any Class IV
- 601 injection well must submit ~~was to have submitted~~ to the Agency a plan for
- 602 plugging or otherwise closing and abandoning the well.

- 603
604 3) The owner or operator of a Class IV injection well must notify the Agency
605 of intent to abandon the well at least 30 days prior to abandonment.
606
607 c) Notwithstanding subsections (a) and (b) ~~of this Section~~, an injection well that is
608 used to inject contaminated groundwater that has been treated and which is being
609 injected into the same formation from which it was drawn is authorized by rule
610 for the life of the well if such subsurface emplacement of fluids is approved by
611 USEPA pursuant to provisions for cleanup of releases under the Comprehensive
612 Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)
613 (42 USC 9601 et seq.), by USEPA pursuant to requirements and provisions under
614 the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.), or
615 by ~~the~~ the Agency pursuant to Section 39 of the Act ~~[415 ILCS 5/39]~~.

616
617 BOARD NOTE: Derived from 40 CFR 144.23 (20172005).

618
619 (Source: Amended at 42 Ill. Reg. _____, effective _____)
620

621 **Section 704.147 Requiring a Permit**
622

- 623 a) The Agency may require the owner or operator of any ~~Class I, Class III, or Class~~
624 V injection well that is authorized by rule under this Subpart C to apply for and
625 obtain an individual or area UIC permit. Cases where individual or area UIC
626 permits may be required include the following:
627
628 1) The injection well is not in compliance with any requirement of this
629 Subpart C;
630
631 BOARD NOTE: Any underground injection that violates any rule under
632 this Subpart C is subject to appropriate enforcement action.
633
634 2) The injection well is not or no longer is within the category of wells and
635 types of well operations authorized in the rule;
636
637 3) The protection of USDWs requires that the injection operation be
638 regulated by requirements, such as for corrective action, monitoring and
639 reporting, or operation, that are not contained in this Subpart C; ~~or~~
640
641 4) ~~When the injection well is a Class I or Class III injection well, in~~
642 ~~accordance with a schedule established by the Agency pursuant to Section~~
643 ~~704.161(b).~~
644
645 b) The Agency may require the owner or operator of any well that is authorized by

646 rule under this Subpart C to apply for an individual or area UIC permit under this
647 subsection (b) only if the owner or operator has been notified in writing that a
648 permit application is required. The owner or operator of a well that is authorized
649 by rule is prohibited from injecting into the well on the occurrence of either of the
650 circumstances of subsection (b)(1) or (b)(2) ~~of this Section~~ subject to subsection
651 (b)(3) ~~of this Section~~.

- 652
- 653 1) Upon the effective date of a permit denial; or
 - 654
 - 655 2) Upon the failure of the owner or operator to submit an application in a
656 timely manner as specified in the notice.
 - 657
 - 658 3) The notice must include all of the following:
 - 659 A) A brief statement of the reasons for this decision;
 - 660
 - 661 B) An application form;
 - 662
 - 663 C) A statement setting a time for the owner or operator to file the
664 application; and
 - 665
 - 666 D) A statement of the consequences of denial or issuance of the
667 permit, or failure to submit an application, as described in this
668 subsection (b).
 - 669
 - 670
 - 671 c) An owner or operator of a well that is authorized by rule may request to be
672 excluded from the coverage of the rule by applying for an individual or area UIC
673 permit. The owner or operator must submit to the Agency an application under
674 Section 704.161 with reasons supporting the request. The Agency may grant any
675 such request.
 - 676

677 BOARD NOTE: Derived from 40 CFR 144.25 (20172005).

678
679 (Source: Amended at 42 Ill. Reg. _____, effective _____)

680
681 **Section 704.148 Inventory Requirements**

682
683 The owner or operator of an injection well that is authorized by rule under this Subpart C must
684 submit inventory information to the Agency. Such an owner or operator is prohibited from
685 injecting into the well upon failure to submit inventory information for the well to the Agency
686 within the time frame specified in subsection (d) ~~of this Section~~.

- 687
688 a) Contents. As part of the inventory, the owner or operator must submit at least the

689 following information:

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- 1) The facility name and location;
- 2) The name and address of legal contact;
- 3) The ownership of facility;
- 4) The nature and type of injection wells; and
- 5) The operating status of injection wells.

BOARD NOTE: This information is requested on national form "Inventory of Injection Wells," USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

b) Additional contents. The owner or operator of a well listed in subsection (b)(1) of this Section must provide the information listed in subsection (b)(2) of this Section.

- 1) This Section applies to the following wells:
 - A) Corresponding 40 CFR 144.26(b)(1)(i) pertains to Class II injection wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;
 - B) Class IV injection wells;
 - C) The following types of Class V injection wells:
 - i) A sand or other backfill well, 35 Ill. Adm. Code 730.105(e)(8);
 - ii) A radioactive waste disposal well that is not a Class I injection well, 35 Ill. Adm. Code 730.105(e)(11);
 - iii) A geothermal energy recovery well, 35 Ill. Adm. Code 730.105(e)(12);
 - iv) A brine return flow well, 35 Ill. Adm. Code 730.105(e)(14);

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- v) A well used in an experimental technology, 35 Ill. Adm. Code 730.105(e)(15);
 - vi) A municipal or industrial disposal well other than a Class I injection well; and
 - vii) Any other Class V injection well, at the discretion of the Agency.
- 2) The owner or operator of a well listed in subsection (b)(1) ~~of this Section~~ must provide a listing of all wells owned or operated setting forth the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)
- A) Corresponding 40 CFR 144.26(b)(2)(i) pertains to Class II wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act ~~[225 ILCS 725]~~ (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;
 - B) The location of each well or project given by Township, Range, Section, and Quarter-Section;
 - C) The date of completion of each well;
 - D) Identification and depth of the formations into which each well is injecting;
 - E) The total depth of each well;
 - F) The casing and cementing record, tubing size, and depth of packer;
 - G) The nature of the injected fluids;
 - H) The average and maximum injection pressure at the wellhead;
 - I) The average and maximum injection rate; and
 - J) The date of the last mechanical integrity tests, if any.
- c) This subsection (c) corresponds with 40 CFR 144.26(c), a provision relating to USEPA notification to facilities upon authorization of the state's program. This

- 775 statement maintains structural consistency with USEPA rules.
 776
 777 d) The owner or operator of a new Class V injection well must submit inventory
 778 information prior to starting injection~~Deadlines. The owner or operator of an~~
 779 ~~injection well must submit inventory information no later than March 3, 1985.~~
 780 ~~The Agency need not require inventory information from any facility with RCRA~~
 781 ~~interim status under 35 Ill. Adm. Code 703.~~
 782
 783 e) The owner or operator of a Class V injection well prohibited from injecting for
 784 failure to submit inventory information for the well may resume injection 90 days
 785 after submittal of the inventory information to the Agency, unless the owner or
 786 operator receives notice from the Agency that injection may not resume or that it
 787 may resume sooner.~~Deadlines for a Class V injection well.~~
 788
 789 1) ~~The owner or operator of a Class V injection well in which injection took~~
 790 ~~place before March 3, 1985, and who failed to submit inventory~~
 791 ~~information for the well within the time specified in subsection (d) of this~~
 792 ~~Section may resume injection 90 days after submittal of the inventory~~
 793 ~~information to the Agency, unless the owner or operator receives notice~~
 794 ~~from the Agency that injection may not resume or that it may resume~~
 795 ~~sooner.~~
 796
 797 2) ~~The owner or operator of a Class V injection well in which injection~~
 798 ~~started later than March 3, 1985, must submit inventory information prior~~
 799 ~~to May 2, 1995.~~
 800
 801 3) ~~The owner or operator of a Class V injection well in which injection~~
 802 ~~started after May 2, 1994 must submit inventory information prior to~~
 803 ~~starting injection.~~
 804
 805 4) ~~The owner or operator of a Class V injection well prohibited from~~
 806 ~~injecting for failure to submit inventory information for the well within the~~
 807 ~~time specified in subsection (e)(2) or (e)(3) of this Section may resume~~
 808 ~~injection 90 days after submittal of the inventory information to the~~
 809 ~~Agency, unless the owner or operator receives notice from the Agency that~~
 810 ~~injection may not resume, or that it may resume sooner.~~

811 BOARD NOTE: A well that was in existence as of March 3, 1984, was required
 812 to submit inventory information by March 3, 1985. Since all wells other than a
 813 Class V injection wells ~~are well~~ is now either prohibited or required to file a
 814 permit application, the inventory requirement will apply only to a new Class V
 815 injection ~~wells~~well.
 816
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818 BOARD NOTE: Derived from 40 CFR 144.26 (20172005).

819

820 (Source: Amended at 42 Ill. Reg. _____, effective _____)

821

822 **Section 704.149 Requiring other Information**

823

824 a) In addition to the inventory requirements of Section 704.148, the Agency may
825 require the owner or operator of any well authorized by rule under this Subpart C
826 to submit information as deemed necessary by the Agency to determine whether a
827 well may be endangering a USDW in violation of Section 704.122.

828

829 b) Such information requirements may include, but are not limited to the following:

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831 1) Performance of groundwater monitoring and the periodic submission of
832 reports of such monitoring;

833

834 2) An analysis of injected fluids, including periodic submission of such
835 analyses; and

836

837 3) A description of the geologic strata through and into which injection is
838 taking place.

839

840 c) Any request for information under this Section must be made in writing, and
841 include a brief statement of the reasons for requiring the information. An owner
842 or operator must submit the information within the time periods provided in the
843 notice.

844

845 d) An owner or operator of an injection well authorized by rule under this Subpart C
846 is prohibited from injecting into the well upon failure of the owner or operator to
847 comply with a request for information within the time period specified by the
848 Agency pursuant to subsection (c) of this Section. An owner or operator of a well
849 prohibited from injection under this Section may not resume injection, except
850 under a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or
851 704.163.

852

853 BOARD NOTE: Derived from 40 CFR 144.27 (20172005).

854

855 (Source: Amended at 42 Ill. Reg. _____, effective _____)

856

857 **Section 704.150 Requirements for Class I and III Injection Wells Authorized by Rule**

858

859 The following requirements apply to the owner or operator of a Class I or Class III well
860 authorized by rule under this Subpart C, as provided by Section 704.144.

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- a) The owner or operator must comply with all applicable requirements of this Subpart C and with Sections 704.121, 704.122, 704.124, 704.201, 704.202, and 704.203. Any noncompliance with these requirements constitutes a violation of the Act and SDWA and is grounds for enforcement action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under Section 704.163.

 - b) Twenty-four hour reporting. The owner or operator must report any noncompliance that may endanger health or the environment, including either of the events described in subsection (b)(1) or (b)(2) ~~of this Section~~, subject to the conditions of subsection (b)(3) ~~of this Section~~:
 - 1) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; or
 - 2) Any noncompliance or malfunction of the injection system that may cause fluid migration into or between USDWs.
 - 3) Any information must be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission must also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

 - c) Plugging and abandonment plan.
 - 1) The owner or operator must prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection (c), temporary intermittent cessation of injection operations is not abandonment.
 - 2) Submission of plan.
 - A) The owner or operator must submit the plan on any forms prescribed by the Agency.

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- B) The owner or operator must submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i) ~~of this Section~~ (i.e., 45 days prior to plugging, unless shorter notice is approved).

 - C) The plan must include the following information:
 - i) The nature and quantity and material to be used in plugging;
 - ii) The location and extent (by depth) of the plugs;
 - iii) Any proposed test or measurement to be made;
 - iv) The amount, size, and location (by depth) of casing to be left in the well;
 - v) The method and location where casing is to be parted; and
 - vi) The estimated cost of plugging the well.

 - D) After a cessation of operations of two years, the owner or operator must plug and abandon the well in accordance with the plan, unless the owner or operator performs both of the following actions:
 - i) It provides written notice to the Agency; and
 - ii) It describes actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger a USDW during the period of temporary abandonment. These actions and procedures must include compliance with the technical requirements applicable to active injection wells, unless the operator obtains regulatory relief in the form of a variance or adjusted standard from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the Act ~~[415 ILCS 5/Title IX]~~.

 - E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and which has met the requirements of subsections (c)(2)(D)(i) and (c)(2)(D)(ii) ~~of this Section~~) must notify the Agency in writing

prior to resuming operation of the well.

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- d) Financial responsibility.
 - 1) The owner or operator or transferor of a Class I or Class III injection well is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency until one of the following has occurred:
 - A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~of this Section~~ and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) ~~of this Section~~;
 - B) The well has been converted in compliance with subsection (j) ~~of this Section~~; or
 - C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator must show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.
 - 2) The owner or operator must submit evidence of financial responsibility to the Agency ~~was to have submitted such evidence no later than March 3, 1985. Where the ownership or operational control of the well is to transfer was transferred later than March 3, 1985, the transferee must submit such evidence no later than the date specified in the notice required pursuant to subsection (1)(2) of this Section.~~
 - 3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.
 - 4) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of Subpart G ~~of this Part~~.
 - 5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator

990 as debtor, within 10 business days after the commencement of the
 991 proceeding. Any party acting as guarantor for the owner or operator for
 992 the purpose of financial responsibility must so notify the Agency if the
 993 guarantor is named as debtor in any such proceeding.
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995 6) In the event of commencement of a proceeding specified in subsection
 996 (d)(5) ~~of this Section~~, an owner or operator that has furnished a financial
 997 statement for the purpose of demonstrating financial responsibility
 998 pursuant to this Section will be deemed to be in violation of this
 999 subsection (d) until an alternative financial assurance demonstration
 1000 acceptable to the Agency is provided either by the owner or operator or by
 1001 its trustee in bankruptcy, receiver, or other authorized party. All parties
 1002 must be prohibited from injecting into the well until such alternative
 1003 financial assurance is provided.
 1004

1005 e) This subsection (e) corresponds with 40 CFR 144.28(e), which pertains
 1006 exclusively to enhanced recovery and hydrocarbon storage wells (Class II wells).
 1007 Those wells are regulated by the Illinois Department of Natural Resources, Office
 1008 of Mines and Minerals, rather than by the Board and the Agency. This statement
 1009 maintains structural consistency with USEPA rules.
 1010

1011 f) Operating requirements.

1012 1) No person must cause or allow injection between the outermost casing
 1013 protecting USDWs and the well bore.
 1014

1015 2) Maintenance of mechanical integrity.

1016 A) The owner or operator of a Class I or Class III injection well
 1017 authorized by rule under this Subpart C must establish and
 1018 maintain mechanical integrity, as defined in 35 Ill. Adm. Code
 1019 730.106, until either of the following has occurred:
 1020

1021 i) The well is properly plugged and abandoned in accordance
 1022 with an approved plugging and abandonment plan pursuant
 1023 to subsection (c) ~~of this Section~~ and 35 Ill. Adm. Code
 1024 730.110 and a plugging and abandonment report is
 1025 submitted pursuant to subsection (k); or
 1026

1027 ii) The well is converted in compliance with subsection (j) ~~of~~
 1028 ~~this Section~~.
 1029

1030 B) The Agency may require by permit condition that the owner or
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operator comply with a schedule describing when mechanical integrity demonstrations must be made.

- 3) Cessation upon Lack of Mechanical Integrity.
 - A) When the Agency determines that a Class I (non-hazardous) or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, the Agency must give written notice of its determination to the owner or operator.
 - B) Unless the Agency requires immediate cessation, the owner or operator must cease injection into the well within 48 hours of receipt of the Agency's determination.
 - C) The Agency may allow plugging of the well in accordance with 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.
 - D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
- 4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.
- 5) For a Class I injection well, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator must fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer must fill the annulus between tubing and casing with a non-corrosive fluid and maintain a positive pressure on the annulus. For any other Class I injection well, the owner or operator must insure that the alternative completion method will reliably provide a comparable level of protection of USDWs.

- 1076 6) Injection pressure for Class I and III injection wells.
 - 1077
 - 1078 A) Except during stimulation, the owner or operator must not exceed
 - 1079 an injection pressure at the wellhead that must be calculated so as
 - 1080 to assure that the pressure during injection does not initiate new
 - 1081 fractures or propagate existing fractures in the injection zone; and
 - 1082
 - 1083 B) The owner or operator must not inject at a pressure that will initiate
 - 1084 fractures in the confining zone or cause the movement of injection
 - 1085 or formation fluids into a USDW.
 - 1086
- 1087 g) Monitoring Requirements. The owner or operator must perform the monitoring as
- 1088 described in this subsection (g). Monitoring of the nature of the injected fluids
- 1089 must comply with applicable analytical methods cited in tables IA (List of
- 1090 Approved Biological Methods), IB (List of Approved Inorganic Test Procedures),
- 1091 IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID
- 1092 (List of Approved Test Procedures for Pesticides), IE (List of Approved
- 1093 Radiologic Test Procedures), and IF (List of Approved Methods for
- 1094 Pharmaceutical Pollutants) of 40 CFR 136.3 (Identification of Test Procedures) or
- 1095 in appendix III of 40 CFR 261 (Chemical Analysis Test Methods), each
- 1096 incorporated by reference in 35 Ill. Adm. Code 720.111(b), or with other methods
- 1097 that have been approved by the Agency.
 - 1098
 - 1099 1) The owner or operator of a Class I injection well must undertake the
 - 1100 following actions:
 - 1101
 - 1102 A) It must analyze the nature of the injected fluids with sufficient
 - 1103 frequency to yield data representative of their characteristics;
 - 1104
 - 1105 B) It must install and use continuous recording devices to monitor
 - 1106 injection pressure, flow rate and volume, and the pressure on the
 - 1107 annulus between the tubing and the long string of casing; and
 - 1108
 - 1109 C) It must install and use monitoring wells within the area of review,
 - 1110 if required by the Agency, to monitor any migration of fluids into
 - 1111 and pressure in the USDWs. The type, number, and location of the
 - 1112 wells; the parameters to be measured; and the frequency of
 - 1113 monitoring must be approved by the Agency.
 - 1114
 - 1115 2) This subsection (g)(2) corresponds with 40 CFR 144.28(g)(2), a provision
 - 1116 related to Class II injection wells, which are regulated by the Illinois
 - 1117 Department of Natural Resources, Office of Mines and Minerals, and not
 - 1118 by the Board. This statement maintains structural consistency with

- 1119 USEPA rules.
1120
1121 3) The owner or operator of a Class III injection well must undertake the
1122 following actions:
1123
1124 A) It must provide to the Agency a qualitative analysis and ranges in
1125 concentrations of all constituents of injected fluids at least once
1126 within the first year of authorization and thereafter whenever the
1127 injection fluid is modified to the extent that the initial data are
1128 incorrect or incomplete.
1129
1130 i) The owner or operator may request confidentiality pursuant
1131 to Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.
1132
1133 ii) If the information is proprietary the owner or operator may
1134 in lieu of the ranges in concentrations choose to submit
1135 maximum concentrations that must not be exceeded.
1136
1137 iii) In such a case the owner or operator must retain records of
1138 the undisclosed concentration and provide them upon
1139 request to the Agency as part of any enforcement
1140 investigation;
1141
1142 B) It must monitor injection pressure and either flow rate or volume
1143 semi-monthly, or meter and record daily injected and produced
1144 fluid volumes as appropriate;
1145
1146 C) It must monitor the fluid level in the injection zone semi-monthly,
1147 where appropriate; and
1148
1149 D) All Class III injection wells may be monitored on a field or project
1150 basis rather than an individual well basis by manifold monitoring.
1151 Manifold monitoring may be used in cases of facilities consisting
1152 of more than one injection well, operating with a common
1153 manifold. Separate monitoring systems for each well are not
1154 required provided the owner or operator demonstrates to the
1155 Agency that manifold monitoring is comparable to individual well
1156 monitoring.
1157
1158 h) Reporting requirements. The owner or operator must submit reports to the
1159 Agency as follows:
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1161 1) For a Class I injection well, quarterly reports on all of the following:

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- A) The physical, chemical, and other relevant characteristics of the injection fluids;
 - B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;
 - C) The results from groundwater monitoring wells prescribed in subsection (f)(1)(C) ~~of this Section~~;
 - D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and
 - E) Any well work over performed during the reported quarter.
- 2) This subsection (h)(2) corresponds with 40 CFR 144.28(h)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.
- 3) For a Class III injection well, all of the following:
- A) Quarterly reporting on all monitoring, as required in subsections (f)(2)(A), (f)(2)(B), and (f)(2)(C) ~~of this Section~~;
 - B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter; and
 - C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.
- i) Retention of records. The owner or operator must retain records of all monitoring information, including the following:
- 1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and
 - 2) The nature and composition of all injected fluids until three years after the

- 1205 completion of any plugging and abandonment procedures specified under
 1206 Section 704.188. The owner or operator must retain the records after the
 1207 three year retention period unless it delivers the records to the Agency or
 1208 obtains written approval from the Agency to discard the records.
 1209
- 1210 j) Notice of abandonment. The owner or operator must notify the Agency at least
 1211 45 days before conversion or abandonment of the well.
 1212
- 1213 k) Plugging and abandonment report. Within 60 days after plugging a well or at the
 1214 time of the next quarterly report (whichever is less) the owner or operator must
 1215 submit a report to the Agency. If the quarterly report is due less than 15 days
 1216 before completion of plugging, then the report must be submitted within 60 days.
 1217 The report must be certified as accurate by the person who performed the
 1218 plugging operation. Such report must consist of either:
 1219
- 1220 1) A statement that the well was plugged in accordance with the plan
 1221 previously submitted to the Agency; or
 1222
- 1223 2) Where actual plugging differed from the plan previously submitted, an
 1224 updated version of the plan, on any form supplied by the Agency,
 1225 specifying the different procedures used.
 1226
- 1227 l) Change of ownership.
 1228
- 1229 1) The owner or operator must notify the Agency of a transfer of ownership
 1230 or operational control of the well at least 30 days in advance of the
 1231 proposed transfer.
 1232
- 1233 2) The notice must include a written agreement between the transferor and
 1234 the transferee containing a specific date when the financial responsibility
 1235 demonstration of subsection (d) ~~of this Section~~ will be met by the
 1236 transferee.
 1237
- 1238 3) The transferee is authorized to inject unless it receives notification from
 1239 the Agency that the transferee has not demonstrated financial
 1240 responsibility pursuant to subsection (d) ~~of this Section~~.
 1241
- 1242 m) Requirements for a Class I hazardous waste injection well. The owner or operator
 1243 of any Class I injection well injecting hazardous waste must comply with Section
 1244 704.203. In addition the owner or operator must properly dispose of, or
 1245 decontaminate by removing all hazardous waste residues, all injection well
 1246 equipment.
 1247

1248 BOARD NOTE: Derived from 40 CFR 144.28 (20172012).

1249
1250 (Source: Amended at 42 Ill. Reg. _____, effective _____)

1251
1252 SUBPART D: APPLICATION FOR PERMIT

1253
1254 **Section 704.161 Application for Permit; Authorization by Permit**

- 1255
1256 a) Permit application. Unless an underground injection well is authorized by rule
1257 under Subpart C of this Part, all injection activities, including construction of an
1258 injection well, are prohibited until the owner or operator is authorized by permit.
1259 An owner or operator of a well currently authorized by rule must apply for a
1260 permit under this Section unless the well authorization was for the life of the well
1261 or project. Authorization by rule for a well or project for which a permit
1262 application has been submitted terminates for the well or project upon the
1263 effective date of the permit. Procedures for application, issuance, and
1264 administration of emergency permits are found exclusively in Section 704.163. A
1265 RCRA permit applying the standards of Subpart C of 35 Ill. Adm. Code 724 will
1266 constitute a UIC permit for hazardous waste injection wells for which the
1267 technical standards in 35 Ill. Adm. Code 730 are not generally appropriate.

1268
1269 BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 144.31(a)
1270 (20172005).

- 1271
1272 b) Time to apply. Any person ~~that who performs or~~ proposes an underground
1273 injection for which a permit ~~was or~~ will be required must submit an application to
1274 the Agency. For new injection wells, except new wells covered by an existing
1275 area permit under Section 704.162(c), the application must be filed a reasonable
1276 time before construction is expected to begin, as follows:

- 1277
1278 1) ~~For existing wells, the application was to have been filed before the~~
1279 ~~applicable of the following deadlines:~~

1280
1281 A) ~~Within 180 days after the Agency notifies such person that an~~
1282 ~~application is required;~~

1283
1284 B) ~~If the waste being injected into the well is a hazardous waste~~
1285 ~~accompanied by a manifest or delivery document, before August 1,~~
1286 ~~1984; or~~

1287
1288 C) ~~Except as otherwise provided in subsections (b)(1)(A) and~~
1289 ~~(b)(1)(B) of this Section, before March 3, 1986.~~

1290

- 1291 2) For new injection wells, except new wells in projects authorized under
1292 Section 704.141(b) or covered by an existing area permit under Section
1293 704.162(e), the application must be filed a reasonable time before
1294 construction is expected to begin.
1295

1296 BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 144.31(c)
1297 (20172005).
1298

- 1299 c) Contents of UIC application. The applicant must demonstrate that the
1300 underground injection will not endanger drinking water sources. The form and
1301 content of the UIC permit application may be prescribed by the Agency, including
1302 the materials required by 35 Ill. Adm. Code 702.123.
1303

- 1304 d) Information requirements for a Class I hazardous waste injection well.
1305

- 1306 1) The following information is required for each active Class I hazardous
1307 waste injection well at a facility seeking a UIC permit:
1308

1309 A) The dates the well was operated; and
1310

1311 B) Specification of all wastes that have been injected into the well, if
1312 available.
1313

- 1314 2) The owner or operator of any facility containing one or more active
1315 hazardous waste injection wells must submit all available information
1316 pertaining to any release of hazardous waste or constituents from any
1317 active hazardous waste injection well at the facility.
1318

- 1319 3) The owner or operator of any facility containing one or more active Class
1320 I hazardous waste injection wells must conduct such preliminary site
1321 investigations as are necessary to determine whether a release is occurring,
1322 has occurred, or is likely to have occurred.
1323

1324 BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 144.31(g)
1325 (20172005).
1326

- 1327 e) In addition to the materials required by 35 Ill. Adm. Code 702.123, the applicant
1328 must provide the following:
1329

- 1330 1) It must identify and submit on a list with the permit application the names
1331 and addresses for all owners of record of land within one-quarter mile
1332 (401 meters) of the facility boundary. This requirement may be waived by
1333 the Agency where the site is located in a populous area such that the

1334 requirement would be impracticable; and

1335

1336 2) It must submit a plugging and abandonment plan that meets the
1337 requirements of 35 Ill. Adm. Code 730.110.

1338

1339 BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR
1340 144.31(e)(9) and (e)(10) (20172005).

1341

1342 (Source: Amended at 42 Ill. Reg. _____, effective _____)

1343

1344 **Section 704.162 Area Permits**

1345

1346 a) The Agency may issue a permit on an area basis, rather than for each injection
1347 well individually, provided that the permit is for injection wells for which each of
1348 the following is true:

1349

1350 1) The injection wells are described and identified by location in permit
1351 applications, if they are existing injection wells, except that the Agency
1352 may accept a single description of multiple injection wells with
1353 substantially the same characteristics;

1354

1355 2) The injection wells are within the same well field, facility site, reservoir,
1356 project, or similar unit in the same state;

1357

1358 3) The injection wells are operated by a single owner or operator;

1359

1360 4) The injection wells are used to inject other than hazardous waste; and

1361

1362 5) The injection wells are other than Class VI injection wells.

1363

1364 b) Area permits must specify both of the following:

1365

1366 1) The area within which underground injections are authorized; and

1367

1368 2) The requirements for construction, monitoring, reporting, operation, and
1369 abandonment for all wells authorized by the permit.

1370

1371 c) The area permit may authorize the permittee to construct and operate, convert, or
1372 plug and abandon new injection wells within the permit area provided the
1373 following conditions are fulfilled:

1374

1375 1) The permittee notifies the Agency at such time as the permit requires;

1376

- 1377 2) The additional well satisfies the criteria in subsection (a) ~~of this Section~~
1378 and meets the requirements specified in the permit under subsection (b) ~~of~~
1379 ~~this Section~~; and
1380
1381 3) The cumulative effects of drilling and operation of additional injection
1382 wells are considered by the Agency during evaluation of the area permit
1383 application and are acceptable to the Agency.
1384
1385 d) If the Agency determines that any well constructed pursuant to subsection (c) ~~of~~
1386 ~~this Section~~ does not satisfy the requirements of subsections (c)(1) and (c)(2) ~~of~~
1387 ~~this Section~~, the Agency may modify the permit under 35 Ill. Adm. Code 702.183
1388 through 702.185, seek revocation under 35 Ill. Adm. Code 702.186, or take
1389 enforcement action. If the Agency determines that cumulative effects are
1390 unacceptable, the permit may be modified under 35 Ill. Adm. Code 702.183
1391 through 702.185.
1392

1393 BOARD NOTE: Derived from 40 CFR 144.33 (20172014).

1394
1395 (Source: Amended at 42 Ill. Reg. _____, effective _____)
1396

1397 **Section 704.163 Emergency Permits**
1398

- 1399 a) Coverage. Notwithstanding any other provision of this Part or 35 Ill. Adm. Code
1400 702 or 705, the Agency may temporarily permit a specific underground injection
1401 if an imminent and substantial threat to the health of persons will result unless a
1402 temporary emergency permit is granted.
1403
1404 b) Requirements for issuance.
1405
1406 1) Any temporary permit under subsection (a) ~~of this Section~~ must be for no
1407 longer term than required to prevent the threat.
1408
1409 2) Notice of any temporary permit under this subsection (b) must be
1410 published in accordance with 35 Ill. Adm. Code 705.163 within 10 days
1411 after the issuance of the permit.
1412
1413 3) The temporary permit under this section may be either oral or written. If
1414 oral, it must be followed within five calendar days by a written temporary
1415 emergency permit.
1416
1417 4) The Agency must condition the temporary permit in any manner it
1418 determines is necessary to ensure that the injection will not result in the
1419 movement of fluids into a USDW.

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BOARD NOTE: Derived from 40 CFR 144.34 (20172005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: PERMIT CONDITIONS

Section 704.181 Additional Conditions

The following conditions apply to all UIC permits, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, and these conditions must be incorporated into all permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

- a) In addition to 35 Ill. Adm. Code 702.141 (duty to comply): the permittee needs not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in a temporary emergency permit under Section 704.163.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 144.51(a) (20172011).

- b) In addition to 35 Ill. Adm. Code 702.150(b) (monitoring and records): the permittee must retain records concerning the nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188 or under Subpart G of 35 Ill. Adm. Code 730, as appropriate. The owner or operator must continue to retain the records after the three-year retention period, unless the owner or operator delivers the records to the Agency or obtains written approval from the Agency to discard the records.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 144.51(j)(2)(ii) (20172011).

- c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes), the following limitation applies: except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and both of the following must occur:
 - 1) The permittee must have submitted notice of completion of construction to the Agency; and
 - 2) Inspection review must have occurred, as follows:

- 1463
1464 A) The Agency has inspected or otherwise reviewed the new injection
1465 well and finds it is in compliance with the conditions of the permit;
1466 or
1467
1468 B) The permittee has not received notice from the Agency of its intent
1469 to inspect or otherwise review the new injection well within 13
1470 days of the date of the notice in subsection (c)(1) ~~of this Section~~, in
1471 which case prior inspection or review is waived, and the permittee
1472 may commence injection. The Agency must include in its notice a
1473 reasonable time period in which it will inspect the well.
1474

1475 BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR
1476 144.51(m) (20172011).

1477
1478 d) Reporting noncompliance.

- 1479
1480 1) Twenty-four hour reporting. The permittee must report any
1481 noncompliance that may endanger health or the environment, including
1482 the following:
1483
1484 A) Any monitoring or other information that indicates that any
1485 contaminant may cause an endangerment to a USDW; and
1486
1487 B) Any noncompliance with a permit condition or malfunction of the
1488 injection system that may cause fluid migration into or between
1489 USDWs.
1490
1491 2) Any information must be provided orally within 24 hours from the time
1492 the permittee becomes aware of the circumstances. A written submission
1493 must also be provided within five days after the time the permittee
1494 becomes aware of the circumstances. The written submission must
1495 contain a description of the noncompliance and its cause; the period of
1496 noncompliance, including exact dates, times, and, if the noncompliance
1497 has not been corrected, the anticipated time is expected to continue; and
1498 steps taken or planned to reduce, eliminate, and prevent reoccurrence of
1499 the noncompliance of the noncompliance.
1500

1501 BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR
1502 144.51(1)(6) (20172011).

1503
1504 e) The permittee must notify the Agency at such times as the permit requires before
1505 conversion or abandonment of the well or, in the case of area permits, before

1506 closure of the project.

1507
1508 BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 144.51(n)
1509 (20172011).

- 1510
1511 f) A Class I or Class III injection well permit must include, and a Class V permit
1512 may include, conditions that meet the applicable requirements of 35 Ill. Adm.
1513 Code 730.110 to ensure that plugging and abandonment of the well will not allow
1514 the movement of fluids into or between USDWs. Where the plan meets the
1515 requirements of 35 Ill. Adm. Code 730.110, the Agency must incorporate the plan
1516 into the permit as a permit condition. Where the Agency's review of an
1517 application indicates that the permittee's plan is inadequate, the Agency may
1518 require the applicant to revise the plan, prescribe conditions meeting the
1519 requirements of this subsection (f), or deny the permit. A Class VI injection well
1520 permit must include conditions that meet the requirements set forth in 35 Ill.
1521 Adm. Code 730.192. Where the plan meets the requirements of 35 Ill. Adm.
1522 Code 730.192, the Agency must incorporate the plan into the permit as a permit
1523 condition. For purposes of this subsection (f), temporary or intermittent cessation
1524 of injection operations is not abandonment.

1525
1526 BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 144.51(o)
1527 (20172011).

- 1528
1529 g) Plugging and abandonment report. Within 60 days after plugging a well or at the
1530 time of the next quarterly report (whichever is less) the owner or operator must
1531 submit a report to the Agency. If the quarterly report is due less than 15 days
1532 before completion of plugging, then the report must be submitted within 60 days.
1533 The report must be certified as accurate by the person who performed the
1534 plugging operation. Such report must consist of either of the following:
1535
1536 1) A statement that the well was plugged in accordance with the plan
1537 previously submitted to the Agency;
1538
1539 2) Where actual plugging differed from the plan previously submitted, an
1540 updated version of the plan on the form supplied by the Agency specifying
1541 the differences.

1542
1543 BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 144.51(p)
1544 (20172011).

- 1545
1546 h) Duty to establish and maintain mechanical integrity.
1547
1548 1) The owner or operator of a Class I Class III, or Class VI injection well

1549 permitted under this Part and 35 Ill. Adm. Code 702 must establish
1550 mechanical integrity prior to commencing injection or on a schedule
1551 determined by the Agency. Thereafter the owner or operator of a Class I,
1552 Class II, or Class III injection well must maintain mechanical integrity as
1553 required by 35 Ill. Adm. Code 730.108, and the owner or operator of a
1554 Class VI injection well must maintain mechanical integrity as required by
1555 Section 730.189. The Agency may require by permit condition that the
1556 owner or operator comply with a schedule describing when mechanical
1557 integrity demonstrations must be made.
1558

1559 2) When the Agency determines that a Class I or Class III injection well
1560 lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108 or
1561 730.189 (for a Class VI injection well), the Agency must give written
1562 notice of its determination to the owner or operator. Unless the Agency
1563 requires immediate cessation, the owner or operator must cease injection
1564 into the well within 48 hours of receipt of the Agency determination. The
1565 Agency may allow plugging of the well pursuant to 35 Ill. Adm. Code
1566 730.110 or require the permittee to perform such additional construction,
1567 operation, monitoring, reporting, and corrective action as is necessary to
1568 prevent the movement of fluid into or between USDWs caused by the lack
1569 of mechanical integrity. The owner or operator may resume injection
1570 upon written notification from the Agency that the owner or operator has
1571 demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
1572

1573 3) The Agency may allow the owner or operator of a well that lacks
1574 mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to
1575 continue or resume injection, if the owner or operator has made a
1576 satisfactory showing that there is no movement of fluid into or between
1577 USDWs.
1578

1579 BOARD NOTE: Subsection (h) ~~of this Section~~ is derived from 40 CFR 144.51(q)
1580 (20172011).

1581
1582 (Source: Amended at 42 Ill. Reg. _____, effective _____)
1583

1584 **Section 704.186 Hazardous Waste Requirements**

1585
1586 UIC permits must require by condition requirements for wells managing hazardous waste, as set
1587 forth in Subpart F ~~of this Part~~.

1588
1589 BOARD NOTE: Derived from 40 CFR 144.52(a)(4) (20172005).

1590
1591 (Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 704.189 Financial Responsibility

- a) The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Agency until one of the following occurs:
 - 1) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to Section 704.181(f) and 35 Ill. Adm. Code 730.110 and 730.192, and the permittee has submitted a plugging and abandonment report pursuant to Section 704.181(g);
 - 2) The well has been converted in compliance with Section 704.181(e); or
 - 3) The transferor of a permit has received notice from the Agency that the owner or operator receiving transfer of the permit (the new permittee) has demonstrated financial responsibility for the well.

- b) The permittee must show evidence of financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as financial statements or other materials acceptable to the Agency. The Agency may on a periodic basis require the holder of a life-time permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary. For a Class VI injection well, the permittee must show evidence of financial responsibility to the Agency by the submission of an instrument that fulfills the requirements of 35 Ill. Adm. Code 730.185(a), such as a financial statement or other materials necessary for an Agency evaluation of the adequacy of the submitted financial assurance.

- c) The owner or operator of a Class I hazardous waste injection well must comply with the financial responsibility requirements set forth in Subpart G of this Part. The owner or operator of a Class VI injection well must comply with the financial responsibility requirements set forth in 35 Ill. Adm. Code 730.185.

BOARD NOTE: Derived from 40 CFR 144.52(a)(7) (~~20172011~~).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.192 Waiver of Requirements by Agency

- a) When injection does not occur into, through, or above a USDW, the Agency may

1635 authorize a well or project with less stringent requirements for area of review,
1636 construction, mechanical integrity, operation, monitoring, and reporting than
1637 required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the
1638 extent that the reduction in requirements will not result in an increased risk of
1639 movement of fluids into a USDW.

1640
1641 b) When injection occurs through or above a USDW, but the radius of endangering
1642 influence when computed under 35 Ill. Adm. Code 730.106(a) is smaller or equal
1643 to the radius of the well, the Agency may authorize a well or project with less
1644 stringent requirements for operation, monitoring, and reporting than required in
1645 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the
1646 reduction in requirements will not result in an increased risk of movement of
1647 fluids into a USDW.

1648
1649 c) When reducing requirements under subsection (a) or (b) of this Section, the
1650 Agency must prepare a fact sheet under 35 Ill. Adm. Code 705.143 explaining the
1651 reasons for the action.

1652
1653 BOARD NOTE: Derived from 40 CFR 144.16 (20172005).

1654
1655 (Source: Amended at 42 Ill. Reg. _____, effective _____)

1656
1657 **Section 704.193 Corrective Action**

1658
1659 a) Coverage. An applicant for a Class I or Class III injection well permit must
1660 identify the location of all known wells within the injection well's area of review
1661 that penetrate the injection zone. For such wells that are improperly sealed,
1662 completed, or abandoned, the applicant must also submit a plan consisting of such
1663 steps or modifications as are necessary to prevent movement of fluid into USDWs
1664 ("corrective action"). Where the plan is adequate, the Agency must incorporate it
1665 into the permit as a condition. Where the Agency's review of an application
1666 indicates that the permittee's plan is inadequate (based on the factors in 35 Ill.
1667 Adm. Code 730.107), the Agency must require the applicant to revise the plan,
1668 prescribe a plan for corrective action as a condition of the permit under subsection
1669 (b) of this Section, or deny the application.

1670
1671 b) Requirements.

1672
1673 1) Existing injection wells. Any permit issued for an existing injection well
1674 requiring corrective action must include a compliance schedule requiring
1675 any corrective action accepted or prescribed under subsection (a) of this
1676 Section to be completed as soon as possible.

1677

- 1678 2) New injection wells. No permit for a new injection well may authorize
1679 injection until all required corrective action has been taken.
1680
1681 3) Injection pressure limitation. The Agency may require as a permit
1682 condition that injection pressure in the injection zone does not exceed
1683 hydrostatic pressure at the site of any improperly completed or abandoned
1684 well within the area of review. This pressure limitation must satisfy the
1685 corrective action requirement. Alternatively, such injection pressure
1686 limitation can be part of a compliance schedule and last until all other
1687 required corrective action has been taken.
1688
1689 4) Class III injection wells only. When setting corrective action
1690 requirements the Agency must consider the overall effect of the project on
1691 the hydraulic gradient in potentially affected USDWs and the
1692 corresponding changes in potentiometric surfaces and flow directions
1693 rather than the discrete effect of each well. If a decision is made that
1694 corrective action is not necessary based on the determinations above, the
1695 monitoring program required in 35 Ill. Adm. Code 730.133(b) must be
1696 designed to verify the validity of such determinations.
1697

1698 BOARD NOTE: Derived from 40 CFR 144.55 (20172005).

1699 (Source: Amended at 42 Ill. Reg. _____, effective _____)
1700

1701
1702 SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE
1703

1704 **Section 704.202 Authorization**
1705

1706 The owner or operator of any well that is used to inject hazardous wastes accompanied by a
1707 manifest or delivery document ~~is~~was required to apply for authorization to inject, ~~as specified in~~
1708 ~~Section 704.161(b)(1)(B), before August 2, 1984.~~
1709

1710 BOARD NOTE: Derived from 40 CFR 144.14(b) (20172005).

1711 (Source: Amended at 42 Ill. Reg. _____, effective _____)
1712

1713
1714 SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I
1715 HAZARDOUS WASTE INJECTION WELLS
1716

1717 **Section 704.212 Cost Estimate for Plugging and Abandonment**
1718

- 1719 a) The owner or operator must prepare a written estimate, in current dollars, of the
1720 cost of plugging the injection well in accordance with the plugging and

1721 abandonment plan, as specified in Sections 704.150 and 704.181(f). The cost
1722 estimate must equal the cost of plugging and abandonment at the point in the
1723 facility's operating life when the extent and manner of its operation would making
1724 plugging and abandonment the most expensive, as indicated by its plan.

1725
1726 b) The owner or operator must adjust the cost estimate for inflation within 30 days
1727 after each anniversary of the date on which the first cost estimate was prepared.
1728 The adjustment must be made as specified in subsections (b)(1) and (b)(2) ~~of this~~
1729 ~~Section~~, using an inflation factor derived from the annual update to "Oil and Gas
1730 Lease Equipment and Operating Costs 1987 to [Date]" published by the U.S.
1731 Department of Treasury. The inflation factor is the result of dividing the latest
1732 published annual Index by the Index for the previous years.

1733
1734 1) The first adjustment is made by multiplying the cost estimate by the
1735 inflation factor. The result is the adjusted cost estimate.

1736
1737 2) Subsequent adjustments are made by multiplying the latest adjusted cost
1738 estimate by the latest inflation factor.

1739
1740 BOARD NOTE: Corresponding 40 CFR 144.62(b) cites "Oil and Gas Field
1741 Equipment Cost Index" without attribution of its source. The Board has located a
1742 publication entitled "Oil and Gas Lease Equipment and Operating Costs 1987 to
1743 [Date]:". It is assembled by the U.S. Department of Energy, Energy Information
1744 Administration. It is available only on the Internet at www.eia.doe.gov. The
1745 Board replaced the federally cited reference with this document. The full link for
1746 the document (in March 2006) is as follows: [http://www.eia.doe.gov/pub/oil_gas](http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices_equipment_production/current/coststudy.html)
1747 [/natural_gas/data_publications/cost_indices_equipment_production/current/costst](http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices_equipment_production/current/coststudy.html)
1748 [udy.html](http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices_equipment_production/current/coststudy.html).

1749
1750 c) The owner or operator must review the cost estimate whenever a change in the
1751 plan increases the cost of plugging and abandonment. The revised cost estimate
1752 must be adjusted for inflation as specified in subsection (b) ~~of this Section~~.

1753
1754 d) The owner or operator must keep the following at the facility during the operating
1755 life of the facility: the latest cost estimate prepared in accordance with subsections
1756 (a) and (c) ~~of this Section~~ and, when this estimate has been adjusted in accordance
1757 with subsection (b) ~~of this Section~~, the latest adjusted cost estimate.

1758
1759 BOARD NOTE: Derived from 40 CFR 144.62 (20172005).

1760
1761 (Source: Amended at 42 Ill. Reg. _____, effective _____)

1762
1763 **Section 704.214 Trust Fund**

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- a) An owner or operator may satisfy the financial assurance requirement by establishing a trust fund that conforms to the requirements of this Section and submitting an original, signed duplicate of the trust agreement to the Agency. An owner or operator of a Class I injection well injecting hazardous waste must submit the original, signed duplicate of the trust agreement to the Agency with the permit application or for approval to operate under rule. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.
- b) The wording of the trust agreement must be as specified in Section 704.240, and the trust agreement must be accompanied by a formal certification of acknowledgment. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current cost estimate covered by the agreement.
- c) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the injection well as estimated in the plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period". The payments into the trust fund must be made as follows:
 - 1) For a new well, the first payment must be made before the initial injection of hazardous waste. The owner or operator must submit a receipt to the Agency from the trustee for this payment before the initial injection of hazardous waste. The first payment must be at least equal to the current cost estimate, except as provided in Section 704.240, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next Payment} = \frac{\text{PE} - \text{CV}}{\text{YR}}$$

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Where:

- PE is the current cost estimate
- CV is the current value of the trust fund
- Y is the number of years remaining in the pay-in period.

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- 2) If an owner or operator establishes a trust fund as specified in this Section, and the value of that trust fund is less than the current cost estimate when

1801 a permit is issued for the injection well, the amount of current cost
 1802 estimate still to be paid into the trust fund must be paid in over the pay-in
 1803 period as defined in subsection (c). Payments must continue to be made
 1804 no later than 30 days after each anniversary date of the first payment made
 1805 pursuant to this Part. The amount of each payment must be determined by
 1806 this formula:
 1807

$$\text{Next Payment} = \frac{\text{PE} - \text{CV}}{\text{YR}}$$

1808
 1809 Where:
 1810

PE is the current cost estimate
 CV is the current value of the trust fund
 Y is the number of years remaining in the pay-in period.

- 1811
 1812 d) The owner or operator may accelerate payments into the trust fund or the owner
 1813 or operator may deposit the full amount of the current cost estimate at the time the
 1814 fund is established. However, the owner or operator must maintain the value of
 1815 the fund at no less than the value that the fund would have if annual payments
 1816 were made as specified in subsection (c).
 1817
 1818 e) If the owner or operator establishes a trust fund after having used one or more
 1819 alternate financial assurance mechanisms, the owner or operator's first payment
 1820 must be in at least the amount that the fund would contain if the trust fund were
 1821 established initially and annual payments made according to specifications of this
 1822 Section.
 1823
 1824 f) After the pay-in period is completed, whenever the current cost estimate changes
 1825 the owner or operator must compare the new estimate with the trustee's most
 1826 recent annual valuation of the trust fund. If the value of the fund is less than the
 1827 amount of the new estimate, the owner or operator, within 60 days after the
 1828 change in the cost estimate, must either deposit an amount into the fund so that its
 1829 value after this deposit at least equals the amount of the current cost estimate, or
 1830 obtain other financial assurance to cover the difference.
 1831
 1832 g) If the value of the trust fund is greater than the total amount of the current cost
 1833 estimate, the owner or operator may submit a written request to the Agency for
 1834 release of the amount in excess of the current cost estimate.
 1835
 1836 h) If an owner or operator substitutes other financial assurance for all or part of the
 1837 trust fund, the owner or operator may submit a written request to the Agency for
 1838 release of the amount in excess of the current cost estimate covered by the trust

- 1839 fund.
1840
1841 i) Within 60 days after receiving a request from the owner or operator for release of
1842 funds as specified in subsection (g) or (h), the Agency must instruct the trustee to
1843 release to the owner or operator such funds as the Agency specifies in writing.
1844
1845 j) After beginning final plugging and abandonment, an owner and operator or any
1846 other person authorized to perform plugging and abandonment may request
1847 reimbursement for plugging and abandonment expenditures by submitting
1848 itemized bills to the Agency. Within 60 days after receiving bills for plugging
1849 and abandonment activities, the Agency must determine whether the plugging and
1850 abandonment expenditures are in accordance with the plan or otherwise justified,
1851 and if so, it must instruct the trustee to make reimbursement in such amounts as
1852 the Agency specifies in writing. If the Agency has reason to believe that the cost
1853 of plugging and abandonment will be significantly greater than the value of the
1854 trust fund, it may withhold reimbursement of such amounts as it deems prudent
1855 until it determines, in accordance with Section 704.222 that the owner or operator
1856 is no longer required to maintain financial assurance.
1857
1858 k) The Agency must agree to termination of the trust when either of the following
1859 occurs:
1860
1861 1) The owner or operator substitutes alternate financial assurance; or
1862
1863 2) The Agency releases the owner or operator in accordance with Section
1864 704.222.
1865

1866 BOARD NOTE: Derived from 40 CFR 144.63(a) (2017)(2005).

1867
1868 (Source: Amended at 42 Ill. Reg. _____, effective _____)
1869

1870 **Section 704.215 Surety Bond Guaranteeing Payment**
1871

- 1872 a) An owner or operator may satisfy the financial assurance requirement by
1873 obtaining a surety bond that conforms to the requirements of this Section and
1874 submitting the bond to the Agency with the application for a permit or for
1875 approval to operate under rule. The bond must be effective before the initial
1876 injection of hazardous waste. The surety company issuing the bond must, at a
1877 minimum, be among those listed as acceptable sureties on Federal bonds in
1878 Circular 570 of the U.S. Department of the Treasury.
1879

1880 BOARD NOTE: The U.S. Department of the Treasury updates Circular 570,
1881 "Companies Holding Certificates of Authority as Acceptable Sureties on Federal

- 1882 Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to
 1883 31 CFR 223.16. Circular 570 is available on the Internet from the following
 1884 website: <http://www.fms.treas.gov/c570/>.
 1885
- 1886 b) The wording of the surety bond must be as specified in Section 704.240.
 1887
- 1888 c) The owner or operator who uses a surety bond to satisfy the financial assurance
 1889 requirement must also establish a standby trust fund. All payments made under
 1890 the terms of the bond must be deposited by the surety directly into the standby
 1891 trust fund in accordance with instructions from the Agency. This standby trust
 1892 fund must meet the requirements specified in Section 704.214, except that the
 1893 following limitations apply:
 1894
- 1895 1) An original, signed duplicate of the trust agreement must be submitted to
 1896 the Agency with the surety bond; and
 1897
- 1898 2) Until the standby trust fund is funded pursuant to this Section, the
 1899 following are not required:
 1900
- 1901 A) Payments into the trust fund as specified in Section 704.214;
 1902
- 1903 B) Updating of Schedule A of the trust agreement to show current
 1904 cost estimates;
 1905
- 1906 C) Annual valuations as required by the trust agreement; and
 1907
- 1908 D) Notices of non-payment as required by the trust agreement.
 1909
- 1910 d) The bond must guarantee that the owner or operator will fulfill the following
 1911 requirements:
 1912
- 1913 1) It will fund the standby trust fund in an amount equal to the penal sum of
 1914 the bond before the beginning of plugging and abandonment of the
 1915 injection well;
 1916
- 1917 2) It will fund the standby trust fund in an amount equal to the penal sum
 1918 within 15 days after an order to begin plugging and abandonment is issued
 1919 by the Board or a U.S. district court or other court of competent
 1920 jurisdiction; or
 1921
- 1922 3) It will provide alternate financial assurance, and obtain the Agency's
 1923 written approval of the assurance provided, within 90 days after receipt by
 1924 both the owner or operator and the Agency of a notice of cancellation of

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the bond from the surety.

- e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- f) The penal sum of the bond must be in amount at least equal to the current cost estimate, except as provided in Section 704.220.
- g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent based on receipt of evidence of alternate financial assurance.

BOARD NOTE: Derived from 40 CFR 144.63(b) (20172005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.216 Surety Bond Guaranteeing Performance

- a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency with the permit application or for approval to operate under rule. The bond must be effective before injection of hazardous waste is started. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to

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- 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.
- b) The wording of the surety bond must be as specified in Section 704.240.
 - c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in Section 704.214, except that the following limitations apply:
 - 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - 2) Until the standby trust fund is funded pursuant to this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.
 - d) The bond must guarantee that the owner or operator will fulfill the following requirements:
 - 1) It will perform plugging and abandonment in accordance with the plan and other requirements of the permit for the injection well whenever required to do so; or
 - 2) It will provide alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
 - e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination that the owner or operator has failed to perform plugging and abandonment in accordance with the plan and other permit

2011 requirements when required to do so, under terms of the bond the surety must
2012 perform plugging and abandonment as guaranteed by the bond or must deposit the
2013 amount of the penal sum into the standby trust fund.
2014

2015 f) The penal sum of the bond must be in an amount at least equal to the current cost
2016 estimate.
2017

2018 g) Whenever the current cost estimate increases to an amount greater than the penal
2019 sum, the owner or operator, within 60 days after the increase, must either cause
2020 the penal sum to be increased to an amount at least equal to the current cost
2021 estimate and submit evidence of such increase to the Agency, or obtain other
2022 financial assurance. Whenever the current cost estimate decreases, the penal sum
2023 may be reduced to the amount of the current cost estimate following written
2024 approval by the Agency.
2025

2026 h) Under the terms of the bond, the surety may cancel the bond by sending notice of
2027 cancellation by certified mail to the owner or operator and to the Agency.
2028 Cancellation may not occur, however, during 120 days beginning on the date of
2029 the receipt of the notice of cancellation by both owner or operator and the Agency
2030 as evidenced by the returned receipts.
2031

2032 i) The owner or operator may cancel the bond if the Agency has given prior written
2033 consent. The Agency must provide such written content when either of the
2034 following occurs:
2035

2036 1) An owner or operator substitute alternate financial assurance; or

2037
2038 2) The Agency releases the owner or operator in accordance with Section
2039 704.222.
2040

2041 j) The surety will not be liable for deficiencies in the performance of plugging and
2042 abandonment by the owner or operator after the Agency releases the owner or
2043 operator in accordance with Section 704.222.
2044

2045 BOARD NOTE: Derived from 40 CFR 144.63(c) (20172005).

2046 (Source: Amended at 42 Ill. Reg. _____, effective _____)
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2048

2049 **Section 704.218 Plugging and Abandonment Insurance**
2050

2051 a) An owner or operator may satisfy the financial assurance requirement by
2052 obtaining insurance that conforms to this Section and submitting a certificate of
2053 such insurance to the Agency. An owner or operator of a new injection well must

- 2054 submit the certificate of insurance to the Agency with the permit application or
 2055 for approval operate under rule. The insurance must be effective before injection
 2056 starts. At a minimum, the insurer must be licensed to transact the business of
 2057 insurance, or eligible to provide insurance as an excess or surplus lines insurer, in
 2058 one or more States.
 2059
- 2060 b) The wording of the certificate of insurance must be as specified in Section
 2061 704.240.
 2062
- 2063 c) The policy must be issued for a face amount at least equal to the current cost
 2064 estimate, except as provided in Section 704.220. The term "face amount" means
 2065 the total amount the insurer is obligated to pay under the policy. Actual payments
 2066 by the insurer will not change the face amount, although the insurer's future
 2067 liability will be lowered by the amount of the payments.
 2068
- 2069 d) The policy must guarantee that funds will be available whenever final plugging
 2070 and abandonment occurs. The policy must also guarantee that once plugging and
 2071 abandonment begins, the insurer will be responsible for paying out funds, up to an
 2072 amount equal to the face amount of the policy, upon the direction of the Agency
 2073 to such party or parties as the Agency specifies.
 2074
- 2075 e) After beginning plugging and abandonment, an owner or operator or any other
 2076 person authorized to perform plugging and abandonment may request
 2077 reimbursement for plugging and abandonment expenditures by submitting
 2078 itemized bills to the Agency. Within 60 days after receiving bills for plugging
 2079 and abandonment activities, the Agency must determine whether the plugging and
 2080 abandonment expenditures are in accordance with the plan or otherwise justified,
 2081 and if so, it must instruct the insurer to make reimbursement in such amounts as
 2082 the Agency specifies in writing. If the Agency has reason to believe that the cost
 2083 of plugging and abandonment will be significantly greater than the face amount of
 2084 the policy, it may withhold reimbursement of such amounts as it deems prudent
 2085 until it determines, in accordance with Section 704.222, that the owner or operator
 2086 is no longer required to maintain financial assurance for plugging and
 2087 abandonment of the injection well.
 2088
- 2089 f) The owner or operator must maintain the policy in full force and effect until the
 2090 Agency consents to termination of the policy by the owner or operator, as
 2091 specified in subsection (j) ~~of this Section~~. Failure to pay the premium, without
 2092 substitution of alternate financial assurance, will constitute a significant violation
 2093 of these regulations, warranting such remedy as the Agency deems necessary.
 2094 Such violation will be deemed to begin upon receipt by the Agency of a notice of
 2095 future cancellation, termination or failure to renew due to non-payment of the
 2096 premium, rather than upon the date of expiration.

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- g) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

- h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return of receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration any of the following occurs:
 - 1) The Agency deems the injection well abandoned;
 - 2) The permit is terminated or revoked or a new permit is denied;
 - 3) Plugging and abandonment is ordered by the Board, a U.S. district court, or any other court of competent jurisdiction;
 - 4) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
 - 5) The premium due is paid.

- i) Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Agency.

- j) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:
 - 1) An owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section

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704.222.

BOARD NOTE: Derived from 40 CFR 144.63(e) (20172005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.219 Financial Test and Corporate Guarantee

- a) An owner or operator may satisfy the financial assurance requirement by demonstrating that the owner or operator passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either subsection (a)(1) or (a)(2) of this Section:
 - 1) The owner or operator must have each of the following:
 - A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - B) Net working capital and tangible net worth each at least six times the sum of the current cost estimate;
 - C) A tangible net worth of at least \$10 million; and
 - D) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimate.
 - 2) The owner or operator must have each of the following:
 - A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
 - B) A tangible net worth at least six times the sum of the current cost estimate;
 - C) A tangible net worth of at least \$10 million; and
 - D) Assets located in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum

of the current cost estimates.

- 2183
- 2184
- 2185 b) The phrase "current cost estimate" as used in subsection (a) ~~of this Section~~ refers
- 2186 to the cost estimate required to be shown in paragraphs 1 through 4 of the letter
- 2187 from the owner's or operator's chief financial officer, as specified in Section
- 2188 704.240.
- 2189
- 2190 c) To demonstrate that the owner or operator meets this test, the owner or operator
- 2191 must submit the following items to the Agency:
- 2192
- 2193 1) A letter signed by the owner's or operator's chief financial officer and
- 2194 worded as specified in Section 704.240;
- 2195
- 2196 2) A copy of the independent certified public accountant's report on
- 2197 examination of the owner's or operator's financial statements for the latest
- 2198 completed fiscal year; and
- 2199
- 2200 3) A special report from the owner's or operator's independent certified
- 2201 public accountant to the owner or operator stating that the following are
- 2202 true:
- 2203
- 2204 A) The accountant has compared the data that the letter from the chief
- 2205 financial officer specifies as having been derived from the
- 2206 independently audited, year-end financial statements for the latest
- 2207 fiscal year with the amounts in such financial statements; and
- 2208
- 2209 B) In connection with that procedure, no matters came to the
- 2210 accountant's attention that caused the accountant to believe that the
- 2211 specified data should be adjusted.
- 2212
- 2213 d) An owner or operator of a new injection well must submit the items specified in
- 2214 subsection (c) ~~of this Section~~ to the Agency within 90 days after the close of each
- 2215 succeeding fiscal year. This information must consist of all three items specified
- 2216 in subsection (c) ~~of this Section~~.
- 2217
- 2218 e) After the initial submission of items specified in subsection (c) ~~of this Section~~, the
- 2219 owner or operator must send updated information to the Agency within 90 days
- 2220 after the close of each succeeding fiscal year. This information must consist of all
- 2221 three items specified in subsection (c) ~~of this Section~~.
- 2222
- 2223 f) If the owner or operator no longer meets the requirements of subsection (a) ~~of this~~
- 2224 ~~Section~~, the owner or operator must send notice to the Agency intent to establish
- 2225 alternate financial assurance. The notice must be sent by certified mail within 90

- 2226 days after the end of the fiscal year for which the year-end financial data show
 2227 that the owner or operator no longer meets the requirements. The owner or
 2228 operator must provide the alternate financial assurance within 120 days after the
 2229 end of such fiscal year.
 2230
- 2231 g) The Agency may, based on a reasonable belief that the owner or operator may no
 2232 longer meet the requirements of subsection (a) ~~of this Section~~, require reports of
 2233 financial condition at any time from the owner or operator in addition to those
 2234 specified in subsection (c) ~~of this Section~~. If the Agency finds, on the basis of
 2235 such reports or other information, that the owner or operator no longer meets the
 2236 requirements of subsection (a), the owner or operator must provide alternate
 2237 financial assurance within 30 days after notification of such a finding.
 2238
- 2239 h) The Agency may disallow use of this test on the basis of qualifications in the
 2240 opinion expressed by the independent certified public accountant in the
 2241 accountant's report on examination of the owner's or operator's financial
 2242 statements (see subsection (c)(2) ~~of this Section~~). An adverse opinion or
 2243 disclaimer of opinion will be cause for disallowance. The Agency must evaluate
 2244 other qualifications on an individual basis. The owner or operator must provide
 2245 alternate financial assurance within 30 days after notification of the disallowance.
 2246
- 2247 i) The owner or operator is no longer required to submit the items specified in
 2248 subsection (c) ~~of this Section~~ when either of the following occurs:
 2249
- 2250 1) An owner or operator substitutes alternate financial assurance; or
 - 2251
 - 2252 2) The Agency releases the owner or operator in accordance with Section
 2253 704.222.
 2254
- 2255 j) An owner or operator may meet the requirements of this Section by obtaining a
 2256 written guarantee, hereafter referred to as "corporate guarantee-". The guarantor
 2257 must be the parent corporation of the owner or operator. The guarantor must meet
 2258 the requirements for owners or operators in subsections (a) through (h) ~~of this~~
 2259 ~~Section~~ and must comply with the terms of the corporate guarantee. The wording
 2260 of the corporate guarantee must be as specified in Section 704.240. The corporate
 2261 guarantee must accompany the items sent to the Agency, as specified in
 2262 subsection (c) ~~of this Section~~. The terms of the corporate guarantee must provide
 2263 that the following limitations apply:
 2264
- 2265 1) If the owner or operator fails to perform plugging and abandonment of the
 2266 injection well covered by the corporate guarantee in accordance with the
 2267 plan and other permit requirements whenever required to do so, the
 2268 guarantor must do so or establish a trust fund, as specified in Section

2269 704.214 in the name of the owner or operator.

2270
2271 2) The corporate guarantee must remain in force unless the guarantor sends
2272 notice of cancellation by certified mail to the owner or operator and the
2273 Agency, as evidenced by the return receipts. Cancellation may not occur,
2274 however, during the 120 days beginning on the date of receipt of the
2275 notice of cancellation by both the owner or operator and the Agency, as
2276 evidenced by the return receipts.

2277
2278 3) If the owner or operator fails to provide alternate financial assurance and
2279 obtain the written approval of such alternate assurance from the Agency
2280 within 90 days after receipt by both the owner or operator and the Agency
2281 of a notice of cancellation of the corporate guarantee from the guarantor,
2282 the guarantor must provide such alternative financial assurance in the
2283 name of the owner or operator.

2284
2285 BOARD NOTE: Derived from 40 CFR 144.63(f) (20172005).

2286
2287 (Source: Amended at 42 Ill. Reg. _____, effective _____)

2288
2289 SUBPART H: ISSUED PERMITS

2290
2291 **Section 704.260 Transfer**

2292
2293 a) Transfer by modification. Except as provided in subsection (b) of this Section, a
2294 permit may be transferred by the permittee to a new owner or operator only if the
2295 permit has been modified or reissued (under Sections 704.261 through 704.264)
2296 to identify the new permittee and incorporate such other requirements as may be
2297 necessary under the appropriate Act. The new owner or operator to whom the
2298 permit is transferred must comply with all the terms and conditions specified in
2299 such permit.

2300
2301 b) Automatic transfers. As an alternative to transfers under subsection (a) of this
2302 Section, any UIC permit for a well not injecting hazardous or injecting carbon
2303 dioxide for geologic sequestration waste may be automatically transferred to a
2304 new permittee if each of the following conditions are fulfilled:

2305
2306 1) The current permittee notifies the Agency at least 30 days in advance of
2307 the proposed transfer date in subsection (b)(2) of this Section;

2308
2309 2) The notice includes a written agreement between the existing and new
2310 permittees containing a specific date for transfer of permit responsibility,
2311 coverage and liability between them and the notice demonstrates that the

2312 financial responsibility requirements of Section 704.189 will be met by the
2313 new permittee and that the new permittee agrees to comply with all the
2314 terms and conditions specified in the permit to be transferred under this
2315 subsection (b) ~~of this Section~~; and
2316

- 2317 3) The Agency does not notify the existing permittee and the proposed new
2318 permittee of its intent to modify or reissue the permit. A modification
2319 under this subsection (b) may also be a minor modification under Section
2320 704.264. If this notice is not received, the transfer is effective on the date
2321 specified in the agreement mentioned in subsection (b)(2) ~~of this Section~~.
2322

2323 BOARD NOTE: Derived from 40 CFR 144.38 (20172014).

2324 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2325
2326

2327 **Section 704.263 Well Siting**

2328

2329 Suitability of the well location must not be considered at the time of permit modification unless
2330 new information or standards indicate that a threat to human health or the environment exists that
2331 was unknown at the time of permit issuance or unless required under the Act ~~[415 ILCS 5]~~.
2332 However, certain modifications may require site location suitability approval pursuant to Section
2333 39.2 of the Act ~~[415 ILCS 5/39.2]~~.
2334

2335 BOARD NOTE: Derived from 40 CFR 144.39(c) (20172005).

2336 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2337
2338

2339 **SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS**

2340

2341 **Section 704.279 General**

2342

2343 This Subpart I sets forth the requirements applicable to the owner or operator of a Class V
2344 injection well. Additional requirements listed elsewhere in this Part may also apply. Where they
2345 may apply, those other requirements are referenced rather than repeated in this Subpart I. The
2346 requirements described in this Subpart I and elsewhere in this Part are intended to protect
2347 USDWs and are part of the UIC program established under Section 13(c) of the Act ~~[415 ILCS~~
2348 ~~5/13(e)]~~.
2349

2350 BOARD NOTE: Derived from 40 CFR 144.79 (20172005). USEPA wrote corresponding
2351 subpart G of 40 CFR 144 in a question-and-answer format to make it easier to understand the
2352 regulatory requirements. The Board has abandoned that format in favor of a more traditional
2353 approach of using clear statements of the requirements and their applicability.
2354

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.282 Protection of Underground Sources of Drinking Water

This Subpart I requires that an owner or operator of a Class V injection well must not allow movement of fluid into USDWs that might cause endangerment of the USDW, that the owner or operator must comply with the UIC requirements in this Part and 35 Ill. Adm. Code 702 and 730, that the owner or operator must comply with any other measures required by the State or USEPA to protect USDWs, and that the owner or operator must properly close its well when the owner or operator is through using it. The owner or operator also must submit basic information about its well, as described in Section 704.283.

- a) Prohibition of fluid movement.
 - 1) As described in Section 704.122(a), an owner's or operator's injection activity cannot allow the movement of fluid containing any contaminant into USDWs if the presence of that contaminant may cause a violation of the primary drinking water standards under 35 Ill. Adm. Code 611, may cause a violation of other health-based standards, or may otherwise adversely affect the health of persons. This prohibition applies to the owner's or operator's well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.
 - 2) If the Agency learns that an owner's or operator's injection activity may endanger a USDW, the Agency may require the owner or operator to close its well, require the owner or operator to get a permit, or require other actions listed in Section 704.122(c), (d), or (e).
- b) Closure requirements. An owner or operator must close the well in a manner that complies with the above prohibition of fluid movement. Also, the owner or operator must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to its well in accordance with all applicable federal, State, and local regulations and requirements.
- c) Other requirements in this Part and 35 Ill. Adm. Code 702 and 730. Beyond this Subpart I, the owner and operator are subject to other UIC program requirements in this Part and 35 Ill. Adm. Code 702 and 730. While most of the relevant requirements are repeated or referenced in this Subpart I for convenience, the owner or operator needs to read all of this Part and 35 Ill. Adm. Code 702 and 730 to fully understand the entire UIC program.
- d) Other State requirements. This Part and 35 Ill. Adm. Code 702 and 730 define minimum federally-derived UIC requirements. The Agency has the flexibility to

2398 establish additional or more stringent requirements based on the authorities in this
2399 Part, 35 Ill. Adm. Code 702 and 730, and the Act [~~415 ILCS 5~~], if such additional
2400 requirements are determined to be necessary to protect USDWs. The owner and
2401 operator must comply with any such additional requirements. The owner or
2402 operator should contact the Agency to learn more.
2403

2404 BOARD NOTE: Derived from 40 CFR 144.82 (~~20172005~~).

2405
2406 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2407

2408 **Section 704.283 Notification of a Class V Injection Well**
2409

2410 The owner or operator of a Class V injection well needs to provide basic "inventory information"
2411 about its well to the Agency, if the owner or operator has not done so already. The owner or
2412 operator also needs to provide any additional information that the Agency requests in accordance
2413 with the provisions of the UIC regulations.
2414

- 2415 a) Inventory requirements. Unless the owner or operator knows it has already
2416 satisfied the inventory requirements in Section 704.128 that were in effect prior to
2417 the issuance of this Subpart I, the owner or operator must give the Agency certain
2418 information about itself and its injection operation.
2419

2420 BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states
2421 that this information is requested on national form "Inventory of Injection
2422 Wells," USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code
2423 720.111(a). Although USEPA Form 7520-16 is acceptable to USEPA, the
2424 Agency may develop alternative forms for use in this State.
2425

- 2426 1) The owner or operator of a new or existing Class V injection well must
2427 contact the Agency to determine what information it must submit and by
2428 when it must submit that information.
2429

- 2430 2) The following is the information that the owner or operator must submit:
2431

- 2432 A) No matter what type of Class V injection well is owned or
2433 operated, the owner or operator must submit at least the following
2434 information for each Class V injection well:
2435

- 2436 i) The facility name and location;
2437
2438 ii) The name and address of a legal contact person for the
2439 facility;
2440

- 2441 iii) The ownership of the facility;
- 2442
- 2443 iv) The nature and type of the injection well or wells; and
- 2444
- 2445 v) The operating status of the injection well or wells.
- 2446
- 2447 B) Illinois is designated a "Primacy State" by USEPA. Corresponding
- 2448 40 CFR 144.83(a)(2)(ii) relates exclusively to "Direct
- 2449 Implementation" states, so the Board has omitted it. This
- 2450 statement maintains structural consistency with the federal
- 2451 regulations.
- 2452
- 2453 C) The owner or operator must provide a list of all wells it owns or
- 2454 operates, along with the following information for each well. (A
- 2455 single description of wells at a single facility with substantially the
- 2456 same characteristics is acceptable.)
- 2457
- 2458 i) The location of each well or project given by Township,
- 2459 Range, Section, and Quarter-Section, according to the U.S.
- 2460 Land Survey System;
- 2461
- 2462 ii) The date of completion of each well;
- 2463
- 2464 iii) The identification and depth of the underground formations
- 2465 into which each well is injecting;
- 2466
- 2467 iv) The total depth of each well;
- 2468
- 2469 v) A construction narrative and schematic (both plan view and
- 2470 cross-sectional drawings);
- 2471
- 2472 vi) The nature of the injected fluids;
- 2473
- 2474 vii) The average and maximum injection pressure at the
- 2475 wellhead;
- 2476
- 2477 viii) The average and maximum injection rate; and
- 2478
- 2479 ix) The date of the last inspection.
- 2480
- 2481 3) The owner and operator is responsible for knowing about, understanding,
- 2482 and complying with these inventory requirements.
- 2483

2484 b) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR
 2485 144.83(b) relates exclusively to "Direct Implementation" states, so the Board has
 2486 omitted it. This statement maintains structural consistency with the federal
 2487 regulations.
 2488

2489 BOARD NOTE: Derived from 40 CFR 144.83 (20172005).

2490
 2491 (Source: Amended at 42 Ill. Reg. _____, effective _____)
 2492

2493 **Section 704.284 Permit Requirements**
 2494

2495 No permit is required for a Class V injection well, unless the owner or operator falls within an
 2496 exception described in subsection (b) of this Section.
 2497

2498 a) General authorization by rule. With certain exceptions listed in subsection (b) of
 2499 this Section, an owner's or operator's Class V injection activity is "authorized by
 2500 rule," meaning that the owner and operator has to comply with all the
 2501 requirements of this Subpart I and the rest of this Part and 35 Ill. Adm. Code 702
 2502 and 730, but the owner or operator does not need to get an individual permit.
 2503 Well authorization expires once the owner or operator has properly closed its
 2504 well, as described in Section 704.282(b).
 2505

2506 b) Circumstances in which permits or other actions are required. If an owner or
 2507 operator fits into one of the categories listed below, its Class V injection well is
 2508 no longer authorized by rule. This means that the owner or operator has to either
 2509 get a permit or close its injection well. The owner or operator can find out
 2510 whether its well falls into one of these categories by contacting the Agency.
 2511 Subparts D and H of this Part tell an owner or operator how to apply for a permit
 2512 and describe other aspects of the permitting process. Subpart C of 35 Ill. Adm.
 2513 Code 702 and Subpart E of this Part outline some of the requirements that apply
 2514 to the owner or operator if it gets a permit. An owner or operator must either
 2515 obtain a permit or close its injection well if any of the following is true:
 2516

2517 1) The owner or operator fails to comply with the prohibition against fluid
 2518 movement in Section 704.122(a) and described in Section 704.282(a) (in
 2519 which case, the owner or operator must get a permit, close its well, or
 2520 comply with other conditions determined by the Agency);
 2521

2522 2) The Class V injection well is a large-capacity cesspool (in which case, the
 2523 owner or operator must close its well as specified in the additional
 2524 requirements set forth in Section 704.288) or the Class V injection well is
 2525 a motor vehicle waste disposal well in a groundwater protection area or a
 2526 sensitive groundwater area (in which case, the owner or operator must

2527 either close its well or get a permit, as specified in the additional
2528 requirements set forth in Section 704.288). New motor vehicle waste
2529 disposal wells and new cesspools are prohibited;

2530
2531 BOARD NOTE: A new motor vehicle waste disposal well or a new
2532 cesspool is one for which construction had not commenced prior to April
2533 5, 2000. See 40 CFR 144.84(a)(2).

- 2534
2535 3) The owner or operator is specifically required by the Agency to get a
2536 permit (in which case, the authorization by rule expires on the effective
2537 date of the permit issued, or the owner or operator is prohibited from
2538 injecting into its well upon the occurrence of either of the following:
2539
2540 A) The failure of the owner and operator to submit a permit
2541 application in a timely manner, as specified in a notice from the
2542 Agency; or
2543
2544 B) The effective date of a permit denial; or
2545
2546 4) The owner or operator has failed to submit inventory information to the
2547 Agency, as described in Section 704.283(a) (in which case, the owner and
2548 operator is prohibited from injecting into the well until it complies with
2549 the inventory requirements).
2550
2551 5) Illinois is designated a "Primacy State" by USEPA. Corresponding 40
2552 CFR 144.84(b)(5) relates exclusively to "Direct Implementation" states, so
2553 the Board has omitted it. This statement maintains structural consistency
2554 with the federal regulations.
2555

2556 BOARD NOTE: Derived from 40 CFR 144.84 (20172005).

2557 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2558
2559

2560 **Section 704.285 Applicability of the Additional Requirements**
2561

- 2562 a) Large-capacity cesspools. The additional requirements set forth in Section
2563 704.288 apply to a new and existing large-capacity cesspool. If the owner or
2564 operator is using a septic system for these type of wastes, the owner or operator is
2565 not subject to the additional requirements in Section 704.288.
2566
2567 b) Motor vehicle waste disposal wells existing on April 5, 2000. If the owner or
2568 operator has a Class V motor vehicle waste disposal well, the additional
2569 requirements in Section 704.288 apply to that owner or operator if the well is

2570 located in a ground water protection area or other sensitive ground water area that
2571 is identified by the Agency, the Board, or USEPA Region 5.
2572

2573 BOARD NOTE: An existing motor vehicle waste disposal well is one for which
2574 construction had commenced prior to April 5, 2000. See 40 CFR 144.83(a)(1)(i)
2575 and (a)(1)(ii), as added at 64 Fed. Reg. 68568 (December 7, 1999).
2576 Corresponding 40 CFR 144.85(b) provides that the additional requirements apply
2577 Statewide if the State or the USEPA Region fails to identify sensitive
2578 groundwater areas. The Board has not included this Statewide applicability
2579 provision by virtue of 14.1 through 14.6 and Sections 17.1 through 17.4 of the Act
2580 [415 ILCS 5/14.1-14.6 and 17.1-17.4], Section 8 of the Illinois Groundwater
2581 Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620.
2582

2583 c) New Motor Vehicle Waste Disposal Wells. The additional requirements in
2584 Section 704.288 apply to a new motor vehicle waste disposal well.
2585

2586 BOARD NOTE: A new motor vehicle waste disposal well is one for which
2587 construction had not commenced prior to April 5, 2000. See 40 CFR 144.85(c)
2588 (2005).
2589

2590 BOARD NOTE: Derived from 40 CFR 144.85 (20172005).

2591
2592 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2593

2594 **Section 704.286 Definitions**
2595

2596 "State drinking water source assessment and protection program" is a new
2597 approach to protecting drinking water sources, specified in section 1453 of the
2598 1996 Amendments to the Safe Drinking Water Act (42 USC 300j-13).

2599 BOARD NOTE: Under the federal requirements, states must prepare and submit
2600 for USEPA approval a program that sets out how each state must conduct local
2601 assessments, including the following: delineating the boundaries of areas
2602 providing source waters for public water systems; identifying significant potential
2603 sources of contaminants in such areas; and determining the susceptibility of
2604 public water systems in the delineated areas to the inventoried sources of
2605 contamination. The Illinois Groundwater Protection Act [~~415 ILCS 55~~] and the
2606 regulations at 35 Ill. Adm. Code 620 adopted pursuant to that law and Sections
2607 14.1 through 14.6 and 17.1 through 17.4 of the Environmental Protection Act
2608 [~~415 ILCS 14.1-14.6 and 17.1-17.4~~] and the regulations at 35 Ill. Adm. Code 615
2609 through 617 adopted under those provisions are major segments of the required
2610 Illinois program.
2611

2612 "Complete local source water assessment for groundwater protection areas-".

2613 When USEPA has approved a state's drinking water source assessment and
2614 protection program, the state must begin to conduct local assessments for each
2615 public water system in that state. For the purposes of this Subpart I, local
2616 assessments for community water systems and non-transient non-community
2617 systems are complete when the four following requirements are met:
2618

2619 The State must delineate the boundaries of the assessment area for
2620 community and non-transient non-community water systems, as such are
2621 defined in 35 Ill. Adm. Code 611.101;
2622

2623 The State must identify significant potential sources of contamination in
2624 these delineated areas;
2625

2626 The State must determine the susceptibility of community and non-
2627 transient non-community water systems in the delineated area to such
2628 contaminants; and
2629

2630 The Agency must make the completed assessments available to the public.
2631

2632 BOARD NOTE: The Agency administers the "Illinois Source Water Assessment
2633 and Protection Program," which is intended to comply with the federal source
2634 water assessment requirements of SDWA Section 1453 (42 USC 300j-13).
2635

2636 "Groundwater protection area" is a geographic area near or surrounding a
2637 community or non-transient non-community water system, as defined in 35 Ill.
2638 Adm. Code 611.101, that uses groundwater as a source of drinking water. For the
2639 purposes of this Subpart I, the Board considers a "setback zone," as defined in
2640 Section ~~3.4503-61~~ of the Act ~~[415 ILCS 5/3-61]~~ and regulated pursuant to
2641 Sections 14.1 through 14.6 of the Act ~~[415 ILCS 5/14.1-14.6]~~, to be a
2642 "groundwater protection area," as intended by corresponding 40 CFR 144.86(c).
2643 (See 35 Ill. Adm. Code 615 and 616.) These areas receive priority for the
2644 protection of drinking water supplies and federal law requires the State to
2645 delineate and assess these areas under section 1453 of the federal Safe Drinking
2646 Water Act, 42 USC 300j-13. The additional requirements in Section 704.288
2647 apply to an owner or operator if its Class V motor vehicle waste disposal well is
2648 in a groundwater protection area for either a community water system or a non-
2649 transient non-community water system. BOARD NOTE: USEPA stated in
2650 corresponding 40 CFR 144.86(c) that in many states these areas will be the same
2651 as wellhead protection areas delineated as described in section 1428 of the federal
2652 SDWA (42 USC 300h-7).
2653

2654 "Community water system," as defined in 35 Ill. Adm. Code 611.101, is a public
2655 water system that serves at least 15 service connections used by year-round

residents or which regularly serves at least 25 year-round residents.

"Non-transient, non-community water system," as defined in 35 Ill. Adm. Code 611.101, is a water system that is not a community water system and which regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government or military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

"Delineation-" Once the State's drinking water source assessment and protection program is approved by USEPA, the State must begin delineating its local assessment areas. "Delineation" is the first step in the assessment process in which the boundaries of groundwater protection areas are identified.

"Other sensitive groundwater areas-" The State may also identify other areas in the State in addition to groundwater protection areas that are critical to protecting USDWs from contamination. For the purposes of this Subpart I, the Board considers a "regulated recharge area," as defined in Section 3.3903-67 of the Act [415 ILCS 5/3-67] and regulated pursuant to Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], to be an "other sensitive groundwater area," as intended by corresponding 40 CFR 144.86(g). (See 35 Ill. Adm. Code 615 through 617.) These other sensitive groundwater areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to groundwater, significance as a drinking water source, and prevailing land-use practices.

BOARD NOTE: Derived from 40 CFR 144.86 (20172005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.287 Location in a Groundwater Protection Area or Another Sensitive Area

- a) The owner or operator ofA person is subject to Section 704.288 if the person owns or operates an existing motor vehicle waste disposal well and that person is located in a groundwater protection area or another sensitive groundwater area is subject to Section 704.288. If the State fails to identify these areas within the federally specified time frames, the additional requirements of Section 704.288

2699 must apply to all existing motor vehicle waste disposal wells within this State.
2700

2701 BOARD NOTE: Corresponding 40 CFR 144.87(a) provides that the "new
2702 requirements" apply statewide if the State or the USEPA Region fails to identify
2703 sensitive groundwater areas. The Board has interpreted "new requirements" as
2704 synonymous with "additional requirements" elsewhere in this Subpart I. Sections
2705 14.1 through 14.6 and 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and
2706 17.1-17.4] and 35 Ill. Adm. Code 615 through 617 designate protected
2707 groundwater resources and allow the designation of other sensitive areas for
2708 protection. Further, the Illinois Groundwater Protection Act [415 ILCS 55], and
2709 the regulations adopted as 35 Ill. Adm. Code 620 under that statute, protect the
2710 quality of all groundwater resources in Illinois.
2711

2712 b) This subsection (b) corresponds with 40 CFR 144.87(b), which set forth now-past
2713 compliance deadlines for identifying groundwater protection areas. This
2714 statement maintains structural consistency with the federal rules. Groundwater
2715 protection areas. Many segments of corresponding 40 CFR 144.87(b) set forth
2716 requirements applicable to the State only. Other requirements apply to the
2717 regulated community contingent on the regulatory status of the Illinois
2718 groundwater protection program. The Board has codified the requirements
2719 applicable to the State in this subsection (b) for the purpose of informing the
2720 regulated public and clarifying the requirements on the regulated community.
2721

2722 1-) For the purpose of this Subpart I, USEPA requires States to complete all
2723 local source water assessments for groundwater protection areas by
2724 January 1, 2004. Once a local assessment for a groundwater protection
2725 area is complete every existing motor vehicle waste disposal well owner in
2726 that groundwater protection area has one year to close the well or receive a
2727 permit. If the State fails to complete all local assessments for groundwater
2728 protection areas by January 1, 2004, the following may occur:
2729

2730 A) The new requirements in this Subpart I apply to all existing motor
2731 vehicle waste disposal wells in the State, and the owner or operator
2732 of a motor vehicle waste disposal well located outside of the areas
2733 of the completed area assessments for groundwater protection
2734 areas must have closed its well or obtained a permit by January 1,
2735 2005.
2736

2737 B) USEPA may have granted a state an extension for up to one year
2738 from the January 1, 2004 deadline if the state was making
2739 reasonable progress toward completing the source water
2740 assessments for groundwater protection areas. States must have
2741 applied for the extension by June 1, 2003. If a state failed to

complete the assessments for the remaining groundwater protection areas by the extended date, the rule requirements apply to all motor vehicle waste disposal wells in the state, and the owner or operator of a motor vehicle waste disposal well located outside of groundwater protection areas with completed assessments must have closed its well or received a permit by January 1, 2006.

- 2) The Agency must extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

- c) This subsection (c) corresponds with 40 CFR 144.87(c), which set forth now-past compliance deadlines for identifying other sensitive groundwater areas. This statement maintains structural consistency with the federal rules. Other sensitive groundwater areas. The owner or operator of an existing motor vehicle waste disposal well within another sensitive groundwater area has until January 1, 2007 to receive a permit or close the well. If the State failed to identify these additional sensitive groundwater areas by January 1, 2004, the additional requirements of Section 704.288 apply to all motor vehicle waste disposal wells in the State effective January 1, 2007, unless they are subject to a different compliance date pursuant to subsection (b) of this Section. If USEPA has granted the State an extension of the time to delineate sensitive groundwater areas, the owner or operator of an existing motor vehicle waste disposal well within a sensitive groundwater area has until January 1, 2008 to close the well or receive a permit, unless the owner or operator is subject to a different compliance date pursuant to subsection (b) of this Section. If the State has been granted an extension and fails to delineate sensitive areas by the extended date, an owner or operator has until January 1, 2008 to close the well or receive a permit, unless it is subject to a different compliance date pursuant to subsection (b) of this Section.

BOARD NOTE: Corresponding 40 CFR 144.87(e) provides that the State had until January 1, 2004 to identify sensitive groundwater areas. It also provides that USEPA may extend that deadline for up to an additional year if the State is making reasonable progress towards identifying such areas and the State had applied for the extension by June 1, 2003. The Board has not included these provisions relating to deadlines for State action because they impose requirements on the State, rather than on regulated entities. Further, the corresponding federal

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practices, and monitor the injectate and sludge quality;

E) This subsection (b)(1)(E) corresponds with 40 CFR 144.88(b)(1)(v), which provides a contingency for compliance before dates now past. This statement maintains structural consistency with the federal rules. ~~If the State has not completed all of its local assessments by January 1, 2004 (or by the extended date if the State has obtained an extension, as described in Section 704.287), and the well is outside an area with a completed assessment, the owner or operator must have closed the well or obtained a permit by January 1, 2005, unless the State obtained an extension, as described in Section 704.287(b), in which case the deadline was January 1, 2006; the Agency must have extended the closure deadline, but not the permit application deadline, for up to one year if it determined that the most efficient compliance option was connection to a sanitary sewer or installation of new treatment technology and the extension was necessary to implement the compliance option;~~

F) This subsection (b)(1)(F) corresponds with 40 CFR 144.88(b)(1)(vi), which provides a contingency for compliance before dates now past. This statement maintains structural consistency with the federal rules. ~~If the State had not delineated other sensitive groundwater areas by January 1, 2004, and the well is outside of an area with a completed assessment, the owner or operator must close the well or obtain a permit regardless of its location by January 1, 2007, unless the State obtains an extension as described in Section 704.287(e), in which case the deadline is January 2008; or~~

G) If the owner or operator plans to close its well, the owner or operator must notify the Agency of its intent to close the well (this includes closing the well prior to conversion) by at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells:". Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

BOARD NOTE: Any Agency determination of the most efficient

rule provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas and that "the rule requirements" apply in the event of an extension granted by USEPA and the State fails to delineate sensitive areas. The Board has interpreted "new requirements" and "rule requirements" as synonymous with "additional requirements" as used elsewhere in this Subpart I. Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620 protect groundwater resources and allow the designation of sensitive areas.

d) Finding out if a well is in a groundwater protection area or sensitive groundwater area. The Agency must make that listing available for public inspection and copying upon request. Any interested person may contact the Illinois Environmental Protection Agency, Bureau of Water, Division of Public Water Supplies at 1021 North Grand Ave. East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-785-8653) to obtain information on the listing or to determine if any Class V injection well is situated in a groundwater protection area or another sensitive groundwater area.

e) Changes in the status of the State drinking water source assessment and protection program. If the State assesses a groundwater protection area for groundwater supplying a new community water system or a new non-transient non-community water system after January 1, 2004, or if the State re-delineates the boundaries of a previously delineated groundwater protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well in such an area. The additional regulations apply to the affected Class V injection well one year after the State completes the local assessment for the groundwater protection area for the new drinking water system or the new re-delineated area. The Agency must extend this deadline for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

f) This subsection (f) corresponds with 40 CFR 144.87(f), which set forth now-past compliance deadlines in the event of a failure to identify other sensitive groundwater areas. This statement maintains structural consistency with the federal rules. ~~If the State elects not to delineate the additional sensitive groundwater areas, the additional regulations of Section 704.288 apply to all Class V injection wells in the State, regardless of the location, on January 1, 2007,~~

2828 or January 1, 2008 if an extension has been granted as provided in subsection (c)
2829 of this Section, except for wells in groundwater protection areas that are subject to
2830 different compliance deadlines explained in subsection (b) of this Section.
2831

- 2832 g) Application of requirements outside of groundwater protection areas and sensitive
2833 groundwater areas. The Agency must apply the additional requirements in
2834 Section 704.288 to an owner or operator, even if the owner's or operator's well is
2835 not located in the areas listed in subsection (a) of this Section, if the Agency
2836 determines that the application of those additional requirements is necessary to
2837 protect human health and the environment.
2838

2839 BOARD NOTE: Any Agency determination to apply the additional requirements
2840 of Section 704.288 is subject to Board review pursuant to Section 40 of the Act
2841 [415 ILCS 5/40]. The Board has omitted certain segments of corresponding 40
2842 CFR 144.87 that encouraged State actions, since those segments did not impose
2843 requirements on the regulated community.
2844

2845 BOARD NOTE: Derived from 40 CFR 144.87 (20172005).

2846
2847 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2848

2849 Section 704.288 Additional Requirements

2850 Additional requirements are as follows:

- 2851
2852
2853 a) Additional Requirements for Large-Capacity Cesspools Statewide. See Section
2854 704.285 to determine the applicability of these additional requirements. Large-
2855 capacity cesspools are prohibited.
2856

2857 1) If the cesspool is existing (operational or under construction by April 5,
2858 2000), the following requirements apply:

- 2859
2860 A) The owner or operator must have closed the well by April 5, 2005.
2861
2862 B) The owner or operator must have notified the Agency of its intent
2863 to close the well at least 30 days prior to closure.
2864

2865 BOARD NOTE: In the corresponding note to 40 CFR 144.83(a),
2866 USEPA states that this information is requested on the federal form
2867 entitled "Preclosure Notification for Closure of Injection Wells."
2868 Although the form "Preclosure Notification for Closure of
2869 Injection Wells" is acceptable to USEPA, the Agency may develop
2870 alternative forms for use in this State.

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2) ~~If the cesspool is new or converted (construction not started before April 5, 2000) it is prohibited.~~

~~BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.~~

b) Additional Requirements for Motor Vehicle Waste Disposal Wells. See Section 704.285 to determine the applicability of these additional requirements.

1) If the motor vehicle waste disposal well is existing (operational or under construction by April 5, 2000) the following applies:

A) If the well is in a groundwater protection area, the owner or operator must close the well or obtain a permit within one year after the completion of the local source water assessment; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

B) If the well is in another sensitive groundwater area, the owner or operator must immediately close the well or obtain a permit. The ~~by January 1, 2007;~~ the Agency may extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

C) If the owner or operator plans to seek a waiver from the ban and apply for a permit by the date the owner or operator submits its permit application, the owner or operator must meet the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611, at the point of injection while the permit application is under review, if the owner or operator chooses to keep operating the well;

D) If the owner or operator receives a permit, the owner or operator must comply with all permit conditions by the dates specified in its permit, if the owner or operator chooses to keep operating the well, including requirements to meet MCLs and other health-based standards at the point of injection, follow best management

2957 compliance option under subsection (b)(1)(A), (b)(1)(B), or (b)(1)(E) of
2958 this Section is subject to Board review pursuant to Section 40 of the Act
2959 [415 ILCS 5/40].
2960

- 2961 2) If the motor vehicle waste disposal well is new or converted (construction
2962 not started before April 5, 2000) it is prohibited.

2963
2964 BOARD NOTE: ~~Corresponding 40 CFR 144.88(b)(2) sets forth a federal~~
2965 ~~effective date of April 5, 2000 for the prohibition.~~
2966

2967 BOARD NOTE: Derived from 40 CFR 144.88 (20172000).

2968
2969 (Source: Amended at 42 Ill. Reg. _____, effective _____)
2970

2971 **Section 704.289 Closure of a Class V Injection Well**
2972

2973 The following describes the requirements for closing or converting a Class V injection well:
2974

- 2975 a) Closure.
2976

- 2977 1) Prior to closing a Class V large-capacity cesspool or motor vehicle waste
2978 disposal well, the owner or operator must plug or otherwise close the well
2979 in a manner that complies with the prohibition of fluid movement set forth
2980 in Section 704.122 and summarized in Section 704.282(a). The owner or
2981 operator must also dispose of or otherwise manage any soil, gravel,
2982 sludge, liquids, or other materials removed from or adjacent to the well in
2983 accordance with all applicable federal, State, and local regulations and
2984 requirements, as described in Section 704.282(b).
2985

- 2986 2) Closure does not mean that the owner or operator needs to cease
2987 operations at its facility, only that the owner or operator needs to close its
2988 well. A number of alternatives are available for disposing of waste fluids.
2989 Examples of alternatives that may be available to motor vehicle stations
2990 include the following: recycling and reusing wastewater as much as
2991 possible; collecting and recycling petroleum-based fluids, coolants, and
2992 battery acids drained from vehicles; washing parts in a self-contained,
2993 recirculating solvent sink, with spent solvents being recovered and
2994 replaced by the supplier; using absorbents to clean up minor leaks and
2995 spills, and placing the used materials in approved waste containers and
2996 disposing of them properly; using a wet vacuum or mop to pick up
2997 accumulated rain or snow melt, and if allowed, connecting floor drains to
2998 a municipal sewer system or holding tank, and if allowed, disposing of the
2999 holding tank contents through a publicly owned treatment works (POTW).

3000 The owner or operator should check with the POTW that it might use to
3001 see if the POTW would accept the owner's or operator's wastes.
3002 Alternatives that may be available to owners and operators of a large-
3003 capacity cesspool include the following: conversion to a septic system;
3004 connection to a sewer; or installation of an on-site treatment unit.
3005

3006 b) Conversions. In limited cases, the Agency may authorize the conversion
3007 (reclassification) of a motor vehicle waste disposal well to another type of Class
3008 V well. Motor vehicle wells may only be converted if the two conditions of
3009 subsections (b)(1) and (b)(2) of this Section are fulfilled, subject to the conditions
3010 of subsection (b)(3) of this Section:
3011

- 3012 1) All motor vehicle fluids are segregated by physical barriers and are
3013 not allowed to enter the well; and
3014
3015 2) Injection of motor vehicle waste is unlikely based on a facility's
3016 compliance history and records showing proper waste disposal.
3017
3018 3) The use of a semi-permanent plug as the means to segregate waste
3019 is not sufficient to convert a motor vehicle waste disposal well to
3020 another type of Class V injection well.
3021

3022 BOARD NOTE: Derived from 40 CFR 144.89 (20172005).
3023

3024 (Source: Amended at 42 Ill. Reg. _____, effective _____)

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

PART 704
UIC PERMIT PROGRAM

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704.288 Additional Requirements
704.289 Closure of a Class V Injection Well

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 March 3, 1984; amended in R82-19, at 7 Ill. Reg. 14402, effective March 3, 1984; amended in R83-39, at 55 PCB 319, at 7 Ill. Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 Ill. Reg. 13290, effective July 29, 1986; amended in R87-29 at 12 Ill. Reg. 6687, effective March 28, 1988; amended in R88-2 at 12 Ill. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 Ill. Reg. 478, effective December 30, 1988; amended in R89-2 at 14 Ill. Reg. 3116, effective February 20, 1990; amended in R94-17 at 18 Ill. Reg. 17641, effective November 23, 1994; amended in R94-5 at 18 Ill. Reg. 18351, effective December 20, 1994; amended in R00-11/R01-1 at 24 Ill. Reg. 18612, effective December 7, 2000; amended in R01-30 at 25 Ill. Reg. 11139, effective August 14, 2001; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 605, effective December 20, 2006; amended in R11-14 at 36 Ill. Reg. 1613, effective January 20, 2012; amended in R13-15 at 37 Ill. Reg. 17708, effective October 24, 2013; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 704.101 Content

The regulations in this Subpart A set forth the specific requirements for the UIC (Underground Injection Control) permit program. These rules

1) A well used by a generator of hazardous waste or the owner or operator of a hazardous waste management facility to inject hazardous waste beneath the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore.

2) Any other industrial and municipal disposal well that injects fluids beneath the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore.

3) A radioactive waste disposal well that injects fluids below the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore.

b) Class II injection wells. Any well that injects any of the following fluids is a Class II injection well:

1) Fluids that are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, and which may be commingled with waste waters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

2) Fluids injected for enhanced recovery of oil or natural gas; and

3) Fluids injected for storage of hydrocarbons that are liquid at standard temperature and pressure.

c) Class III injection wells. Any well that injects fluids for the extraction of minerals, including the following:

1) The mining of sulfur by the Frasch process;

2) The in-situ production of uranium or other metals. This category includes only in-situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included as a Class V injection well; and

3) Solution mining of salts or potash.

d) Class IV injection wells. Any of the following is a Class IV injection well:

1) A well used by a generator of hazardous waste or of radioactive waste, by the owner or operator of a hazardous waste management facility or by the owner or operator of a radioactive waste disposal site to dispose of hazardous wastes or radioactive wastes into a formation that contains a USDW within 402 meters (one-quarter mile) of the well.

2) A well used by a generator of hazardous waste or of radioactive waste, by the owner or operator of a hazardous waste management facility, or by the owner or operator of a radioactive waste disposal

action, operation, monitoring or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of a well authorized by permit, these additional requirements must be imposed by modifying the permit in accordance with 35 Ill. Adm. Code 702.183 through 702.185, or appropriate enforcement action may be taken if the permit has been violated, and the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists. In the case of wells authorized by rule, see Section 704.141 through 704.146.

c) For a Class V injection well, if at any time the Agency learns that a Class V injection well could cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR 141), it must undertake one of the following actions:

- 1) It must require the injector to obtain an individual permit;
- 2) It must issue a permit that requires the injector to take such actions (including, where necessary, closure of the injection well) as may be necessary to prevent the violation; or
- 3) It may initiate enforcement action.

d) Whenever the Agency learns that a Class V injection well may be otherwise adversely affecting the health of persons, it may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection (c) ~~of this Section~~.

e) Notwithstanding any other provision of this Section, the Agency may take emergency action upon receipt of information that a contaminant that is present in or is likely to enter a public water system or a USDW may present an imminent and substantial endangerment to the health of persons. The Agency may declare an emergency and affix a seal pursuant to Section 34 of the Act ~~[415 ILCS 5/34]~~.

BOARD NOTE: Derived from 40 CFR 144.12 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.123 Identification of USDWs and Exempted Aquifers

a) The Agency may identify (by narrative description, illustrations, maps, or other means) and must protect as a USDW, any aquifer or part of an aquifer that meets the definition of a USDW set forth in 35 Ill. Adm. Code 702.110, except as one of the exceptions of subsections (a)(1) and (a)(2) ~~of this Section~~ applies. Other than Agency-approved aquifer exemption expansions that meet the criteria set forth in 35 Ill. Adm. Code 730.104, a new aquifer exemption must not be issued for a Class VI injection well. Even if an aquifer has not been specifically identified by the Agency, it is a USDW if it meets the definition in 35 Ill. Adm. Code 702.110. Identification of USDWs must be made according to criteria adopted by the Agency pursuant to 35 Ill. Adm. Code 702.106.

1) The Agency may not identify an aquifer or part of an aquifer as a USDW to the extent that there is an applicable aquifer exemption under subsection (b) ~~of this Section~~.

2) The Agency may not identify an aquifer or part of an aquifer as a USDW to the extent that the aquifer or part of an aquifer is an expansion to the areal extent of an existing Class II enhanced oil recovery or is subject to an enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration under subsection (d) ~~of this Section~~.

b) Identification of an exempted aquifer.

1) The Agency may identify (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, any aquifer or part of an aquifer that the Agency desires the Board to designate as an exempted aquifer using the criteria in 35 Ill. Adm. Code 730.104, as described in this subsection (b).

2) No designation of an exempted aquifer may be final until approved by USEPA as part of the State program.

3) Subsequent to program approval, the Board may identify additional exempted aquifers.

4) Identification of exempted aquifers must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act ~~[415 ILCS 5/27 and 28]~~, considering the criteria set forth in 35 Ill. Adm. Code 730.104.

c) For a Class III injection well, an applicant for a permit that necessitates an aquifer exemption under 35 Ill. Adm. Code 730.104(b) (1) must furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone must be considered by the Board in addition to the information required by Section 704.161(c). Approval of the exempted aquifer must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act ~~[415 ILCS 5/27 and 28]~~. Rules will not become final until approved by USEPA as a program revision.

d) Expansion to the Areal Extent of Existing Class II Aquifer Exemptions for Class VI Wells. The owner or operator of a Class II enhanced oil recovery or enhanced gas recovery well may request that the Agency approve an expansion to the areal extent of an aquifer exemption already in place for a Class II enhanced oil recovery or enhanced gas

recovery well for the exclusive purpose of Class VI injection for geologic sequestration. A request for areal expansion must be treated as a revision to the applicable federal UIC program under 40 CFR 147 or as a substantial program revision to an approved state UIC program under 40 CFR 145.32 and will not be final until approved by USEPA.

1) The request for an expansion of the areal extent of an existing aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration must define (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts of aquifers that are requested to be designated as exempted using the criteria in 35 Ill. Adm. Code 730.104.

2) In making a determination to expand the areal extent of an aquifer exemption of a Class II enhanced oil recovery or enhanced gas recovery well for the purpose of Class VI injection, the Agency must determine that the request meets the criteria for exemptions in 35 Ill. Adm. Code 730.104. In evaluating a request, the Agency must consider:

A) Any current and potential future use of the USDWs to be exempted as drinking water resources;

B) The predicted extent of the injected carbon dioxide plume, and any mobilized fluids that may result in degradation of water quality, over the lifetime of the geologic sequestration project, as informed by computational modeling performed pursuant to 35 Ill. Adm. Code 730.184(c)(1), in order to ensure that the proposed injection operation will not at any time endanger USDWs including non-exempted portions of the injection formation;

C) Whether the areal extent of the expanded aquifer exemption is of sufficient size to account for any possible revisions to the computational model during reevaluation of the area of review, pursuant to 35 Ill. Adm. Code 730.184(e); and

D) Any information submitted to support a request by the owner or operator for a permit that includes alternative injection well depth requirements pursuant to 35 Ill. Adm. Code 730.195, if appropriate.

BOARD NOTE: Derived from 40 CFR 144.7 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.124 Prohibition Against Class IV Injection Wells

a) The following are prohibited, except as provided in subsection (c) ~~of this Section~~:

1) The construction of any Class IV injection well.

- ~~1) It injected into the existing well within one year after March 3, 1984, or~~
- ~~2) It inventories the well pursuant to Section 704.148.~~
- ~~3) The owner or operator of a well that is authorized by rule pursuant to this Section must rework, operate, maintain, convert, plug, abandon, or inject into the well in compliance with applicable regulations.~~
- ~~b) Class III injection wells in existing fields or projects. Notwithstanding the prohibition in Section 704.121, this Section authorizes Class III injection wells or projects in existing fields or projects to continue normal operations until permitted, including construction, operation, and plugging and abandonment of wells as part of the operation provided the owner or operator maintains compliance with all applicable requirements.~~

BOARD NOTE: Derived from 40 CFR 144.21(a) and (d) (~~2005~~2017).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.142 Prohibitions Against Injection into Wells Authorized by Rule

An owner or operator of a well authorized by rule pursuant to this Subpart C is prohibited from injecting into the well on the occurrence of any of the following:

- a) Upon the effective date of an applicable permit denial;
- b) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;
- c) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148;
- d) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149;
- e) Upon a failure to provide alternative financial assurance pursuant to Section 704.150(d)(6);
- f) 48 hours after receipt of a determination by the Agency pursuant to Section 704.150(f)(3) that the well lacks mechanical integrity, unless the Agency orders immediate cessation pursuant to Section 34 of the Act or as ordered by a court pursuant to Section 43 of the Act ~~[415-ILCS 5/43]~~; or
- g) Upon receipt of notification from the Agency that the transferee has not demonstrated financial assurance pursuant to Section 704.150(d);
- ~~h) For Class I and Class III injection wells: after March 3, 1989, unless a timely and complete permit application for a permit was pending the Agency's decision; or~~
- ~~i) This subsection (i) corresponds with 40 CFR~~

~~144.21(c)(9), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.~~

BOARD NOTE: Derived from 40 CFR 144.21(c) (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.145 Existing Class IV Injection Wells

a) Injection into a Class IV injection well, as defined in Section 704.106(d)(1), is not authorized. The owner or operator of any such well must comply with Sections 704.124 and 704.203.

b) Closure.

1) Prior to abandoning any Class IV injection well, the owner or operator must plug or otherwise close the well in a manner acceptable to the Agency.

2) The ~~By September 27, 1986, the~~ owner and operator of any Class IV injection well must submit ~~was to have submitted~~ to the Agency a plan for plugging or otherwise closing and abandoning the well.

3) The owner or operator of a Class IV injection well must notify the Agency of intent to abandon the well at least 30 days prior to abandonment.

c) Notwithstanding subsections (a) and (b) ~~of this Section~~, an injection well that is used to inject contaminated groundwater that has been treated and which is being injected into the same formation from which it was drawn is authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by USEPA pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9601 et seq.), by USEPA pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.), or by ~~the~~ the Agency pursuant to Section 39 of the Act ~~[415 ILCS 5/39]~~.

BOARD NOTE: Derived from 40 CFR 144.23 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.147 Requiring a Permit

a) The Agency may require the owner or operator of any Class ~~I, Class III, or Class V~~ injection well that is authorized by rule under this Subpart C to apply for and obtain an individual or area UIC permit.

Cases where individual or area UIC permits may be required include the following:

1) The injection well is not in compliance with any requirement of this Subpart C;

BOARD NOTE: Any underground injection that violates any rule under this Subpart C is subject to appropriate enforcement action.

2) The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule;

3) The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, that are not contained in this Subpart C; ~~or 4)~~
~~When the injection well is a Class I or Class III injection well, in accordance with a schedule established by the Agency pursuant to Section 704.161(b).~~

b) The Agency may require the owner or operator of any well that is authorized by rule under this Subpart C to apply for an individual or area UIC permit under this subsection (b) only if the owner or operator has been notified in writing that a permit application is required. The owner or operator of a well that is authorized by rule is prohibited from injecting into the well on the occurrence of either of the circumstances of subsection (b) (1) or (b) (2) ~~of this Section,~~ subject to subsection (b) (3) ~~of this Section.~~

1) Upon the effective date of a permit denial; or

2) Upon the failure of the owner or operator to submit an application in a timely manner as specified in the notice.

3) The notice must include all of the following:

A) A brief statement of the reasons for this decision;

B) An application form;

C) A statement setting a time for the owner or operator to file the application; and

D) A statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this subsection (b).

c) An owner or operator of a well that is authorized by rule may request to be excluded from the coverage of the rule by applying for an individual or area UIC permit. The owner or operator must submit to the Agency an application under Section 704.161 with reasons supporting the request. The Agency may grant any such request.

- iii) A geothermal energy recovery well, 35 Ill. Adm. Code 730.105(e) (12);
- iv) A brine return flow well, 35 Ill. Adm. Code 730.105(e) (14);
- v) A well used in an experimental technology, 35 Ill. Adm. Code 730.105(e) (15);
- vi) A municipal or industrial disposal well other than a Class I injection well; and
- vii) Any other Class V injection well, at the discretion of the Agency.

2) The owner or operator of a well listed in subsection (b) (1) ~~of this Section~~ must provide a listing of all wells owned or operated setting forth the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)

A) Corresponding 40 CFR 144.26(b) (2) (i) pertains to Class II wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act ~~[225 ILCS 725]~~ (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;

B) The location of each well or project given by Township, Range, Section, and Quarter-Section;

C) The date of completion of each well;

D) Identification and depth of the formations into which each well is injecting;

E) The total depth of each well;

F) The casing and cementing record, tubing size, and depth of packer;

G) The nature of the injected fluids;

H) The average and maximum injection pressure at the wellhead;

I) The average and maximum injection rate; and

J) The date of the last mechanical integrity tests, if any.

c) This subsection (c) corresponds with 40 CFR 144.26(c), a provision relating to USEPA notification to facilities upon authorization of the state's program. This statement maintains structural consistency with USEPA rules.

d) ~~Deadlines.~~—The owner or operator of a new Class V injection well must submit inventory information prior to starting injection. ~~The owner~~

~~or operator of an injection well must submit inventory information no later than March 3, 1985. The Agency need not require inventory information from any facility with RCRA interim status under 35 Ill. Adm. Code 703.~~

e) The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well may resume injection 90 days after submittal of the inventory information to the Agency, ~~unless the owner or operator receives notice from the Agency that injection may not resume or that it may resume sooner.~~ Deadlines for a Class V injection well. 1) ~~The owner or operator of a Class V injection well in which injection took place before March 3, 1985, and who failed to submit inventory information for the well within the time specified in subsection (d) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume or that it may resume sooner.~~

2) ~~The owner or operator of a Class V injection well in which injection started later than March 3, 1985, must submit inventory information prior to May 2, 1995.~~

3) ~~The owner or operator of a Class V injection well in which injection started after May 2, 1994 must submit inventory information prior to starting injection.~~

4) ~~The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well within the time specified in subsection (e)(2) or (e)(3) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume, or that it may resume sooner.~~

BOARD NOTE: A well that was in existence as of March 3, 1984, was required to submit inventory information by March 3, 1985. Since all wells other than a Class V injection wells are ~~well is~~ now either prohibited or required to file a permit application, the inventory requirement will apply only to a new Class V injection wells ~~well~~.

BOARD NOTE: Derived from 40 CFR 144.26 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. ~~—~~, effective ~~_____~~)

Section 704.149 Requiring other Information

a) In addition to the inventory requirements of Section 704.148, the Agency may require the owner or operator of any well authorized by rule under this Subpart C to submit information as deemed necessary by the Agency to determine whether a well may be endangering a USDW in violation of Section 704.122.

b) Such information requirements may include, but are not limited to the following:

2) Any noncompliance or malfunction of the injection system that may cause fluid migration into or between USDWs.

3) Any information must be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission must also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

c) Plugging and abandonment plan.

1) The owner or operator must prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection (c), temporary intermittent cessation of injection operations is not abandonment.

2) Submission of plan.

A) The owner or operator must submit the plan on any forms prescribed by the Agency.

B) The owner or operator must submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i) ~~of this Section~~ (i.e., 45 days prior to plugging, unless shorter notice is approved).

C) The plan must include the following information:

i) The nature and quantity and material to be used in plugging;

ii) The location and extent (by depth) of the plugs;

iii) Any proposed test or measurement to be made;

iv) The amount, size, and location (by depth) of casing to be left in the well;

v) The method and location where casing is to be parted; and

vi) The estimated cost of plugging the well.

D) After a cessation of operations of two years, the owner or operator must plug and abandon the well in accordance with the plan, unless the owner or operator performs both of the following actions:

i) It provides written notice to the Agency; and

ii) It describes actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger a USDW during the period of temporary abandonment. These actions and procedures must include compliance with the technical requirements applicable to active injection wells, unless the operator obtains regulatory relief in the form of a variance or adjusted standard from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the Act ~~{415 ILCS 5/Title IX}~~.

E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and which has met the requirements of subsections (c)(2)(D)(i) and (c)(2)(D)(ii)) ~~of this Section~~ must notify the Agency in writing prior to resuming operation of the well.

d) Financial responsibility.

1) The owner or operator or transferor of a Class I or Class III injection well is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency until one of the following has occurred:

A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~of this Section~~ and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) ~~of this Section~~;

B) The well has been converted in compliance with subsection (j) ~~of this Section~~; or

C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator must show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.

2) The owner or operator must submit evidence of financial responsibility to the Agency ~~was to have submitted such evidence no later than March 3, 1985.~~ Where the ownership or operational control of the well is to transfer ~~was transferred later than March 3, 1985,~~ the transferee must submit such evidence no later than the date specified in the notice required pursuant to subsection (1) (2) ~~of this Section~~.

3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.

4) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of Subpart G ~~of this Part~~.

5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for the purpose of financial responsibility must so notify the Agency if the guarantor is named as debtor in any such proceeding.

6) In the event of commencement of a proceeding specified in subsection (d)(5) ~~of this Section~~, an owner or operator that has furnished a financial statement for the purpose of demonstrating financial responsibility pursuant to this Section will be deemed to be in violation of this subsection (d) until an alternative financial assurance demonstration acceptable to the Agency is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties must be prohibited from injecting into the well until such alternative financial assurance is provided.

e) This subsection (e) corresponds with 40 CFR 144.28(e), which pertains exclusively to enhanced recovery and hydrocarbon storage wells (Class II wells). Those wells are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, rather than by the Board and the Agency. This statement maintains structural consistency with USEPA rules.

f) Operating requirements.

1) No person must cause or allow injection between the outermost casing protecting USDWs and the well bore.

2) Maintenance of mechanical integrity.

A) The owner or operator of a Class I or Class III injection well authorized by rule under this Subpart C must establish and maintain mechanical integrity, as defined in 35 Ill. Adm. Code 730.106, until either of the following has occurred:

i) The well is properly plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~of this Section~~ and 35 Ill. Adm. Code 730.110 and a plugging and abandonment report is submitted pursuant to subsection (k); or

ii) The well is converted in compliance with subsection (j) ~~of this Section~~.

B) The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.

3) Cessation upon Lack of Mechanical Integrity.

A) When the Agency determines that a Class I (non-hazardous) or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, the Agency must give written notice of its determination to the owner or operator.

B) Unless the Agency requires immediate cessation, the owner or operator must cease injection into the well within 48 hours of receipt of the Agency's determination.

C) The Agency may allow plugging of the well in accordance with 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.

D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.

4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.

5) For a Class I injection well, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator must fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer must fill the annulus between tubing and casing with a non-corrosive fluid and maintain a positive pressure on the annulus. For any other Class I injection well, the owner or operator must insure that the alternative completion method will reliably provide a comparable level of protection of USDWs.

6) Injection pressure for Class I and III injection wells.

A) Except during stimulation, the owner or operator must not exceed an injection pressure at the wellhead that must be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and

B) The owner or operator must not inject at a pressure that will initiate fractures in the confining zone or cause the movement of injection or formation fluids into a USDW.

g) Monitoring Requirements. The owner or operator must perform the monitoring as described in this subsection (g). Monitoring of the

nature of the injected fluids must comply with applicable analytical methods cited in tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) of 40 CFR 136.3 (Identification of Test Procedures) or in appendix III of 40 CFR 261 (Chemical Analysis Test Methods), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), or with other methods that have been approved by the Agency.

1) The owner or operator of a Class I injection well must undertake the following actions:

A) It must analyze the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics;

B) It must install and use continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing; and

C) It must install and use monitoring wells within the area of review, if required by the Agency, to monitor any migration of fluids into and pressure in the USDWs. The type, number, and location of the wells; the parameters to be measured; and the frequency of monitoring must be approved by the Agency.

2) This subsection (g)(2) corresponds with 40 CFR 144.28(g)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.

3) The owner or operator of a Class III injection well must undertake the following actions:

A) It must provide to the Agency a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete.

i) The owner or operator may request confidentiality pursuant to Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.

ii) If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations that must not be exceeded.

iii) In such a case the owner or operator must retain records of the undisclosed concentration and provide them upon request to the Agency as part of any enforcement investigation;

B) It must monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;

C) It must monitor the fluid level in the injection zone semi-monthly, where appropriate; and

D) All Class III injection wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Agency that manifold monitoring is comparable to individual well monitoring.

h) Reporting requirements. The owner or operator must submit reports to the Agency as follows:

1) For a Class I injection well, quarterly reports on all of the following:

A) The physical, chemical, and other relevant characteristics of the injection fluids;

B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;

C) The results from groundwater monitoring wells prescribed in subsection (f) (1) (C) ~~of this Section~~;

D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and

E) Any well work over performed during the reported quarter.

2) This subsection (h) (2) corresponds with 40 CFR 144.28(h) (2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.

3) For a Class III injection well, all of the following:

A) Quarterly reporting on all monitoring, as required in subsections (f) (2) (A), (f) (2) (B), and (f) (2) (C) ~~of this Section~~;

B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter; and

C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.

i) Retention of records. The owner or operator must retain records of all monitoring information, including the following:

1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and

2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188. The owner or operator must retain the records after the three year retention period unless it delivers the records to the Agency or obtains written approval from the Agency to discard the records.

j) Notice of abandonment. The owner or operator must notify the Agency at least 45 days before conversion or abandonment of the well.

k) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator must submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report must be submitted within 60 days. The report must be certified as accurate by the person who performed the plugging operation. Such report must consist of either:

1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency; or

2) Where actual plugging differed from the plan previously submitted, an updated version of the plan, on any form supplied by the Agency, specifying the different procedures used.

l) Change of ownership.

1) The owner or operator must notify the Agency of a transfer of ownership or operational control of the well at least 30 days in advance of the proposed transfer.

2) The notice must include a written agreement between the transferor and the transferee containing a specific date when the financial responsibility demonstration of subsection (d) ~~of this Section~~ will be met by the transferee.

3) The transferee is authorized to inject unless it receives notification from the Agency that the transferee has not demonstrated financial responsibility pursuant to subsection (d) ~~of this Section~~.

a) The Agency may issue a permit on an area basis, rather than for each injection well individually, provided that the permit is for injection wells for which each of the following is true:

1) The injection wells are described and identified by location in permit applications, if they are existing injection wells, except that the Agency may accept a single description of multiple injection wells with substantially the same characteristics;

2) The injection wells are within the same well field, facility site, reservoir, project, or similar unit in the same state;

3) The injection wells are operated by a single owner or operator;

4) The injection wells are used to inject other than hazardous waste; and

5) The injection wells are other than Class VI injection wells.

b) Area permits must specify both of the following:

1) The area within which underground injections are authorized; and

2) The requirements for construction, monitoring, reporting, operation, and abandonment for all wells authorized by the permit.

c) The area permit may authorize the permittee to construct and operate, convert, or plug and abandon new injection wells within the permit area provided the following conditions are fulfilled:

1) The permittee notifies the Agency at such time as the permit requires;

2) The additional well satisfies the criteria in subsection (a) ~~of this Section~~ and meets the requirements specified in the permit under subsection (b) ~~of this Section~~; and

3) The cumulative effects of drilling and operation of additional injection wells are considered by the Agency during evaluation of the area permit application and are acceptable to the Agency.

d) If the Agency determines that any well constructed pursuant to subsection (c) ~~of this Section~~ does not satisfy the requirements of subsections (c) (1) and (c) (2) ~~of this Section~~, the Agency may modify the permit under 35 Ill. Adm. Code 702.183 through 702.185, seek revocation under 35 Ill. Adm. Code 702.186, or take enforcement action. If the Agency determines that cumulative effects are unacceptable, the permit may be modified under 35 Ill. Adm. Code 702.183 through 702.185.

BOARD NOTE: Derived from 40 CFR 144.33 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.163 Emergency Permits

a) Coverage. Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, the Agency may temporarily permit a specific underground injection if an imminent and substantial threat to the health of persons will result unless a temporary emergency permit is granted.

b) Requirements for issuance.

1) Any temporary permit under subsection (a) ~~of this Section~~ must be for no longer term than required to prevent the threat.

2) Notice of any temporary permit under this subsection (b) must be published in accordance with 35 Ill. Adm. Code 705.163 within 10 days after the issuance of the permit.

3) The temporary permit under this section may be either oral or written. If oral, it must be followed within five calendar days by a written temporary emergency permit.

4) The Agency must condition the temporary permit in any manner it determines is necessary to ensure that the injection will not result in the movement of fluids into a USDW.

BOARD NOTE: Derived from 40 CFR 144.34 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: PERMIT CONDITIONS

Section 704.181 Additional Conditions

The following conditions apply to all UIC permits, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, and these conditions must be incorporated into all permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

a) In addition to 35 Ill. Adm. Code 702.141 (duty to comply): the permittee needs not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in a temporary emergency permit under Section 704.163.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 144.51(a) (2017) ~~(2011)~~.

b) In addition to 35 Ill. Adm. Code 702.150(b) (monitoring and records): the permittee must retain records concerning the nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188 or under Subpart G of 35 Ill. Adm. Code 730, as appropriate. The owner or operator must continue to retain the records after the three-year retention period, unless the owner or operator delivers the records to the Agency or obtains written approval from the Agency to discard the records.

BOARD NOTE: Subsection (b) ~~of this Section~~ is derived from 40 CFR 144.51(j) (2) (ii) (2017) ~~-(2011)~~.

c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes), the following limitation applies: except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and both of the following must occur:

- 1) The permittee must have submitted notice of completion of construction to the Agency; and
- 2) Inspection review must have occurred, as follows:
 - A) The Agency has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or
 - B) The permittee has not received notice from the Agency of its intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in subsection (c) (1) ~~of this Section~~, in which case prior inspection or review is waived, and the permittee may commence injection. The Agency must include in its notice a reasonable time period in which it will inspect the well.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 144.51(m) (2017) ~~-(2011)~~.

- d) Reporting noncompliance.
- 1) Twenty-four hour reporting. The permittee must report any noncompliance that may endanger health or the environment, including the following:
 - A) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; and
 - B) Any noncompliance with a permit condition or malfunction of the injection system that may cause fluid migration into or between USDWs.
 - 2) Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission must also be provided within five days after the time the

permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates, times, and, if the noncompliance has not been corrected, the anticipated time is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance of the noncompliance.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 144.51(~~1~~) (6) (2017) ~~-(2011)~~.

e) The permittee must notify the Agency at such times as the permit requires before conversion or abandonment of the well or, in the case of area permits, before closure of the project.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 144.51(n) (2017) ~~-(2011)~~.

f) A Class I or Class III injection well permit must include, and a Class V permit may include, conditions that meet the applicable requirements of 35 Ill. Adm. Code 730.110 to ensure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of 35 Ill. Adm. Code 730.110, the Agency must incorporate the plan into the permit as a permit condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate, the Agency may require the applicant to revise the plan, prescribe conditions meeting the requirements of this subsection (f), or deny the permit. A Class VI injection well permit must include conditions that meet the requirements set forth in 35 Ill. Adm. Code 730.192. Where the plan meets the requirements of 35 Ill. Adm. Code 730.192, the Agency must incorporate the plan into the permit as a permit condition. For purposes of this subsection (f), temporary or intermittent cessation of injection operations is not abandonment.

BOARD NOTE: Subsection (f) ~~of this Section~~ is derived from 40 CFR 144.51(o) (2017) ~~-(2011)~~.

g) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator must submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report must be submitted within 60 days. The report must be certified as accurate by the person who performed the plugging operation. Such report must consist of either of the following:

- 1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency;
- 2) Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Agency specifying the differences.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 144.51(p) (2017) ~~(2011)~~.

h) Duty to establish and maintain mechanical integrity.

1) The owner or operator of a Class I Class III, or Class VI injection well permitted under this Part and 35 Ill. Adm. Code 702 must establish mechanical integrity prior to commencing injection or on a schedule determined by the Agency. Thereafter the owner or operator of a Class I, Class II, or Class III injection well must maintain mechanical integrity as required by 35 Ill. Adm. Code 730.108, and the owner or operator of a Class VI injection well must maintain mechanical integrity as required by Section 730.189. The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.

2) When the Agency determines that a Class I or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108 or 730.189 (for a Class VI injection well), the Agency must give written notice of its determination to the owner or operator. Unless the Agency requires immediate cessation, the owner or operator must cease injection into the well within 48 hours of receipt of the Agency determination. The Agency may allow plugging of the well pursuant to 35 Ill. Adm. Code 730.110 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.

3) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection, if the owner or operator has made a satisfactory showing that there is no movement of fluid into or between USDWs.

BOARD NOTE: Subsection (h) ~~of this Section~~ is derived from 40 CFR 144.51(q) (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.186 Hazardous Waste Requirements

UIC permits must require by condition requirements for wells managing hazardous waste, as set forth in Subpart F ~~of this Part~~.

BOARD NOTE: Derived from 40 CFR 144.52(a)(4) (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

requirements will not result in an increased risk of movement of fluids into a USDW.

b) When injection occurs through or above a USDW, but the radius of endangering influence when computed under 35 Ill. Adm. Code 730.106(a) is smaller or equal to the radius of the well, the Agency may authorize a well or project with less stringent requirements for operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into a USDW.

c) When reducing requirements under subsection (a) or (b) ~~of this Section~~, the Agency must prepare a fact sheet under 35 Ill. Adm. Code 705.143 explaining the reasons for the action.

BOARD NOTE: Derived from 40 CFR 144.16 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.193 Corrective Action

a) Coverage. An applicant for a Class I or Class III injection well permit must identify the location of all known wells within the injection well's area of review that penetrate the injection zone. For such wells that are improperly sealed, completed, or abandoned, the applicant must also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into USDWs ("corrective action"). Where the plan is adequate, the Agency must incorporate it into the permit as a condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate (based on the factors in 35 Ill. Adm. Code 730.107), the Agency must require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subsection (b) ~~of this Section~~, or deny the application.

b) Requirements.

1) Existing injection wells. Any permit issued for an existing injection well requiring corrective action must include a compliance schedule requiring any corrective action accepted or prescribed under subsection (a) ~~of this Section~~ to be completed as soon as possible.

2) New injection wells. No permit for a new injection well may authorize injection until all required corrective action has been taken.

3) Injection pressure limitation. The Agency may require as a permit condition that injection pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation must satisfy the corrective action requirement. Alternatively, such

- 1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.
- 2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

BOARD NOTE: Corresponding 40 CFR 144.62(b) cites "Oil and Gas Field Equipment Cost Index" without attribution of its source. The Board has located a publication entitled "Oil and Gas Lease Equipment and Operating Costs 1987 to [Date]-". It is assembled by the U.S. Department of Energy, Energy Information Administration. It is available only on the Internet at www.eia.doe.gov. The Board replaced the federally cited reference with this document. The full link for the document (in March 2006) is as follows:

http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices_equipment_production/current/coststudy.html.

c) The owner or operator must review the cost estimate whenever a change in the plan increases the cost of plugging and abandonment. The revised cost estimate must be adjusted for inflation as specified in subsection (b) ~~of this Section~~.

d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest cost estimate prepared in accordance with subsections (a) and (c) ~~of this Section~~ and, when this estimate has been adjusted in accordance with subsection (b) ~~of this Section~~, the latest adjusted cost estimate.

BOARD NOTE: Derived from 40 CFR 144.62 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.214 Trust Fund

a) An owner or operator may satisfy the financial assurance requirement by establishing a trust fund that conforms to the requirements of this Section and submitting an original, signed duplicate of the trust agreement to the Agency. An owner or operator of a Class I injection well injecting hazardous waste must submit the original, signed duplicate of the trust agreement to the Agency with the permit application or for approval to operate under rule. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

b) The wording of the trust agreement must be as specified in Section 704.240, and the trust agreement must be accompanied by a formal certification of acknowledgment. Schedule A of the trust agreement must

be updated within 60 days after a change in the amount of the current cost estimate covered by the agreement.

c) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the injection well as estimated in the plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period". The payments into the trust fund must be made as follows:

1) For a new well, the first payment must be made before the initial injection of hazardous waste. The owner or operator must submit a receipt to the Agency from the trustee for this payment before the initial injection of hazardous waste. The first payment must be at least equal to the current cost estimate, except as provided in Section 704.240, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next Payment} = \text{PE} - \text{CVYR}$$

Where:

~~PE is the~~ PE is the current cost estimate ~~CV is the~~ estimate CV is the current value of the trust fund ~~Y is the~~ fund Y is the number of years remaining in the pay-in period.

2) If an owner or operator establishes a trust fund as specified in this Section, and the value of that trust fund is less than the current cost estimate when a permit is issued for the injection well, the amount of current cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (c) ~~of this Section~~. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to this Part. The amount of each payment must be determined by this formula:

$$\text{Next Payment} = \text{PE} - \text{CVYR}$$

Where:

~~PE is the~~ PE is the current cost estimate ~~CV is the~~ estimate CV is the current value of the trust fund ~~Y is the~~ fund Y is the number of years remaining in the pay-in period.

d) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (c) ~~of this Section~~.

e) If the owner or operator establishes a trust fund after having used one or more alternate financial assurance mechanisms, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this Section.

f) After the pay-in period is completed, whenever the current cost estimate changes the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, or obtain other financial assurance to cover the difference.

g) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate.

h) If an owner or operator substitutes other financial assurance for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate covered by the trust fund.

i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (g) or (h) ~~of this Section~~, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

j) After beginning final plugging and abandonment, an owner and operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency must determine whether the plugging and abandonment expenditures are in accordance with the plan or otherwise justified, and if so, it must instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the value of the trust fund, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222 that the owner or operator is no longer required to maintain financial assurance.

k) The Agency must agree to termination of the trust when either of the following occurs:

1) The owner or operator substitutes alternate financial assurance;
or

2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from 40 CFR 144.63(a) (2017) ~~-(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.215 Surety Bond Guaranteeing Payment

a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency with the application for a permit or for approval to operate under rule. The bond must be effective before the initial injection of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

b) The wording of the surety bond must be as specified in Section 704.240.

c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in Section 704.214, except that the following limitations apply:

1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

2) Until the standby trust fund is funded pursuant to this Section, the following are not required:

A) Payments into the trust fund as specified in Section 704.214;

B) Updating of Schedule A of the trust agreement to show current cost estimates;

C) Annual valuations as required by the trust agreement; and

D) Notices of non-payment as required by the trust agreement.

d) The bond must guarantee that the owner or operator will fulfill the following requirements:

1) It will fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of plugging and abandonment of the injection well;

acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

b) The wording of the surety bond must be as specified in Section 704.240.

c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in Section 704.214, except that the following limitations apply:

1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

2) Until the standby trust fund is funded pursuant to this Section, the following are not required:

A) Payments into the trust fund as specified in Section 704.214;

B) Updating of Schedule A of the trust agreement to show current cost estimates;

C) Annual valuations as required by the trust agreement; and

D) Notices of non-payment as required by the trust agreement.

d) The bond must guarantee that the owner or operator will fulfill the following requirements:

1) It will perform plugging and abandonment in accordance with the plan and other requirements of the permit for the injection well whenever required to do so; or

2) It will provide alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination that the owner or operator has failed to perform plugging and abandonment in accordance with the plan and other permit requirements when required to do so,

- b) The wording of the certificate of insurance must be as specified in Section 704.240.
- c) The policy must be issued for a face amount at least equal to the current cost estimate, except as provided in Section 704.220. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
- d) The policy must guarantee that funds will be available whenever final plugging and abandonment occurs. The policy must also guarantee that once plugging and abandonment begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.
- e) After beginning plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency must determine whether the plugging and abandonment expenditures are in accordance with the plan or otherwise justified, and if so, it must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the face amount of the policy, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222, that the owner or operator is no longer required to maintain financial assurance for plugging and abandonment of the injection well.
- f) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (j) ~~of this Section~~. Failure to pay the premium, without substitution of alternate financial assurance, will constitute a significant violation of these regulations, warranting such remedy as the Agency deems necessary. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination or failure to renew due to non-payment of the premium, rather than upon the date of expiration.
- g) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
- h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the

expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return of receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration any of the following occurs:

- 1) The Agency deems the injection well abandoned;
- 2) The permit is terminated or revoked or a new permit is denied;
- 3) Plugging and abandonment is ordered by the Board, a U.S. district court, or any other court of competent jurisdiction;
- 4) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
- 5) The premium due is paid.
 - i) Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Agency.
 - j) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:
 - 1) An owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from 40 CFR 144.63(e) (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.219 Financial Test and Corporate Guarantee

- a) An owner or operator may satisfy the financial assurance requirement by demonstrating that the owner or operator passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either subsection (a) (1) or (a) (2) ~~of this Section~~:

- 1) The owner or operator must have each of the following:
 - A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - B) Net working capital and tangible net worth each at least six times the sum of the current cost estimate;
 - C) A tangible net worth of at least \$10 million; and
 - D) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimate.
- 2) The owner or operator must have each of the following:
 - A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
 - B) A tangible net worth at least six times the sum of the current cost estimate;
 - C) A tangible net worth of at least \$10 million; and
 - D) Assets located in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimates.
- b) The phrase "current cost estimate" as used in subsection (a) ~~of this Section~~ refers to the cost estimate required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer, as specified in Section 704.240.
- c) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Agency:
 - 1) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 704.240;
 - 2) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
 - 3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that the following are true:

A) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

d) An owner or operator of a new injection well must submit the items specified in subsection (c) ~~of this Section~~ to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) ~~of this Section~~.

e) After the initial submission of items specified in subsection (c) ~~of this Section~~, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) ~~of this Section~~.

f) If the owner or operator no longer meets the requirements of subsection (a) ~~of this Section~~, the owner or operator must send notice to the Agency intent to establish alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

g) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) ~~of this Section~~, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c) ~~of this Section~~. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (a), the owner or operator must provide alternate financial assurance within 30 days after notification of such a finding.

h) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (c)(2) ~~of this Section~~). An adverse opinion or disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance within 30 days after notification of the disallowance.

i) The owner or operator is no longer required to submit the items specified in subsection (c) ~~of this Section~~ when either of the following occurs:

transferred must comply with all the terms and conditions specified in such permit.

b) Automatic transfers. As an alternative to transfers under subsection (a) ~~of this Section~~, any UIC permit for a well not injecting hazardous or injecting carbon dioxide for geologic sequestration waste may be automatically transferred to a new permittee if each of the following conditions are fulfilled:

1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date in subsection (b) (2) ~~of this Section~~;

2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them and the notice demonstrates that the financial responsibility requirements of Section 704.189 will be met by the new permittee and that the new permittee agrees to comply with all the terms and conditions specified in the permit to be transferred under this subsection (b) ~~of this Section~~; and

3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or reissue the permit. A modification under this subsection (b) may also be a minor modification under Section 704.264. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (b) (2) ~~of this Section~~.

BOARD NOTE: Derived from 40 CFR 144.38 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.263 Well Siting

Suitability of the well location must not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown at the time of permit issuance or unless required under the Act ~~[415 ILCS 5]~~. However, certain modifications may require site location suitability approval pursuant to Section 39.2 of the Act ~~[415 ILCS 5/39.2]~~.

BOARD NOTE: Derived from 40 CFR 144.39(c) (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

Section 704.279 General

This Subpart I sets forth the requirements applicable to the owner or operator of a Class V injection well. Additional requirements listed elsewhere in this Part may also apply. Where they may apply, those other requirements are referenced rather than repeated in this Subpart I. The requirements described in this Subpart I and elsewhere in this Part are intended to protect USDWs and are part of the UIC program established under Section 13(c) of the Act ~~[415 ILCS 5/13(c)]~~.

BOARD NOTE: Derived from 40 CFR 144.79 (2017) ~~(2005)~~. USEPA wrote corresponding subpart G of 40 CFR 144 in a question-and-answer format to make it easier to understand the regulatory requirements. The Board has abandoned that format in favor of a more traditional approach of using clear statements of the requirements and their applicability.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.282 Protection of Underground Sources of Drinking Water

This Subpart I requires that an owner or operator of a Class V injection well must not allow movement of fluid into USDWs that might cause endangerment of the USDW, that the owner or operator must comply with the UIC requirements in this Part and 35 Ill. Adm. Code 702 and 730, that the owner or operator must comply with any other measures required by the State or USEPA to protect USDWs, and that the owner or operator must properly close its well when the owner or operator is through using it. The owner or operator also must submit basic information about its well, as described in Section 704.283.

a) Prohibition of fluid movement.

1) As described in Section 704.122(a), an owner's or operator's injection activity cannot allow the movement of fluid containing any contaminant into USDWs if the presence of that contaminant may cause a violation of the primary drinking water standards under 35 Ill. Adm. Code 611, may cause a violation of other health-based standards, or may otherwise adversely affect the health of persons. This prohibition applies to the owner's or operator's well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.

2) If the Agency learns that an owner's or operator's injection activity may endanger a USDW, the Agency may require the owner or operator to close its well, require the owner or operator to get a permit, or require other actions listed in Section 704.122(c), (d), or (e).

b) Closure requirements. An owner or operator must close the well in a manner that complies with the above prohibition of fluid movement. Also, the owner or operator must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or

A) No matter what type of Class V injection well is owned or operated, the owner or operator must submit at least the following information for each Class V injection well:

- i) The facility name and location;
- ii) The name and address of a legal contact person for the facility;
- iii) The ownership of the facility;
- iv) The nature and type of the injection well or wells; and
- v) The operating status of the injection well or wells.

B) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(a)(2)(ii) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

C) The owner or operator must provide a list of all wells it owns or operates, along with the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)

- i) The location of each well or project given by Township, Range, Section, and Quarter-Section, according to the U.S. Land Survey System;
- ii) The date of completion of each well;
- iii) The identification and depth of the underground formations into which each well is injecting;
- iv) The total depth of each well;
- v) A construction narrative and schematic (both plan view and cross-sectional drawings);
- vi) The nature of the injected fluids;
- vii) The average and maximum injection pressure at the wellhead;
- viii) The average and maximum injection rate; and
- ix) The date of the last inspection.

3) The owner and operator is responsible for knowing about, understanding, and complying with these inventory requirements.

b) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(b) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.83 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.284 Permit Requirements

No permit is required for a Class V injection well, unless the owner or operator falls within an exception described in subsection (b) ~~of this Section~~.

a) General authorization by rule. With certain exceptions listed in subsection (b) ~~of this Section~~, an owner's or operator's Class V injection activity is "authorized by rule," meaning that the owner and operator has to comply with all the requirements of this Subpart I and the rest of this Part and 35 Ill. Adm. Code 702 and 730, but the owner or operator does not need to get an individual permit. Well authorization expires once the owner or operator has properly closed its well, as described in Section 704.282(b).

b) Circumstances in which permits or other actions are required. If an owner or operator fits into one of the categories listed below, its Class V injection well is no longer authorized by rule. This means that the owner or operator has to either get a permit or close its injection well. The owner or operator can find out whether its well falls into one of these categories by contacting the Agency. Subparts D and H ~~of this Part~~ tell an owner or operator how to apply for a permit and describe other aspects of the permitting process. Subpart C of 35 Ill. Adm. Code 702 and Subpart E ~~of this Part~~ outline some of the requirements that apply to the owner or operator if it gets a permit. An owner or operator must either obtain a permit or close its injection well if any of the following is true:

1) The owner or operator fails to comply with the prohibition against fluid movement in Section 704.122(a) and described in Section 704.282(a) (in which case, the owner or operator must get a permit, close its well, or comply with other conditions determined by the Agency);

2) The Class V injection well is a large-capacity cesspool (in which case, the owner or operator must close its well as specified in the additional requirements set forth in Section 704.288) or the Class V injection well is a motor vehicle waste disposal well in a groundwater protection area or a sensitive groundwater area (in which case, the owner or operator must either close its well or get a permit, as specified in the additional requirements set forth in Section 704.288). New motor vehicle waste disposal wells and new cesspools are prohibited;

BOARD NOTE: A new motor vehicle waste disposal well or a new cesspool is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.84(a)(2).

The Agency must make the completed assessments available to the public.

BOARD NOTE: The Agency administers the "Illinois Source Water Assessment and Protection Program~~7~~", which is intended to comply with the federal source water assessment requirements of SDWA Section 1453 (42 USC 300j-13).

"Groundwater protection area" is a geographic area near or surrounding a community or non-transient non-community water system, as defined in 35 Ill. Adm. Code 611.101, that uses groundwater as a source of drinking water. For the purposes of this Subpart I, the Board considers a "setback zone~~7~~", as defined in Section 3.450 ~~3.61~~ of the Act-~~[415-ILCS-5/3.61]~~ and regulated pursuant to Sections 14.1 through 14.6 of the Act-~~[415-ILCS-5/14.1-14.6]~~, to be a "groundwater protection area~~7~~", as intended by corresponding 40 CFR 144.86(c). (See 35 Ill. Adm. Code 615 and 616.) These areas receive priority for the protection of drinking water supplies and federal law requires the State to delineate and assess these areas under section 1453 of the federal Safe Drinking Water Act, 42 USC 300j-13. The additional requirements in Section 704.288 apply to an owner or operator if its Class V motor vehicle waste disposal well is in a groundwater protection area for either a community water system or a non-transient non-community water system. BOARD NOTE: USEPA stated in corresponding 40 CFR 144.86(c) that in many states these areas will be the same as wellhead protection areas delineated as described in section 1428 of the federal SDWA (42 USC 300h-7).

"Community water system~~7~~", as defined in 35 Ill. Adm. Code 611.101, is a public water system that serves at least 15 service connections used by year-round residents or which regularly serves at least 25 year-round residents.

"Non-transient, non-community water system~~7~~", as defined in 35 Ill. Adm. Code 611.101, is a water system that is not a community water system and which regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government or military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

"Delineation~~7~~". Once the State's drinking water source assessment and protection program is approved by USEPA, the State must begin delineating its local assessment areas. "Delineation" is the first step in the assessment process in which the boundaries of groundwater protection areas are identified.

"Other sensitive groundwater areas~~7~~". The State may also identify other areas in the State in addition to groundwater protection areas that are critical to protecting USDWs from contamination. For the purposes of this Subpart I, the Board considers a "regulated recharge

area", as defined in Section 3.390 ~~3.67~~ of the Act ~~[415 ILCS 5/3.67]~~ and regulated pursuant to Sections 17.1 through 17.4 of the Act ~~[415 ILCS 5/17.1-17.4]~~, to be an "other sensitive groundwater area", as intended by corresponding 40 CFR 144.86(g). (See 35 Ill. Adm. Code 615 through 617.) These other sensitive groundwater areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to groundwater, significance as a drinking water source, and prevailing land-use practices.

BOARD NOTE: Derived from 40 CFR 144.86 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.287 Location in a Groundwater Protection Area or Another Sensitive Area

a) The owner or operator of ~~A person is subject to Section 704.288 if the person owns or operates~~ an existing motor vehicle waste disposal well ~~and that person is~~ located in a groundwater protection area or another sensitive groundwater area is subject to Section 704.288. ~~If the State fails to identify these areas within the federally specified time frames, the additional requirements of Section 704.288 must apply to all existing motor vehicle waste disposal wells within this State.~~

BOARD NOTE: Corresponding 40 CFR 144.87(a) provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has interpreted "new requirements" as synonymous with "additional requirements" elsewhere in this Subpart I. Sections 14.1 through 14.6 and 17.1 through 17.4 of the Act ~~[415 ILCS 5/14.1-14.6 and 17.1-17.4]~~ and 35 Ill. Adm. Code 615 through 617 designate protected groundwater resources and allow the designation of other sensitive areas for protection. Further, the Illinois Groundwater Protection Act ~~[415 ILCS 55]~~, and the regulations adopted as 35 Ill. Adm. Code 620 under that statute, protect the quality of all groundwater resources in Illinois.

b) This subsection (b) corresponds with 40 CFR 144.87(b), which set forth now-past compliance deadlines for identifying groundwater protection areas. This statement maintains structural consistency with the federal rules. ~~Groundwater protection areas. Many segments of corresponding 40 CFR 144.87(b) set forth requirements applicable to the State only. Other requirements apply to the regulated community contingent on the regulatory status of the Illinois groundwater protection program. The Board has codified the requirements applicable~~

~~to the State in this subsection (b) for the purpose of informing the regulated public and clarifying the requirements on the regulated community.~~

~~1) For the purpose of this Subpart I, USEPA requires States to complete all local source water assessments for groundwater protection areas by January 1, 2004. Once a local assessment for a groundwater protection area is complete every existing motor vehicle waste disposal well owner in that groundwater protection area has one year to close the well or receive a permit. If the State fails to complete all local assessments for groundwater protection areas by January 1, 2004, the following may occur:~~

~~A) The new requirements in this Subpart I apply to all existing motor vehicle waste disposal wells in the State, and the owner or operator of a motor vehicle waste disposal well located outside of the areas of the completed area assessments for groundwater protection areas must have closed its well or obtained a permit by January 1, 2005.~~

~~B) USEPA may have granted a state an extension for up to one year from the January 1, 2004 deadline if the state was making reasonable progress toward completing the source water assessments for groundwater protection areas. States must have applied for the extension by June 1, 2003. If a state failed to complete the assessments for the remaining groundwater protection areas by the extended date, the rule requirements apply to all motor vehicle waste disposal wells in the state, and the owner or operator of a motor vehicle waste disposal well located outside of groundwater protection areas with completed assessments must have closed its well or received a permit by January 1, 2006.~~

~~2) The Agency must extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.~~

~~BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415-ILCS 5/40].~~

c) This subsection (~~b~~c) corresponds with 40 CFR 144.87(~~b~~c), which set forth now-past compliance deadlines for identifying other sensitive groundwater areas. This statement maintains structural consistency with the federal rules.~~Other sensitive groundwater areas. The owner or operator of an existing motor vehicle waste disposal well within another sensitive groundwater area has until January 1, 2007 to receive a permit or close the well. If the State failed to identify these additional sensitive groundwater areas by January 1, 2004, the additional requirements of Section 704.288 apply to all motor vehicle waste disposal wells in the State effective January 1, 2007, unless they are subject to a different compliance date pursuant to subsection (b) of this Section. If USEPA has granted the State an extension of the time to delineate sensitive groundwater areas, the owner or operator of an existing motor vehicle waste disposal well within a sensitive groundwater area has until January 1, 2008 to close the well or receive a permit, unless the owner or operator is subject to a different compliance date pursuant to subsection (b) of this Section. If the~~

~~State has been granted an extension and fails to delineate sensitive areas by the extended date, an owner or operator has until January 1, 2008 to close the well or receive a permit, unless it is subject to a different compliance date pursuant to subsection (b) of this Section. BOARD NOTE: Corresponding 40 CFR 144.87(c) provides that the State had until January 1, 2004 to identify sensitive groundwater areas. It also provides that USEPA may extend that deadline for up to an additional year if the State is making reasonable progress towards identifying such areas and the State had applied for the extension by June 1, 2003. The Board has not included these provisions relating to deadlines for State action because they impose requirements on the State, rather than on regulated entities. Further, the corresponding federal rule provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas and that "the rule requirements" apply in the event of an extension granted by USEPA and the State fails to delineate sensitive areas. The Board has interpreted "new requirements" and "rule requirements" as synonymous with "additional requirements" as used elsewhere in this Subpart I. Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620 protect groundwater resources and allow the designation of sensitive areas.~~

d) Finding out if a well is in a groundwater protection area or sensitive groundwater area. The Agency must make that listing available for public inspection and copying upon request. Any interested person may contact the Illinois Environmental Protection Agency, Bureau of Water, Division of Public Water Supplies at 1021 North Grand Ave. East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-785-8653) to obtain information on the listing or to determine if any Class V injection well is situated in a groundwater protection area or another sensitive groundwater area.

e) Changes in the status of the State drinking water source assessment and protection program. If the State assesses a groundwater protection area for groundwater supplying a new community water system or a new non-transient non-community water system ~~after January 1, 2004,~~ or if the State re-delineates the boundaries of a previously delineated groundwater protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well in such an area. The additional regulations apply to the affected Class V injection well one year after the State completes the local assessment for the groundwater protection area for the new drinking water system or the new re-delineated area. The Agency must extend this deadline for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act ~~[415 ILCS 5/40]~~.

f) This subsection (b~~f~~) corresponds with 40 CFR 144.87(b~~f~~), which set forth now-past compliance deadlines in the event of a failure to identify other sensitive groundwater areas. This statement maintains structural consistency with the federal rules.~~If the State elects not to delineate the additional sensitive groundwater areas, the additional regulations of Section 704.288 apply to all Class V injection wells in the State, regardless of the location, on January 1, 2007, or January 1, 2008 if an extension has been granted as provided in subsection (c) of this Section, except for wells in groundwater protection areas that are subject to different compliance deadlines explained in subsection (b) of this Section.~~

g) Application of requirements outside of groundwater protection areas and sensitive groundwater areas. The Agency must apply the additional requirements in Section 704.288 to an owner or operator, even if the owner's or operator's well is not located in the areas listed in subsection (a) ~~of this Section~~, if the Agency determines that the application of those additional requirements is necessary to protect human health and the environment.

BOARD NOTE: Any Agency determination to apply the additional requirements of Section 704.288 is subject to Board review pursuant to Section 40 of the Act ~~[415 ILCS 5/40]~~. The Board has omitted certain segments of corresponding 40 CFR 144.87 that encouraged State actions, since those segments did not impose requirements on the regulated community.

BOARD NOTE: Derived from 40 CFR 144.87 (2017)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.288 Additional Requirements

Additional requirements are as follows:

a) Additional Requirements for Large-Capacity Cesspools Statewide. See Section 704.285 to determine the applicability of these additional requirements. Large-capacity cesspools are prohibited.

~~1) If the cesspool is existing (operational or under construction by April 5, 2000), the following requirements apply:~~

~~A) The owner or operator must have closed the well by April 5, 2005.~~

~~B) The owner or operator must have notified the Agency of its intent to close the well at least 30 days prior to closure.~~

~~BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Pre-closure Notification for Closure of Injection Wells." Although the form "Pre-closure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.~~

~~2) If the cesspool is new or converted (construction not started before April 5, 2000) it is prohibited.~~

~~BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.~~

b) Additional Requirements for Motor Vehicle Waste Disposal Wells. See Section 704.285 to determine the applicability of these additional requirements.

1) If the motor vehicle waste disposal well is existing (operational or under construction by April 5, 2000) the following applies:

A) If the well is in a groundwater protection area, the owner or operator must close the well or obtain a permit within one year after the completion of the local source water assessment; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

B) If the well is in ~~an other~~another sensitive groundwater area, the owner or operator must immediately close the well or obtain a permit. ~~The by January 1, 2007, the~~ Agency may extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

C) If the owner or operator plans to seek a waiver from the ban and apply for a permit by the date the owner or operator submits its permit application, the owner or operator must meet the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611, at the point of injection while the permit application is under review, if the owner or operator chooses to keep operating the well;

D) If the owner or operator receives a permit, the owner or operator must comply with all permit conditions by the dates specified in its permit, if the owner or operator chooses to keep operating the well, including requirements to meet MCLs and other health-based standards at the point of injection, follow best management practices, and monitor the injectate and sludge quality;

E) This subsection (b)(1)(E) corresponds with 40 CFR 144.88(b)(1)(v), which provides a contingency for compliance before dates now past. This statement maintains structural consistency with the federal rules. ~~If the State has not completed all of its local assessments by January 1, 2004 (or by the extended date if the State has obtained an extension, as described in Section 704.287), and the well is outside an area with a completed assessment, the owner or operator must have closed the well or obtained a permit by January 1, 2005, unless the State obtained an extension, as described in Section 704.287(b), in which case the~~

~~deadline was January 1, 2006; the Agency must have extended the closure deadline, but not the permit application deadline, for up to one year if it determined that the most efficient compliance option was connection to a sanitary sewer or installation of new treatment technology and the extension was necessary to implement the compliance option;~~

F) This subsection (b) (1) (F) corresponds with 40 CFR 144.88(b) (1) (vi), which provides a contingency for compliance before dates now past. This statement maintains structural consistency with the federal rules.~~If the State had not delineated other sensitive groundwater areas by January 1, 2004, and the well is outside of an area with a completed assessment, the owner or operator must close the well or obtain a permit regardless of its location by January 1, 2007, unless the State obtains an extension as described in Section 704.287(c), in which case the deadline is January 2008; or~~

G) If the owner or operator plans to close its well, the owner or operator must notify the Agency of its intent to close the well (this includes closing the well prior to conversion) by at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells". Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

BOARD NOTE: Any Agency determination of the most efficient compliance option under subsection (b) (1) (A), (b) (1) (B), or (b) (1) (E) ~~of this Section~~ is subject to Board review pursuant to Section 40 of the Act ~~{415 ILCS 5/40}~~.

2) If the motor vehicle waste disposal well is new or converted (construction not started before April 5, 2000) it is prohibited.
~~BOARD NOTE: Corresponding 40 CFR 144.88(b) (2) sets forth a federal effective date of April 5, 2000 for the prohibition.~~

BOARD NOTE: Derived from 40 CFR 144.88 (2017) ~~(2000)~~.

(Source: Amended at 42 Ill. Reg. , effective)

Section 704.289 Closure of a Class V Injection Well

The following describes the requirements for closing or converting a Class V injection well:

a) Closure.

1) Prior to closing a Class V large-capacity cesspool or motor vehicle waste disposal well, the owner or operator must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement set forth in Section 704.122 and summarized in Section 704.282(a). The owner or operator must also dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable federal, State, and local regulations and requirements, as described in Section 704.282(b).

2) Closure does not mean that the owner or operator needs to cease operations at its facility, only that the owner or operator needs to close its well. A number of alternatives are available for disposing of waste fluids. Examples of alternatives that may be available to motor vehicle stations include the following: recycling and reusing wastewater as much as possible; collecting and recycling petroleum-based fluids, coolants, and battery acids drained from vehicles; washing parts in a self-contained, recirculating solvent sink, with spent solvents being recovered and replaced by the supplier; using absorbents to clean up minor leaks and spills, and placing the used materials in approved waste containers and disposing of them properly; using a wet vacuum or mop to pick up accumulated rain or snow melt, and if allowed, connecting floor drains to a municipal sewer system or holding tank, and if allowed, disposing of the holding tank contents through a publicly owned treatment works (POTW). The owner or operator should check with the POTW that it might use to see if the POTW would accept the owner's or operator's wastes. Alternatives that may be available to owners and operators of a large-capacity cesspool include the following: conversion to a septic system; connection to a sewer; or installation of an on-site treatment unit.

b) Conversions. In limited cases, the Agency may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if the two conditions of subsections (b) (1) and (b) (2) ~~of this Section~~ are fulfilled, subject to the conditions of subsection (b) (3) ~~of this Section~~:

1) All motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and

2) Injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal.

3) The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V injection well.

BOARD NOTE: Derived from 40 CFR 144.89 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. , effective)

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