

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2000

IN THE MATTER OF:)
)
UIC UPDATE, USEPA AMENDMENTS) R00-11
(July 1, 1999, through December 31, 1999)) (Identical-in-Substance
) Rulemaking - Land)

IN THE MATTER OF:)
)
UIC UPDATE, USEPA AMENDMENTS) R01-1
(January 1, 2000, through June 30, 2000)) (Identical-in-Substance
) Rulemaking - Land)

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by E.Z. Kezelis):

Under Sections 7.2 and 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13(c) (1998)), the Board proposes amendments to the Illinois regulations that are “identical in substance” to underground injection control (UIC) regulations that the United States Environmental Protection Agency (USEPA) adopted to implement Section 1421 of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. § 300h (1998)). The nominal timeframe of docket R00-11 includes federal UIC amendments that USEPA adopted in the period July 1, 1999, through December 31, 1999. The nominal timeframe of docket R01-1 includes federal UIC amendments that USEPA adopted in the period January 1, 2000, through June 30, 2000.

Sections 7.2 and 13(c) provide for quick adoption of regulations that are identical in substance to federal regulations that USEPA adopts to implement Section 1421 of the federal SDWA (42 U.S.C. § 300h (1998)). Section 13(c) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (1998)) do not apply to the Board’s adoption of identical-in-substance regulations. The federal UIC regulations are found at 40 C.F.R. 144 through 148.

The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of publication.

CONSOLIDATION OF DOCKETS AND EXPEDITED CONSIDERATION

The Board has determined that it is necessary to consolidate two separate dockets in this rulemaking and expedite our consideration of certain later amendments. The following segment of this opinion outlines the various federal actions considered in this proceeding. The actions involved in UIC update docket R01-1 are consolidated with the rulemaking proposal in docket R00-11 because they require no Board action, are closely related to the actions involved in UIC

update docket R00-11, or are the UIC aspects of the hazardous waste-related actions incorporated into the recent Resource Conservation and Recovery Act (RCRA) Subtitle C update, RCRA Subtitle C Update, USEPA Amendments (July 1, 1999, through December 31, 1999) (May 18, 2000), R00-13.

The most significant federal action involved in this proceeding is that of December 7, 1999, which is part of docket R00-11. The December 16, 1999 action is a correction to the December 7, 1999 action. The February 2, 2000 action, involved in the timeframe of the later docket, R01-1, is also a correction to the December 7, 1999 action. The federal action of March 17, 2000, involved in docket, R01-1, completes the UIC segments of the withdrawal of certain land disposal restrictions (LDRs). The Board completed the hazardous waste segments of the March 17, 2000 federal action and withdrew the associated hazardous waste listings and the hazardous waste segments of the LDRs in the prior RCRA Subtitle C update. See RCRA Subtitle C Update, USEPA Amendments (July 1, 1999, through December 31, 1999) (May 18, 2000), R00-13. In docket R00-13, the Board stated that it would include the UIC segments of the March 17, 2000 action in this UIC update docket, R00-11. The federal action of June 8, 2000, which is within the scope of docket R01-1, corrected the March 17, 2000 federal action. The sole remaining federal action involved in docket R01-1, that of May 15, 2000, contains a set of amendments intended only to streamline the federal rules, and as a result, they require no corresponding Board action to amend the Illinois rules.

For the foregoing reasons, and on its own motion, the Board consolidates the UIC update dockets R00-11 and R01-1 into a single action. This will allow the most expeditious and efficient implementation of both sets of amendments.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

The following briefly summarizes the federal actions considered in this rulemaking.

Docket R00-11: July 1, 1999, through December 31, 1999

USEPA amended the federal UIC regulations on two occasions during the period July 1, 1999, through December 31, 1999. Each is summarized below:

64 Fed. Reg. 68546 (December 7, 1999)

USEPA adopted amendments relating to Class V injection wells. It consolidated the rules applicable to Class V wells into a new subpart. The rules ban new large cesspools and motor vehicle waste disposal wells immediately, and they will require existing cesspools and motor vehicle waste disposal wells to close by dates to be determined by the location of the well with respect to protected groundwater resources. The amendments include permit provisions applicable to the owners and operators of these Class V injection wells.

64 Fed. Reg. 70316 (December 16, 1999)

USEPA corrected its amendments of December 7, 1999.

Docket R01-1: January 1, 2000, through June 30, 2000

USEPA amended the federal UIC regulations on four occasions during the period January 1, 2000, through June 30, 2000. Each is summarized below:

65 Fed. Reg. 5024 (February 2, 2000)

USEPA corrected its amendments of December 7, 1999.

65 Fed. Reg. 14472 (March 17, 2000)

USEPA vacated the hazardous waste listings and LDRs for organobromine production wastes (formerly USEPA hazardous waste numbers K140 and U408) that it initially adopted on May 4, 1998 (63 Fed. Reg. 24596). One segment of these amendments vacating the LDRs relates to the underground injection of these wastes.

65 Fed. Reg. 30886 (May 15, 2000)

USEPA adopted a series of amendments to various of its National Pollutant Discharge Elimination System (NPDES) permit rules intended to streamline the regulations. One aspect of the amendments affects the federal UIC permit rules.

65 Fed. Reg. 36365 (June 8, 2000)

USEPA corrected its action of March 17, 2000.

Later UIC Amendments of Interest

The Board engages in ongoing monitoring of federal actions. As of the date of this opinion and accompanying order, we have identified no USEPA actions since June 30, 2000, that further amend the UIC rules. When the Board observes an action outside the nominal timeframe of a docket that would require expedited consideration in the pending docket, the Board expedites consideration of those actions. Federal actions that could warrant expedited consideration include those that directly affect the amendments involved in this docket, those for which compelling reasons would warrant consideration as soon as possible, and those for which the Board has received a request for expedited consideration.

Summary Listing of the Federal Actions Forming the Basis of the Board's Actions
in this Consolidated Docket

Based on the foregoing, the federal actions that form the basis for Board action in this update docket are as follows, in chronological order:

64 Fed. Reg. 68546 (December 7, 1999)	Class V injection well amendments.
64 Fed. Reg. 70316 (December 16, 1999)	Corrections to the amendments of December 7, 1999.
65 Fed. Reg. 5024 (February 2, 2000)	Corrections to the amendments of December 7, 1999.

65 Fed. Reg. 14472 (March 17, 2000)	Withdrawal of the organobromine production waste listings and LDRs.
65 Fed. Reg. 30886 (May 15, 2000)	Streamlining amendments to the NPDES permit rules, including an amendment to the UIC permit rules.
65 Fed. Reg. 36365 (June 8, 2000)	Correction to the action of March 17, 2000.

PUBLIC COMMENTS

The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made evident through the public comments. The Board will delay filing any adopted rules with the Secretary of State for 30 days after adoption, particularly to allow additional time for USEPA to review the adopted amendments before they are filed and become effective. The complete text of the proposed amendments appears at the end of this opinion and order.

DISCUSSION

The following discussion begins with a description of the types of deviations the Board makes from the literal text of federal regulations in adopting identical-in-substance rules. It is followed by a discussion of the amendments and actions undertaken in direct response to the federal actions involved in this proceeding. This first series of discussions is organized by federal subject matter, generally appearing in chronological order of the relevant *Federal Register* notices involved. Finally, this discussion closes with a description of the amendments and actions that are not directly derived from the federal actions.

General Revisions and Deviations from the Federal Text

In incorporating the federal rules into the Illinois system, some deviation from the federal text is unavoidable. This deviation arises primarily through differences between the federal and state regulatory structure and systems. Some deviation also arises through errors in and problems with the federal text itself. The Board conforms the federal text to the Illinois rules and regulatory scheme and corrects errors that we see in the text as we engage in these routine update rulemakings.

In addition to the amendments derived from federal amendments, the Board often finds it necessary to alter the text of various passages of the existing rules as provisions are opened for update in response to USEPA actions. This involves correcting deficiencies, clarifying provisions, and making other changes that are necessary to establish a clear set of rules that closely parallel the corresponding federal requirements within the codification scheme of the Illinois Administrative Code.

The Board updates the citations to the *Code of Federal Regulations* to the most recent version available. As of the date of this opinion, the most recent version of the *Code of Federal Regulations* available to the Board is the July 1, 1999 version. Thus, we have updated all

citations to the 1999 version, adding references to later amendments using their appropriate *Federal Register* citation, where necessary.

The Board substituted “or” for “/” in most instances where this appeared in the federal base text, using “and” where more appropriate. The Board further used this opportunity to make a number of corrections to punctuation, grammar, spelling, and cross-reference format throughout the opened text. We changed “who” to “that” and “he” or “she” to “it,” where the person to which the regulation referred was not necessarily a natural person, or to “he or she,” where a natural person was evident; changed “which” to “that” for restrictive relative clauses; substituted “must” for “shall”; capitalized the section headings and corrected their format where necessary; and corrected punctuation within sentences.

In addition, the federal rules have been edited to establish a uniform usage throughout the Board’s regulations. For example, with respect to “shall,” “will,” and “may,” “must” is used when an action is required by the rule, without regard to whether the action is required of the subject of the sentence or not. “Shall” is no longer, since it is not used in everyday language. Thus, where a federal rule uses “shall,” the Board substitutes “must.” This is a break from our former practice where “shall” was used when the subject of a sentence has a duty to do something. “Will” is used when the Board obliges itself to do something. “May” is used when choice of a provision is optional. “Or” is used rather than “and/or,” and denotes “one or both.” “Either . . . or” denotes “one but not both.” “And” denotes “both.”

The Joint Committee on Administrative Rules JCAR has requested that the Board refer to the United States Environmental Protection Agency in the same manner throughout all of our bodies of regulations—*i.e.*, air, water, drinking water, RCRA Subtitle D (municipal solid waste landfill), RCRA Subtitle C (hazardous waste), underground injection control (UIC), etc. The Board has decided to refer to the United States Environmental Protection Agency as “USEPA.” We will continue this conversion in future rulemakings as additional sections become open to amendment. We will further convert “EPA” used in federal text to “USEPA,” where USEPA is clearly intended.

The Board has assembled tables to aid in the location of these alterations and to briefly outline their intended purpose. The tables set forth the miscellaneous deviations from the federal text and corrections to the pre-amended base text of the rules in detail. The tables are set forth and explained beginning at page 12. There is no further discussion of most of the deviations and revisions elsewhere in this opinion.

Discussion of Particular Federal Actions

Regulations for Certain Class V Injection Wells—Parts 704 and 730

USEPA adopted amendments to the UIC regulations on December 7, 1999 (64 Fed. Reg. 68546) that impose requirements on certain Class V injection wells. The principal Class V wells affected are new and existing large capacity cesspools and motor vehicle waste injection wells. USEPA corrected these Class V well rules on December 16, 1999 (64 Fed. Reg. 70316), and February 2, 2000 (65 Fed. Reg. 5024). The new requirements derive from the settlement in Sierra

Club v. Browner, No. 93-2644 (D.D.C.). Under the settlement, USPEA undertook a study of the impact of Class V wells on groundwater quality. The current rules are the first installment of regulations prompted by that study.

The new Class V injection well rules designate as “existing wells” those wells currently in operation or under construction by April 5, 2000. Those wells that are not existing wells are designated as “new injection wells.” The rules prohibit construction and operation of new or converted cesspools and motor vehicle waste disposal wells. The owner or operator of an existing cesspool must notify authorities and close the well by April 5, 2005. The fate of an existing motor vehicle waste disposal well depends on its location and the status of the State groundwater protection program where the well is located. In brief, for a motor vehicle waste disposal well that is located in a “ground water protection area” or “other sensitive ground water area,” as designated by the State, the owner or operator must obtain a permit or close the well by dates specified in the rules.

The Board has incorporated the federal amendments into the appropriate segments of the UIC regulations. We have done so with the deviations from the text of the federal amendments that are necessary to conform the requirements to the Illinois regulations. While USEPA used its “user-friendly” format for the federal rule, which the Board has converted to a more traditional direct format, while still retaining the substance of the federal rules. As a result, the volume of deviations from the literal text of the federal amendments is greater than normal for an identical-in-substance proceeding. Persons interested in the substance of the underlying federal action should refer to the notices that appeared in the December 7 and 16, 1999, and February 2, 2000 issues of the *Federal Register*. The tables that begin at page 12 of this opinion outline the deviations that the Board has made in adapting the text of the federal amendments.

A few of the issues raised during the course of adapting the federal rules for incorporation into the Illinois rules warrant specific mention in this discussion. Most of these relate to the groundwater protection aspects of the rule. These are specifically the following: (1) the federal names given required elements of the State program do not directly correlate with the names used in Illinois law; (2) various segments of the rules refer to federal requirements imposed on the State and not on regulated entities; (3) other segments of the rules impose requirements on regulated entities depending on the status of the State program; and (4) certain requirements clearly do not apply to entities in Illinois by their own terms. Other issues relate instead to the structure and content of the rules and have nothing to do with the groundwater protection aspects.

Under Section 1453 of SDWA (42 U.S.C. § 300j-13 (1998)), federal law provides for source water assessment programs administered by the states. The states are to delineate the boundaries of areas where groundwater is used as a source of drinking water. Illinois was required to submit a program for USEPA review and approval and was to begin implementation of the program immediately after USEPA approval. Illinois’ program can include elements of existing state programs intended to protect groundwater resources.

In Illinois, there are two statutes intended to protect groundwater resources used as sources of drinking water. First, Sections 14.1 through 14.6 of the Act (415 ILCS 5/14.1-14.6 (1998)) establish minimum setback zones around community supply wells and other potable water supply

wells, and Sections 17.1 through 17.4 of the Act (415 ILCS 5/17.1-17.4 (1998)) provide for the evaluation of the adequacy of minimum setback zones around community water well supply wells and the establishment of a more extensive regulated recharge area around the wells as necessary to protect groundwater. The regulations of 35 Ill. Adm. Code 615 through 617 implement those provisions of the Act. Second, the Illinois Groundwater Protection Act (IGPA) (415 ILCS 55/8 (1998)) provides for the classification of groundwater resources in this State, based on the use and quality of the particular water, and for the establishment of groundwater quality standards for the water in the various classes. The regulations of 35 Ill. Adm. Code 620 classify Illinois groundwater resources and set forth the required groundwater quality standards. It is a violation of the Environmental Protection Act and Board regulations to cause a violation of the groundwater standards. See 415 ILCS 5/12(a) (1998) and 35 Ill. Adm. Code 620.115 (1998).

None of the groundwater protection provisions are directly involved in the December 7, 1999 federal Class V injection well regulations. However, the Class V well rules refer extensively to groundwater protection and the status of the State groundwater protection program. The federal rules define and refer to “ground water protection area” and “other sensitive ground water area.” At Section 144.86(c), USEPA defines a “ground water protection area” as a geographic area near or around the well used by a community water system or non-transient non-community water system (both defined in the drinking water regulations at 35 Ill. Adm. Code 611.101). 40 C.F.R. 144.86(c), as added at 65 Fed. Reg. 68546, 68569 (December 7, 1999). At 40 C.F.R. 144.86(g), USEPA defines an “other sensitive ground water area” as an area other than a “ground water protection area” that is “critical to protecting underground sources of drinking water from contamination.” 40 C.F.R. 144.86(g), as added at 65 Fed. Reg. 68546, 68569 (December 7, 1999).

To deal with the first issue relating to the differences in phrasing used under the federal rules and the existing Illinois provisions relating to the protection of groundwater resources, the Board has retained the federal phrasing throughout the Class V well regulations. Thus, the Board has retained the names “groundwater protection area” and “other sensitive groundwater area,” with the only changes being rendering “groundwater” as a single word and the addition of the word “groundwater” to the federal “other sensitive area” in Section 704.286. The Board, however, has added to the definitions in Section 704.286 a statement to the effect that a “setback zone,” as defined in Section 3.61 of the Act (415 ILCS 5/3.61 (1998)) and regulated pursuant to Sections 14.1 through 14.6 of the Act (415 ILCS 5/14.1-14.6 (1998)), is considered a “groundwater protection area,” and that a “regulated recharge area,” as defined in Section 3.67 of the Act (415 ILCS 5/3.67 (1998)) and regulated pursuant to Sections 17.1 through 17.4 of the Act (415 ILCS 5/17.1-17.4 (1998)), is considered an “other sensitive groundwater area.”

The Board has not added references to the IGPA and 35 Ill. Adm. Code 620 to either definition. Although the IGPA and the Board regulations adopted to implement it, protect groundwater quality, they do not prohibit the location of any type of facility in any class of groundwater area, including Class III special resource groundwater area. It would be inappropriate for the Board to effectively incorporate such a prohibition in the context of an identical-in-substance proceeding like this one, since such a prohibition would not be derived from some similar federal prohibition. Rather, the Board has added references in Board notes at Section 704.285(b) and at the definition of “State drinking water source assessment and protection

program” in Section 704.286 that acknowledge the significance of the IGPA and associated rules to the protection of groundwater in Illinois. If the Agency feels that Class III or any other class of groundwater should be included as either a “groundwater protection area” or “other sensitive groundwater area” as used in the Class V injection well rules, it should submit a rulemaking proposal before the Board to that effect pursuant to Sections 27 and 28 of the Act.

The second and third sets of issues that the Board confronted in this proceeding also relate to the federal requirements that the State designate groundwater protection areas and other sensitive groundwater areas. Certain segments of the federal Class V injection well rules outline the federal requirements that the State follow in designating these areas. There are two groups of rules that do this.

One group of the “state-requirement” rules appears to outline the federal requirements imposed on the states for the purpose of informing the regulated community. An example includes 40 C.F.R. 144.87(b). The language of subsection (b) outlines what the states must do, then sets forth the applicability of certain requirements should the states fail to fulfill those obligations. It outlines the effects on the regulated community of a state’s failure to fulfill its obligations. It is not possible at this time for the Board to determine that Illinois had fulfilled these requirements for state action. Accordingly, the impact of a failure to satisfy these requirements might have significant impact on what requirements apply to a facility in this State. In this instance, the Board kept the federal language, adding an explanatory Board note about the requirements imposing obligations only on the State.

The other group of “state-requirement” rules has nothing to do with what is imposed on regulated entities. Examples include 40 C.F.R. 144.87(c) and (h). The language of subsection (c) includes a reiteration of the deadline for state action and outlines the availability of a federal extension of that deadline. Since the deadline appears in the preceding subsection, the Board omitted a reiteration of the deadline and included only the language relating to the effect of an extension of the deadline. The language retained includes certain deadlines for action by the regulated community that are contingent on the regulatory status of the Illinois Program. In subsection (h), USEPA outlined action that it encourages states to undertake, none of which relates to implementation of the substantive requirements of the Class V well rule. Thus, the Board replaced major segments of the federal language of subsection (h) with a Board note explaining that we had omitted federal language encouraging the state to undertake certain actions but not imposing any requirements on the regulated community.

As to those provisions that clearly do not apply in Illinois, the Board has omitted those, inserting explanatory Board notes in appropriate segments of the rules. This occurred in Section 704.283(b). Corresponding 40 C.F.R. 144.83(b), relating to notification, imposes requirements based on the primacy status of the applicable state. Since that table itself lists Illinois as a “Primacy State,” it was unnecessary for the Board to include the requirements applicable to a facility in a “Direct Implementation State.”

One deviation from the literal text of the federal rule was intended to remove a redundancy and an area of potential conflict. New provision 40 C.F.R. 144.80 defines a Class V injection well by exclusion, *i.e.*, it does so by outlining the various classes of injection wells and defining a

Class V well as one that is not within another class. This language is nearly identical to that of 40 C.F.R. 144.6, from which 35 Ill. Adm. Code 704.106 is derived. The Board has removed the duplicate language from 40 C.F.R. 144.80 in new Section 704.280 and replaced it with language indicating that a Class V injection well is defined in Section 704.106.

Another deviation from the structure of the federal rule involved changing the requirements in the tables at new 40 C.F.R. 144.88 to the standard subsection format in corresponding 35 Ill. Adm. Code 704.288. These provisions are key to the Class V well rule, and the Board believes that they are more clearly understood in the standard format. The Board interprets the requirements as follows: if the condition of column one is true of the facility and the condition of one cell in column two is also true, then the adjacent cell in column three indicates the requirement that applies. We further interpret USEPA's intent to be that all of the conditions set forth in the first column are considered alternatives to be read in conjunction with the corresponding condition in the first column. Thus, the conditions in cells (1)(i), (1)(ii), (1)(iii), etc. are each alternatives to one another.

A final set of deviations from the literal text of the federal rule is intended to clarify ambiguity in the rule. USEPA repeatedly refers to the additional requirement of new Subpart I. One section, 40 C.F.R. 144.88, defines the additional requirements. Thus, the Board has repeatedly changed the reference to read "the additional requirements of Section 704.288" at Sections 704.284(b)(2); 704.285(a), (b), and (c); 704.286; and 704.287(h). In 40 C.F.R. 144.88(a), USEPA refers to "new requirements," and in 40 C.F.R. 144.88(c), USEPA refers to both "new requirements" and "rule requirements." In context, the Board reads these as meaning the same as "additional requirements," so we have changed to this wording in corresponding Section 704.288(a) and (c).

Finally, the Board has added Board notes explaining the right of an owner or operator to appeal certain Agency determinations to the Board pursuant to Section 40 of the Act (415 ILCS 5/40 (1998)). In 40 C.F.R. 144.87(b)(2), (e), and (h) and 144.88(b)(1)(i), (b)(1)(ii), and (b)(1)(v), the State may extend the deadline for an owner or operator to comply if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology. While the Agency is given discretion to determine whether or not the most efficient compliance option is indeed connection to a sanitary sewer or the installation of new technology, the Board cannot allow the Agency the additional discretion of determining whether or not to extend the deadline for compliance. The Board then added a Board note explaining the right to appeal the Agency determination. Similarly, under At corresponding Sections 704.287(b)(2), (e), and (h) and 704.288(b)(1)(A), (b)(1)(B), and (b)(1)(E), the rule provides that the Agency must extend the deadline if it makes the compliance determination, and a Board note explains the right to appeal.

The Board requests public comment on incorporation of the December 17, 1999 federal Class V injection well rule and the subsequent corrections of December 16, 1999, and February 5, 2000.

Organobromine Production Waste Rule—Section 738.118

On March 17, 2000 (65 Fed. Reg. 14472), USEPA withdrew the hazardous waste listings for organobromine production wastes (USEPA hazardous waste numbers K140 and U408) and the associated LDRs for these wastes. This was in response to a court order in Great Lakes Chemical Corp. v. EPA, No. 98-1312, 1999 WL 322757 (D.C. Cir. April 9, 1999), which vacated the listings. On June 8, 2000 (65 Fed. Reg. 36365), USEPA corrected its March 17, 2000 action. The Board incorporated all the RCRA Subtitle C hazardous waste aspects of the March 17, 2000 federal withdrawal in the previous hazardous waste update, RCRA Subtitle C Update, USEPA Regulations (July 1, 1999, through December 31, 1999) (May 18, 2000), R00-13. A segment of the withdrawn LDRs restricted underground injection of these wastes, and it is that segment that is involved in this present docket.

USEPA adopted the recently-withdrawn organobromine waste rule on May 4, 1998 (63 Fed. Reg. 24596). The Board incorporated the hazardous waste listings and associated LDRs in RCRA Subtitle C Update, USEPA Regulations (July 1, 1997, through December 31, 1997) (December 17, 1998), R98-21/R99-2/R99-7 (Consolidated). The effect of the March 17, 2000 federal withdrawal is that organobromine production wastes are no longer listed hazardous wastes, so that there is no longer a restriction on their disposal by underground injection.

The Board has incorporated the March 17, 2000 and June 8, 2000 federal actions into the present update docket. The Board has incorporated the federal revisions into Section 738.118 without significant deviation from the federal text. The single minor deviation from the federal text is listed in the table that begins at page 12 of this opinion. The Board directs attention to the federal notice of final actions in the March 17, 2000 and June 8, 2000 issues of the *Federal Register* for further details of the federal decision to withdraw the hazardous waste listings for organobromine production wastes.

The Board requests public comment on our incorporation of the March 17, 2000 withdrawal of and June 8, 2000 correction of the restrictions on injection of the former USEPA hazardous waste numbers K140 and U408.

Streamlining Amendments to the NPDES Rules

USEPA adopted a series of amendments on May 15, 2000 (65 Fed. Reg. 30886), intended to streamline its NPDES rules. Included among the various amendments was an amendment to 40 C.F.R. 144.52, which is a UIC program rule. The amendment involved the removal of a cross-reference to the NPDES rules. Corresponding 35 Ill. Adm. Code 702.160 in the Illinois rules does not include a similar cross-reference. Accordingly, the Board sees no need to amend the Illinois rules in response to this federal action. Thus, no similar amendment is included in this docket.

The Board requests public comment on our decision not to act in response to the May 15, 2000 federal streamlining amendments to the NPDES rules.

Agency or Board Action

Section 7.2(a)(5) of the Act requires the Board to specify for which portions of the program USEPA will retain decision making authority. Based on the general division of functions within the Act and other Illinois statutes, the Board is also to specify which State agency is to make decisions.

In situations in which the Board has determined that USEPA will retain decision-making authority, the Board has replaced “Regional Administrator” with USEPA, so as to avoid specifying which office within USEPA is to make a decision.

In some identical-in-substance rules, certain decisions pertaining to a permit application are not appropriate for the Agency to consider. In determining the general division of authority between the Agency and the Board, the following factors should be considered:

1. Whether the person making the decision is applying a Board regulation, or taking action contrary to (“waiving”) a Board regulation. It generally takes some form of Board action to “waive” a Board regulation.
2. Whether there is a clear standard for action such that the Board can give meaningful review to an Agency decision.
3. Whether the action would result in exemption from the permit requirement itself. If so, Board action is generally required.
4. Whether the decision amounts to “determining, defining or implementing environmental control standards” within the meaning of Section 5(b) of the Act. If so, it must be made by the Board.

There are four common classes of Board decisions: variance, adjusted standard, site-specific rulemaking, and enforcement. The first three are methods by which a regulation can be temporarily postponed (variance) or adjusted to meet specific situations (adjusted standard or site-specific rulemaking). There often are differences in the nomenclature for these decisions between the USEPA and Board regulations.

Discussion of Miscellaneous Housekeeping Amendments

The tables below list numerous corrections and amendments that are not based on current federal amendments. The first table (beginning immediately below) includes deviations made in this Proposal for Public Comment from the verbatim text of the federal amendments. The second table (beginning below at page 31) contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in this second table are not directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning at page 4 of this opinion.

Table 1:

Deviations from the Text of the Federal Amendments

Illinois Section	40 C.F.R. Section	Revision(s)
702.110 “cesspool”	144.3	Placed the defined term in quotation marks; removed an unnecessary comma; changed “and/or” to “or”
702.110 “drywell”	144.3	Placed the defined term in quotation marks; added “that is”; added a comma to offset a parenthetical
702.110 “improved sinkhole”	144.3	Placed the defined term in quotation marks; added “that is”; changed “which” to “that” for a restrictive relative clause
702.110 “point of injection”	144.3	Placed the defined term in quotation marks
702.110 “sanitary waste”	144.3	Placed the defined term in quotation marks; added a comma to offset a parenthetical
702.110 “septic system”	144.3	Placed the defined term in quotation marks; removed the quotation marks for the word “well”; changed “that” to “which” for a subsequent restrictive relative clause
702.110 “subsurface fluid distribution system”	144.3	Placed the defined term in quotation marks
702.110 “well”	144.3	Removed an unnecessary conjunction “or” from between the first and second elements of a three-element series; removed an unnecessary comma from after the conjunction “or”
704. Table of Contents	144 Table of Contents	Altered the heading for Subpart I and the Section headings in that Subpart, as explained below for the Subpart and Section headings in the text of the rule
704.106(a)(3)	144.6(a)(3)	Changed “which” to “that” to offset a restrictive relative clause
704.145(c)	144.23(c)	Changed “that” to “which” for a subsequent restrictive relative clause; changed “EPA” to “USEPA”; omitted the unnecessary words “or a State,” since this State is not able to authorize the injection under CERCLA; added a general reference to Agency authorization by permit
704.146(a)	144.24(a)	Added “set forth”
Subpart I Heading	144, Subpart G	Omitted “owners and operators of”

704.279	144.79	Changed “tells you” to “sets forth”; changed “apply if you own or operate” to “applicable to the owner or operator of”; omitted “you May also be required to follow”; changed “in the rest of” to “elsewhere in”; added “May also apply”; changed “these” to “those”; added “in this Subpart”; added “intended”; used lower case “underground injection control (UIC) program”; replaced the reference to the federal SDWA to a reference to Section 13(c) of the Act; omitted language explaining the federal format
704.279 Board note	144.79	Added a citation to the federal source of this provision; added an explanation of the Board’s decision not to follow the federal format for this Subpart
704.280 heading	144.80	Changed “what is” to “definition of”; deleted question mark
704.280	144.80	Replaced the definition in subsections (a) through (e) with a cross-reference to the definition of Section 704.106 (derived from 40 CFR 144.6), leaving the added explanatory text of subsection (e)
704.280(e)	144.80(e)	Changed “you place” to “placed”; changed “your” to “the”
704.280 Board note	144.80	Added a citation to the federal source of this provision
704.281 heading	144.81	Changed “does this subpart apply to me?” to “examples of class V injection wells”
704.281	144.81	Changed the opening statement of applicability to one stating that the following listing are examples of wells to which the Subpart applies, in order to avoid conflict with the applicability statement in Section 704.279 (derived from 40 C.F.R. 144.79); changed the subsection numbers (1) through (16) to the appropriate letters (a) through (p)

704.281(b)	144.81(2)	Added a comma before “including” to offset a parenthetical; hyphenated “multiple-dwelling”; removed an unnecessary comma before “containing”; changed “which” to “that” for a restrictive relative clause (twice); added a comma before “nor” to offset a parenthetical; added “do they apply”; added “which” for a subsequent restrictive relative clause; changed the ending punctuation to a semicolon for consistency
704.281(c)	144.81(3)	Added “that are”
704.281(d)	144.81(4)	Added “that are”
704.281(e)	144.81(5)	Added “that are”
704.281(f)	144.81(6)	Added “that are”
704.281(g)	144.81(7)	Added “that are”
704.281(h)	144.81(8)	Added “that are”; changed the ending punctuation to a semicolon for consistency
704.281(i)	144.81(9)	Added “that are”; changed “which” to “that” for a restrictive relative clause; added “which” for a subsequent restrictive relative clause; changed the ending punctuation to a semicolon for consistency
704.281(j)	144.81(10)	Added “that are”
704.281(k)	144.81(11)	Added a comma to offset the final element of a three-element series
704.281(l)	144.81(12)	Added “that are”
704.281(m)	144.81(13)	Added “that are”
704.281(n)	144.81(14)	Added “that are”; changed the ending punctuation to a semicolon for consistency
704.281(o)	144.81(15)	Added “that are”; changed the ending punctuation to a semicolon for consistency; added the ending conjunction “and”
704.281(p)	144.81(16)	Added “which” for a subsequent restrictive relative clause; added the indefinite articles “a” and “an” (three times); changed “new and used car dealership” to “new or used car dealership”; changed the reference to the primary drinking water regulations to cite the Illinois regulations at 35 Ill. Adm. Code 611, instead of the federal regulations at 40 C.F.R. 142; changed “which” to “that” for a restrictive relative clause
704.281 Board note	144.81	Added a citation to the federal source of this provision

704.282 heading	144.82	Changed “what must I do to protect” to “protection of”; dropped the ending question mark
704.282 preamble	144.82	Changed the opening statement “if you own or operate any type of Class V well, the regulations below require that you cannot” to “this Subpart I requires that an owner or operator of a Class V injection well must not”; added “that” for clarity to the second through fourth restrictive relative clauses in a series; changed “you” to “the owner or operator” (five times); changed “your State” to “the State”; changed “your well” to “its well” (twice); changed “is” to “are”; added a Board note citing the source of this provision
704.282(a)(1)	144.82(a)(1)	Changed “your” to “an owner’s or operator’s” (twice); changed the reference to the primary drinking water regulations to cite the Illinois regulations at 35 Ill. Adm. Code 611, instead of the federal regulations at 40 C.F.R. 142
704.282(a)(2)	144.82(a)(2)	Changed “Director of the UIC Program in your State or EPA Region” to “the Agency or USEPA”; changed “your” to “an owner’s or operator’s”; changed “he or she” to “the Agency or USEPA”; changed “you” to “the owner or operator” (twice); changed “your” to “its”
704.282(b)	144.82(b)	Changed “you” to “an owner or operator”; changed “you” to “the owner or operator”; used lower-case “federal”
704.282(c)	144.82(c)	Changed the reference to “Parts 144 through 147” to cite the Illinois regulations at “this Part and 35 Ill. Adm. Code 702 and 730” (twice); changed “you” to “the owner or operator” (twice); changed “need” to “needs”; added “all of”; changed “these other parts” to “this Part and 35 Ill. Adm. Code 702 and 730”

704.282(d)	144.82(d)	Changed “EPA” to “USEPA”; changed the reference to “Parts 144 through 147” to cite the Illinois regulations at “this Part and 35 Ill. Adm. Code 702 and 730”; used lower-case and hyphenated “federally-derived”; changed “EPA Regional Offices” to “the Agency and USEPA Region V”; changed the reference to “parts 144 through 147” to cite both the Illinois and federal regulations at “this Part and 35 Ill. Adm. Code 702 and 730 and 40 CFR 144 through 147”; changed “believed” to “such additional requirements are determined”; omitted sentence stating that “States can . . . protect USDWs”; changed “you” to “the owner or operator”; broke a compound sentence for clarity; Added “the owner or operator should”; changed “State or EPA Region” to “Agency or USEPA Region V”
704.282 Board note	144.82	Added a citation to the federal source of this provision
704.283 heading	144.83	Changed “do I need to notify anyone about my” to “notification of a”; dropped the ending question mark
704.283 preamble	144.83	Changed “yes, you need” to “the owner or operator of a Class V injection well needs”; changed “your” to “its”; changed “UIC Director” to “Agency”; changed “you haven’t” to “the owner or operator has not done so”; changed “you also need” to “the owner or operator also needs”; changed “your Program Director” to “the Agency”
704.283(a)	144.83(a)	Changed “you know you have” to “the owner or operator knows it has”; changed “you” to “the owner or operator”; changed “UIC Program Director” to “Agency”; changed “yourself” to “itself”; changed “your” to “its”
704.283(a) Board note	144.83 note	Changed “note” to “Board note”

704.283(a)(1)	144.83(a)(1)	Changed the format to incorporate the pertinent tabular information relating to primacy states into a single subsection, eliminating inapplicable segments of the text relating to direct implementation states and segments relating to selection of the appropriate segments of text; changed “State UIC Program” to “the Agency”; added “information”; changed “you” to “it”; added “it must submit that information”
704.283(a)(1)	144.83(a)(1)	Deleted segments of the text stating applicability to both direct implementation and primacy state; changed “here” to “the following”; changed “you” to “that the owner or operator”
704.283(a)(1)(A)	144.83(a)(1)(i)	Changed “you own or operate” to “is owned or operated”; changed “you” to “the owner or operator”; changed “legal contact” to “a legal contact person for the facility”; added the definite article “the” (five times); changed “well(s)” to “well or wells” (twice)
704.283(a)(1)(B)	144.83(a)(1)(ii)	This provision was replaced with an explanation that it was omitted because it pertains exclusively in a “direct implementation state”
704.283(a)(1)(C)	144.83(a)(1)(iii)	Changed “you” to “the owner or operator”; changed “owned or operatoed” to “it owns or operates”
704.283(a)(1)(C)(i)	144.83(a)(1)(iii)(A)	Added the definite article “the”; changed “your” to “this”
704.283(a)(1)(C)(ii)	144.83(a)(1)(iii)(B)	Added the definite article “the”
704.283(a)(1)(C)(iii)	144.83(a)(1)(iii)(C)	Added the definite article “the”
704.283(a)(1)(C)(iv)	144.83(a)(1)(iii)(D)	Added the definite article “the”
704.283(a)(1)(C)(v)	144.83(a)(1)(iii)(E)	Added the indefinite article “a”
704.283(a)(1)(C)(vi)	144.83(a)(1)(iii)(F)	Added the definite article “the”
704.283(a)(1)(C)(vii)	144.83(a)(1)(iii)(G)	Added the definite article “the”
704.283(a)(1)(C)(viii)	144.83(a)(1)(iii)(H)	Added the definite article “the”
704.283(a)(1)(C)(ix)	144.83(a)(1)(iii)(I)	Added the definite article “the”
704.283(a)(3)	144.83(a)(3)	Deleted segments of the text stating applicability to both direct implementation and primacy state; changed “you are” to “that the owner or operator is”

704.283(b)	144.83(b)	This provision was replaced with an explanation that it was omitted because it pertains exclusively in a “direct implementation state”
704.283 Board note	144.83	Added a citation to the federal source of this provision
704.284 heading	144.84	Changed “do I need to get a permit” to “permit requirements”; dropped the ending question mark
704.284 preamble	144.84	Changed “no” to “no permit is required for a Class V injection well”; changed “you fall” to “the owner or operator falls”; changed “below” to “in subsection (b) of this Section”
704.284(a)	144.84(a)	Changed “your” to “an owner’s or operator’s”; changed “you have” to “that the owner or operator has”; changed “the UIC Program” to “this Part and 35 Ill. Adm. Code 702 and 730”; changed “you don’t have” to “the owner or operator does not need”; changed “you have” to “the owner or operator has”; changed “your” to “its”
704.284(b)	144.84(b)	Changed the opening descriptive statement to lower case; changed “you fit” to “an owner or operator fits”; changed “your” to “its”; changed “you” to “the owner or operator”; added “whether . . . categories”; changed “the UIC Program Director or EPA Region” to “the Agency or USEPA Region V”; Changed “Subpart D of this Part” to “Subparts D and H of this Part”; changed “Subpart E of this Part outlines” to “Subpart C of 35 Ill. Adm. Code 702 and Subpart E of this Part outline”; changed “you” to “the owner or operator”; changed “you get” to “it gets”; added the introductory statement “An owner or operator . . . if any of the following is true:”
704.284(b)(1)	144.84(b)(1)	Changed “you fail” to “the owner or operator fails”; changed “of” to “against”; changed “you have to” to “the owner or operator must”; changed “your” to “its”; changed “and/or” to “or”; changed “UIC Program Director of your State or EPA Region” to “Agency or USEPA Region V”

704.284(b)(2)	144.84(b)(2)	Changed “you own or operate a Class V large-capacity cesspool” to “the Class V injection well is a large-capacity cesspool”; changed “below” to “set forth in Section 704.288”; changed “a Class V motor vehicle waste disposal well” to “the Class V injection well is a motor vehicle waste disposal well”; added the indefinite article “a”; changed “you” to “the owner or operator”; changed “your” to “its”; added “set forth” changed “this subsection” to “Section 704.288”; deleted the past effective date of April 5, 2000, but added a Board note that references the corresponding federal provision that includes the date
704.284(b)(3)	144.84(b)(3)	Changed “you are” to “the owner or operator is”; changed “UIC Program Director of your State or EPA Region” to “Agency or USEPA Region V”; changed “the rule authorization” to “the authorization by rule”; changed “upon” to “on”; changed “you are” to “the owner or operator is”; changed “your” to “its”; added “the occurrence either of the following”
704.284(b)(3)(A)	144.84(b)(3)(i)	Added the definite article “the”; added “of the owner or operator”; added a comma before “as specified” to offset a parenthetical; changed “Director” to “Agency”
704.284(b)(3)(B)	144.84(b)(3)(ii)	Added the definite article “the”; added the indefinite article “a”
704.284(b)(4)	144.84(b)(4)	Changed “you have” to “the owner or operator has”; changed “your UIC Program Director” to “the Agency”; changed “you are” to “the owner or operator is”; changed “your” to “its”; changed “you comply” to “it complies”
704.284(b)(5)	144.84(b)(5)	This provision was replaced with an explanation that it was omitted because it pertains exclusively in a “direct implementation state”
704.284 Board note	144.84	Added a citation to the federal source of this provision

704.285 heading	144.85	Changed “do these additional requirements apply to me” to “applicability of the additional requirements”; dropped the ending question mark
704.285(a)	144.85(a)	Put introductory words in lower case; added “set forth in Section 704.288”; omitted unnecessary words “regardless of their location”; changed “you are” to “the owner or operator is” (twice); added a comma to offset the “if” clause; changed “this subpart” to “Section 704.288”
704.285(b)	144.85(b)	Put introductory words in lower case; changed “you have” to “the owner or operator has”; added a comma to offset the “if” clause; changed “these requirements” to “the additional requirements in Section 704.288”; changed “you” to “that owner or operator”; changed “your” to “the”; changed “State or EPA Region” to “the Agency, the Board, or USEPA Region V”; omitted language relating to a state failure to identify groundwater protection areas or sensitive groundwater areas; added a Board note explaining this omission
704.285(c)	144.85(c)	Added “in Section 704.288”; deleted the past effective date of April 5, 2000, but added a Board note that references the corresponding federal provision that includes the date
704.285 Board note	144.85	Added a citation to the federal source of this provision
704.286 heading	144.86	Changed “what are the definitions I need to know” to “definitions”; dropped the ending question mark
704.286 “state drinking water source assessment and protection program”	144.86(a)	Used lower case for the defined term and placed it in quotation marks; added a reference to the section of SDWA involved, including the citation to the <i>United States Code</i> ; added “Board Note: Under the federal requirements”; changed “EPA” to “USEPA”; changed “States” to “each state”; added “the following”; added references to the Act and Illinois Groundwater Protection Act, including corresponding regulations

704.286 “complete local source water assessment for groundwater protection areas””	144.86(b)	Used lower case for the defined term (twice) and placed its first appearance in quotation marks, rendering “groundwater” as a single word; changed “EPA” to “USEPA”; changed “States” to “the state”; changed “their State” to “that state”; changed “this rule” to “this Subpart”; changed “four requirements” to “the four following requirements”; added the parenthetical “as such . . .”; removed quotation marks from “determine . . . contaminants”
704.286 “groundwater protection area””	144.86(c)	Used lower case for the defined term and placed it in quotation marks, dropping the period that followed it and its repetition in the following words; changed “and/or” to “or”; changed to singular “a community or non-transient non-community water system . . . that uses”; added the parenthetical “as defined . . .”; rendered “groundwater” as a single word (twice); added a reference to the Act definition of “setback zone”; replaced “States are required” to “federal law requires”; added the appropriate citation to the <i>United States Code</i> ; changed “you” to “an owner or operator”; changed “your” to “its”; broke a runon sentence, replacing a comma with a period and “Board Note: . . . that”; removed an unnecessary comma; changed “as delineated” to “delineated as described”; added “federal” and an appropriate citation to the <i>United States Code</i>
704.286 “community water system””	144.86(d)	Used lower case for the defined term and placed it in quotation marks, dropping the period that followed it and its repetition in the following words; added the parenthetical “as defined . . .”; added “which” for a subsequent relative clause

704.286 “non-transient non-community water system”	144.86(e)	Used lower case for the defined term and placed it in quotation marks, dropping the period that followed it and its repetition in the following words; added the parenthetical “as defined . . .”; changed “a public water system” to “is a water system”; added “which” for a subsequent relative clause; changed “government/military” to government or military”
704.286 “delineation”	144.86(f)	Used lower case for the defined term and placed it in quotation marks (twice); changed “a State’s” to “the State’s”; used lower case for “drinking water . . . protection program”; used singular “State”; rendered “groundwater” as a single word
704.286 “other sensitive groundwater areas”	144.86(g)	Used lower case for the defined term and placed it in quotation marks; rendered “groundwater” as a single word (four times); changed “States” to “the State”; added a reference to the Act definition of “regulated recharge area”
704.286 Board note	144.86	Added a citation to the federal source of this provision
704.287 heading	144.87	Changed “how does the identification of ground water protection areas and other sensitive ground water areas affect me” to “location in a groundwater protection area or another sensitive area”; dropped the ending question mark
704.287(a)	144.87(a)	Changed “you are” to “a person is”; changed “these new requirements” to “the requirements of Section 288”; changed “you own or operate” to “the person owns or operates”; changed “you are” to “that person is”; rendered “another” as a single word; omitted language relating to a State failure to identify areas, adding a Board note to explain the omission and the existence of various State laws relating to groundwater protection
704.287(b)	144.87(b)	Used lower case for the opening phrase; added text explaining that major segments of this subsection outline requirements applicable to the State, and that the Board has included those segments for the purpose of informing the regulated community

704.287(b)(1)	144.87(b)(1)	Changed “States are required” to “USEPA requires the States”; changed “a State” to “the State”
704.287(b)(1)(A)	144.87(b)(1)(i)	Used singular “the owner or operator” and “a motor vehicle waste disposal well”; changed “completed assessments” to “the areas of the completed area assessments”
704.287(b)(1)(B)	144.87(b)(1)(ii)	Changed “EPA” to “USEPA”; changed “progress on” to “progress toward”; added a comma to offset the introductory conditional phrase “if . . . extended date”; added a comma to offset an independent clause “and owners or operators . . .”
704.287(b)(2)	144.87(b)(2)	Changed “UIC Program Director may” to “the Agency must”; added “if it determines that”; added a Board note explaining the right to appeal an Agency determination
704.287(c)	144.87(c)	Used lower case for the opening phrase; omitted text outlining the effects of a state failure to designate areas; changed “if a State has been granted” to “if USEPA grants the State”; added “of the time . . . areas”; changed existing motor vehicle waste disposal well owners and operators” to “the owner or operator of an existing motor vehicle waste disposal well” used singular “a sensitive groundwater area has”; changed “they are” to “the owner or operator is”; changed “a State” to “the State”; omitted “the rule requirements . . . State and” used singular “an owner or operator has”; changed “they are” to “it is”; added a Board note explaining the omission, outlining the Board’s interpretation of segments of the federal language, and directing attention to the Illinois laws that protect groundwater resources

704.287(d)	144.87(d)	Used lower case for the opening phrase; omitted text outlining the effects of a state failure to designate areas; changed “how to find out if your” to “finding our if a”; rendered “groundwater” as one word (twice); replaced language imposing informational requirements on the states with language imposing the duty on the Agency to maintain the information available for public inspection and copying and giving Agency contact information to determine if a well is located in a groundwater protection area or another sensitive groundwater area
704.287(e)	144.87(e)	Used lower case for the opening phrase; moved the prepositional phrase “after January 1, 2004”; changed “your State may assess” to “if the State assesses”; combined three sentences by replacing periods with a commas, changing “also, your state may officially re-delineate” to “or if the State re-delineates,” adding “or if the State,” and deleting “this would make”; used singular “an additional area”; omitted redundant language “that includes . . . well”; added “of Section 704.288”; added “would”; changed “you if” to “any”; changed “start applying” to “apply”; changed “you” to “the affected . . . well”; changed “UIC Program Director responsible for your area may” to “Agency must”; added “it determines that”; added a Board note explaining the right to appeal an Agency determination
704.287(f)	144.87(f)	Deleted the opening phrase; changed “If your State or EPA Region” to “the State”; added “of Section 704.288”; changed “you” to “all Class V injection wells in the State”; added a comma before and after “regardless of the location”

704.287(g)	144.87(h)	Renumbered the subsection because USEPA did not include a 40 C.F.R. 144.27(g); used lower case for the opening phrase; rendered “groundwater” as a single word (twice); omitted language describing USEPA’s expectations of the states; changed “the Director may” to “the Agency must”; added “in Section 704.288”; changed “you” to “an owner or operator”; changed “even if you are” to “even if the owner’s or operator’s well is”; added “if the Agency . . . environment” offset by a comma; added a Board note explaining the right to appeal an Agency determination and the omission of some federal language
704.287 Board note	144.87	Added a citation to the federal source of this provision
704.288 heading	144.88	Changed “what are the additional requirements” to “additional requirements”; dropped the ending question mark
704.288 preamble	144.88	Changed “specified in the following tables” to “as follows”
704.288(a)	144.88(a)	Reformatted the table information into subsections; changed “if these additional requirements apply” to “the applicability of these additional requirements”
704.288(a)(1)	144.88(a)(1)	Combined the column heading with the information in the first column; changed “your” to “the”; added a colon
704.288(a)(1)(A)	144.88(a)(1)(i)	Substituted “the owner or operator must” for the column heading and combined it with the information in the second column, then combined the column heading with the information in the third column
704.288(a)(1)(B)	144.88(a)(1)(ii)	Substituted “the owner or operator must” for the column heading and combined it with the information in the second column, then combined the column heading with the information in the third column; changed “UIC Program Director” to “Agency”; changed “your” to “its”
704.288(a)(1)(B) Board note	144.88(a)(1)(ii) note	Changed “note” to “Board note”; changed “national” to “the federal”; added “entitled”; added “available . . . on request”

704.288(a)(2)	144.88(a)(2)	Combined the column heading with the information in the first column, then combined the headings with the information in the second and third columns; changed “your” to “the”; omitted the past date “April 5, 2000”; added a Board note referencing the federal rule and the omitted date
704.288(b)	144.88(b)	Reformatted the table information into subsections; changed “if these additional requirements apply” to “the applicability of these additional requirements”
704.288(b)(1)	144.88(b)(1)	Combined the column heading with the information in the first column; changed “your” to “the”; added “and any of the following . . .”; added a colon
704.288(b)(1)(A)	144.88(b)(1)(i)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; Omitted the opening “if”; changed “your” to “the” (twice); changed “you” to “the owner or operator”; changed “UIC Program Director may” to “Agency must”; added “it determines that”; added ending semicolon and the conjunction “or”
704.288(b)(1)(B)	144.88(b)(1)(ii)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; omitted the opening “if”; changed “your” to “the”; rendered “groundwater” as a single word; changed “you” to “the owner or operator”; changed “UIC Program Director may” to “Agency must”; added “it determines that”; added ending semicolon and the conjunction “or”

704.288(b)(1)(C)	144.88(b)(1)(iii)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; omitted the opening “if”; changed “you plan” to “the owner or operator” plans; moved the prepositional phrase “by the date . . . application,” offset by a comma; changed “you submit” to “the owner or operator submits”; changed “you” to “the owner or operator”; changed “MCLs” to “the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611”; changed “your” to “the” (twice); changed “you choose” to “the owner or operator chooses”; added ending semicolon and the conjunction “or”
704.288(b)(1)(D)	144.88(b)(1)(iv)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; omitted the opening “if”; changed “you receive” to “the owner or operator” receives; changed “you” to “the owner or operator”; moved the prepositional phrase “by the date . . . permit”; changed “you choose” to “the owner or operator chooses”; changed “your” to “the” (twice); added ending semicolon and the conjunction “or”
704.288(b)(1)(E)	144.88(b)(1)(v)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; changed “if your well is located in a State which” to “the State”; placed the parenthetical information “or . . . Section 704.287” in parentheses; changed “your” to “the”; changed “you are” to “the well is”; changed “you” to “the owner or operator”; added a comma before “unless” to offset parenthetical information; added ending semicolon and the conjunction “or”

704.288(b)(1)(F)	144.88(b)(1)(vi)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; changed “if your well is in a State that” to “the State”; changed “you are” to “the well is”; changed “you” to “the owner or operator”; changed “your” to “its”; added a comma before “unless” to offset parenthetical information; changed “your” to “the” (twice); added ending semicolon and the conjunction “or”
704.288(b)(1)(G)	144.88(b)(1)(vii)	Combined the column heading with the information in the second column, then combined the column heading with the information in the third column; changed “if you plan” to “the owner or operator plans”; changed “your” to “its” (twice); changed “you” to “the owner or operator”; changed “UIC Program Director” to “Agency”; changed “your” to “the”; added ending semicolon and the conjunction “or”
704.288(b)(1)(G) Board note	144.88(b)(1)(vii) note	Changed “note” to “Board note”; changed “national” to “the federal”; added “entitled”; added “available . . . on request”
704.288(b)(1) Board note	144.88(b)(1)	Added a Board note explaining the right to appeal an Agency determination under subsections (b)(1)(A), (b)(1)(B), or (b)(1)(E)
704.288(b)(2)	144.88(b)(2)	Combined the column heading with the information in the first column; changed “your” to “the”; omitted the past effective date “April 5, 2000”; added a Board note referencing the federal rule and the omitted date
704.288 Board note	144.88	Added a citation to the federal source of this provision
704.289 heading	144.89	Changed “how do I close my Class V injection well” to “closure of a Class V injection well”; dropped the ending question mark
704.289 preamble	144.89	Changed “your” to “a”; added a colon

704.289(a)(1)	144.89(a)(1)	Changed “you” to “the owner or operator” (twice); added “set forth”; omitted a sentence relating to additional state standards; changed “also must” to “must also”; changed “your” to “the”; used lower case “federal”; added “described”
704.289(a)(2)	144.89(a)(2)	Changed “you need” to “the owner or operator needs” (twice); changed “your” to “its” (twice); added “the following” (twice); added the familiar abbreviation “POTW” in parentheses; changed “you” to “the owner or operator”; substituted “POTW” for “publicly owned treatment works” (twice); changed “your” to “the owner’s or operator’s”
704.289(b)	144.89(b)	Changed “UIC Direcor” to “Agency”; added “the following two conditions are fulfilled”; added numbers in parentheses to clearly delineate the conditions; omitted the unnecessary semicolon before and comma after the conjunction “and”
704.289 Board note	144.89	Added a citation to the federal source of this provision
730.103 “cesspool”	146.3	Placed the defined term in quotation marks; removed an unnecessary comma; changed “and/or” to “or”
730.103 “improved sinkhole”	146.3	Placed the defined term in quotation marks; added “that is”; changed “which” to “that” for a restrictive relative clause
730.103 “point of injection”	146.3	Placed the defined term in quotation marks; offset the parenthetical “for a Class V well” by commas; added the indefinite article “a”; used the singular “well”; added the definite article “the”
730.103 “sanitary waste”	146.3	Placed the defined term in quotation marks; added a comma to offset a parenthetical
730.103 “septic system”	146.3	Placed the defined term in quotation marks; removed the quotation marks for the word “well”; changed “that” to “which” for a subsequent restrictive relative clause
730.103 “subsurface fluid distribution system”	146.3	Placed the defined term in quotation marks

730.103 “well”	146.3	Added a comma to separate the final two elements of a series; removed the conjunction “or” form between all but the final two elements of a series (twice); removed an unnecessary comma after “hole” removed an unnecessary comma after the conjunction “or”
730.105(a)(3)	146.5(a)(3)	Changed “which” to “that” for a restrictive relative clause; added “402 meters” and hyphenated “one-quarter” and placed it in parentheses for consistency
730.110(a)	146.10(a)	Added “injection”
730.110(b)	146.10(b)	Added “injection”; changed “shall” to “must”
730.110(c)	146.10(c)	Added “injection”
730.110(c)(1)	146.10(c)(1)	Added “injection”; changed “shall” to “must”; removed an unnecessary comma from before “if the presence . . .”; added a reference to the Illinois groundwater quality standards “any of . . . 35 Ill. Adm. Code 620”
730.110(c)(2)	146.10(c)(2)	Changed “shall” to “must”; used lower-case “federal”
738.118(h)	148.18(h)	Substituted an explanatory statement for a provision marked “reserved” by USEPA

Table 2:
Board Housekeeping Amendments

Section	Source	Revision(s)
702.110 “area of review”	Board	Changed “1/4” to “one-quarter”
702.110 “corrective action management unit”	Board	Changed “35 Ill. Adm. Code 724.Subpart S” to “Subpart S of 35 Ill. Adm. Code 724”; changed “shall” to “must”
702.110 “elementary neutralization unit”	Board	Changed “35 Ill. Adm. Code 721.Subpart D” to “Subpart D of 35 Ill. Adm. Code 721”
702.110 “manifest”	Board	Changed “35 Ill. Adm. Code 722.Subpart B” to “Subpart B of 35 Ill. Adm. Code 722”
702.110 “National Pollutant Discharge Elimination System”	Board	Changed “35 Ill. Adm. Code 309.Subpart A” to “Subpart A of 35 Ill. Adm. Code 309”
702.110 “permit”	Board	Changed “35 Ill. Adm. Code 704.Subpart C” to “Subpart C of 35 Ill. Adm. Code 704”
702.110 “remedial action plan”	Board	Changed “35 Ill. Adm. Code 703.Subpart H” to “Subpart H of 35 Ill. Adm. Code 703”

702.110 “wastewater treatment unit”	Board	Changed “35 Ill. Adm. Code 309.Subpart A” to “Subpart A of 35 Ill. Adm. Code 309”
702.110 Board note	Board	Updated the reference to the <i>Code of Federal Regulations</i>
704. Source Note	Board	Restored the missing reference to the amendments of R94-17
704.102	Board	Changed “will be adopted” to “is regulated”; changed “Illinois Department of Mines and Minerals” to “Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division”; changed “Section 1425 of the SDWA . . .” to “the Illinois Oil and Gas Act . . .”; changed “shall” to “must”; changed “704.Subpart C” to “Subpart C of this Part”
704.102 Board Note	Board	Added “preamble” to the <i>Code of Federal Regulations</i> reference; updated the reference to the 1999 edition
704.105 Board Note	Board	Updated the reference to the <i>Code of Federal Regulations</i> to the 1999 edition and added a reference to a subsequent amendment that appeared in the <i>Federal Register</i>
704.106(a)(1)	Board	Corrected “and” to “an”
704.106(c)	Board	Restored the missing word “fluids”; corrected to plural “minerals”
704.106(c)(2)	Board	Restored the missing word “mining”
704.106(d)(1)	Board	Added hyphenation to the compound “one-quarter”
704.106(d)(2)	Board	Corrected “owners or operators” to “owners and operators” (twice)
704.106(d)(3)	Board	Corrected “owners or operators” to “owners and operators”
704.106 Board Note	Board	Corrected the note format; updated the reference to the <i>Code of Federal Regulations</i> to the 1999 edition
704.145(b)(1)	Board	Changed “shall” to “must”
704.145(b)(3)	Board	Changed “shall” to “must”
704.145 Board note	Board	Updated the reference to the <i>Code of Federal Regulations</i> to the 1999 edition and added a reference to a subsequent amendment that appeared in the <i>Federal Register</i>
704.146 Board note	Board	Updated the reference to the <i>Code of Federal Regulations</i> to the 1999 edition and added a reference to a subsequent amendment that appeared in the <i>Federal Register</i>
704.148	Board	Changed “shall” to “must”; changed “subsection (d) or (e) below” to “subsection (d) or (e) of this Section”
704.148(a)	Board	Changed “shall” to “must”
704.148(b)	Board	Changed “subsection (b)(1) below” to “subsection (b)(1) of this Section”; changed “shall” to “must”; changed “subsection (b)(2) below” to “subsection (b)(2) of this Section”

704.148(b)(1)	Board	Added subsection (b)(1)(A) to correspond with 40 CFR 144.26(b)(1)(i), explaining that Class II wells are regulated by the Department of Natural Resources; renumbered subsections (b)(1)(A) and (b)(1)(B) to subsections (b)(1)(B) and (b)(1)(C)
704.148(b)(2)	Board	Changed “subsection (b)(1) above” to “subsection (b)(1) of this Section”; changed “shall” to “must”
704.148(b)(2)	Board	Added subsection (b)(2)(A) to correspond with 40 CFR 144.26(b)(2)(i), explaining that Class II wells are regulated by the Department of Natural Resources; renumbered subsections (b)(1)(A) through (b)(1)(I) to subsections (b)(1)(B) and (b)(1)(J)
704.148(c)	Board	Changed “U.S. EPA” to “USEPA”
704.148(d)	Board	Changed “subsection (e) below” to “subsection (e) of this Section”
704.148(d)(1)	Board	Changed “shall” to “must”
704.148(d)(2)	Board	Changed “U.S. EPA” to “USEPA” (twice); changed “shall” to “must”
704.148(e)(1)	Board	Changed “U.S. EPA” to “USEPA”; changed “subsection (d) above” to “subsection (d) of this Section”
704.148(e)(2)	Board	Changed “shall” to “must”
704.148(e)(3)	Board	Changed “shall” to “must”
704.148(e)(4)	Board	Changed “subsection (e)(2) or (e)(3) above” to “subsection (e)(2) or (e)(3) of this Section”
704.148 Board note	Board	Updated the reference to the <i>Code of Federal Regulations</i> to the 1999 edition and added a reference to a subsequent amendment that appeared in the <i>Federal Register</i>
730.103 “Act”	Board	Moved the period outside the parenthesis mark
730.103 “area of review”	Board	Changed “1/4” to “one-quarter”
730.103 “drywell”	Board	Added “that is”; added a comma to offset a parenthetical
730.103 “Environmental Protection Act”	Board	Changed the reference to the Illinois Revised Statutes to a reference to the Illinois Compiled Statutes
704.103 Board note	Board	Updated the reference to the <i>Code of Federal Regulations</i> to the 1999 edition and added a reference to a subsequent amendment that appeared in the <i>Federal Register</i>
730.105(a)(1)	Board	Changed “1/4” to “one-quarter”
730.105(a)(2)	Board	Changed “1/4” to “one-quarter”
730.105(d)(1)	Board	Changed “1/4” to “one-quarter”
730.105(d)(2)	Board	Changed “1/4” to “one-quarter”
730.105(d)(3)	Board	Changed “subsection (a)(2), (d)(1), or (d)(2) above” to “subsection (a)(2), (d)(1), or (d)(2) of this Section”
730.105(e)	Board	Added “the following”
730.110(a)(1)	Board	Changed “shall” to “must”

730.110(a)(4)	Board	Corrected the cross-references from “35 Ill. Adm. Code 704.188 and 704.187” to “35 Ill. Adm. Code 704.181(f) and 704.188”; changed “shall” to “must”
738.118(b)	Board	Removed the past effective date
738.118(d)	Board	Removed the past effective date
738.118(e)	Board	Changed the listing of USEPA hazardous waste numbers into the paragraph format to save space
738.118(g)	Board	Changed the listing of USEPA hazardous waste numbers into the paragraph format to save space
738.118(i)	Board	Removed the past effective date

HISTORY OF RCRA SUBTITLE C AND UIC ADOPTION
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY OR BOARD ACTION
EDITORIAL CONVENTIONS

It has previously been the practice of the Board to include a historical discussion in its RCRA Subtitle C and UIC identical-in-substance rulemaking proposals. However, in the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 1999, through, December 31, 1999) (May 18, 2000), R00-13, the Board indicated that it would cease this practice. Therefore, for a complete historical summary of the Board’s RCRA Subtitle C and UIC rulemakings and programs, interested persons should refer back to the May 18, 2000 opinion and order in R00-13.

The historical summary contains all Board actions taken to adopt and maintain these programs since their inception and until May 18, 2000. It includes a listing of all site-specific rulemaking and adjusted standards proceedings filed that relate to these programs. It also lists all USEPA program authorizations issued during that time frame. As necessary the Board will continue to update the historical summary as a segment of the opinion in each RCRA Subtitle C and UIC update docket, but those opinions will not repeat the information contained in the opinion of May 18, 2000 in docket R00-13.

The following summarizes the history of the Illinois RCRA Subtitle C hazardous waste and UIC programs since May 18, 2000:

History of RCRA Subtitle C and State Hazardous Waste Rules Adoption

The Board has adopted and amended the RCRA Subtitle C hazardous waste rules in the following docket since May 18, 2000:

R00-13 RCRA Subtitle C Update, USEPA Regulations (January 1, 1999, through June 30, 1999) (May 18, 2000), R00-13; published at 24 Ill. Reg.9443 (July 7, 2000), effective June 20, 2000.

History of UIC Rules Adoption

The Board has adopted and amended Underground Injection Control (UIC) regulations in the following dockets since May 18, 2000:

- R00-11 UIC Update, USEPA Regulations (July 1, 1999, through December 31, 1999), R00-11. (This docket; consolidated with docket R01-1.)
- R01-1 UIC Update, USEPA Regulations (January 1, 2000, through June 30, 2000), R01-1. (This docket; consolidated with docket R00-11.)

ORDER

The complete text of the proposed amendments follows:

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

PART 702
 RCRA AND UIC PERMIT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	
702.101	Purpose, Scope, and Applicability
702.102	Purpose and Scope (Repealed)
702.103	Confidentiality of Information Submitted to the Agency or Board
702.104	References
702.105	Rulemaking
702.106	Adoption of Agency Criteria
702.107	Permit Appeals and Review of Agency Determinations
702.108	Variances and Adjusted Standards
702.109	Enforcement Actions
702.110	Definitions

SUBPART B: PERMIT APPLICATIONS

Section	
702.120	Permit Application
702.121	Who Applies
702.122	Completeness
702.123	Information Requirements
702.124	Recordkeeping
702.125	Continuation of Expiring Permits
702.126	Signatories to Permit Applications and Reports

SUBPART C: PERMIT CONDITIONS

Section	
702.140	Conditions Applicable to all Permits
702.141	Duty to Comply
702.142	Duty to Reapply
702.143	Need to Halt or Reduce Activity Not a Defense
702.144	Duty to Mitigate
702.145	Proper Operation and Maintenance
702.146	Permit Actions
702.147	Property Rights
702.148	Duty to Provide Information
702.149	Inspection and Entry
702.150	Monitoring and Records
702.151	Signature Requirements
702.152	Reporting Requirements
702.160	Establishing Permit Conditions
702.161	Duration of Permits
702.162	Schedules of Compliance
702.163	Alternative Schedules of Compliance
702.164	Recording and Reporting

SUBPART D: ISSUED PERMITS

Section	
702.181	Effect of a Permit
702.182	Transfer
702.183	Modification
702.184	Causes for Modification
702.185	Facility Siting
702.186	Revocation
702.187	Minor Modifications

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

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19, at 53 PCB 131, 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 Ill. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 Ill. Reg. 19376, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 Ill. Reg. 6673, effective March 28, 1988; amended in R87-39 at 12 Ill. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18452, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3089, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6273, effective April 16, 1990; amended in R92-10 at 17 Ill. Reg. 5769, effective March 26, 1993; amended in R93-16 at 18 Ill. Reg. 6918, effective April 26, 1994; amended in R94-5 at 18 Ill. Reg. 18284, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9913,

effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11210, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 532, effective December 16, 1997; amended in R99-15 at 23 Ill. Reg. 9359, effective July 26, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 702.110 Definitions

The following definitions apply to 35 Ill. Adm. Code 702, 703, 704, and 705. Terms not defined in this Section have the meaning given by the appropriate Act. When a defined term appears in a definition, the defined term is sometimes placed within quotation marks as to an aid to readers. When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

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

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

“Agency” means the Illinois Environmental Protection Agency.

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

“Appropriate act and regulations” means the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA), or the “Environmental Protection Act”, whichever is applicable, and applicable regulations promulgated under those statutes.

“Approved program or approved state” means a state or interstate program that has been approved or authorized by USEPA under 40 CFR 271 (1996) (RCRA) or Section 1422 of the SDWA (UIC).

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

“Area of review” (UIC) means the area surrounding an injection well described according to the criteria set forth in 35 Ill. Adm. Code 730.106, or in the case of an area permit, the project area plus a circumscribing area the width of that is either 402 meters (~~1/4~~ one-quarter of a mile) or a number calculated according to the criteria set forth in 35 Ill. Adm. Code 730.106.

“Board” means the Illinois Pollution Control Board.

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

“Closure” (RCRA) means the act of securing a “Hazardous Waste Management Facility” pursuant to the requirements of 35 Ill. Adm. Code 724.

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

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

“Corrective action management unit” or “CAMU” means an area within a facility that is designated by the Agency under Subpart S of 35 Ill. Adm. Code 724.~~Subpart S-~~for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA section 3008(h). A CAMU ~~shall~~must only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

“CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972), P.L. 92-500, as amended by P.L. 95-217 and P.L. 95-576; 33 USC 1251 et seq. (1996).

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

“Director” means the Director of the Illinois Environmental Protection Agency or the Director’s designee.

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

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

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

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

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

“Elementary neutralization unit” means a device which:

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

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

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

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

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

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

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

Either:

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

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

“Existing injection well” (UIC) means an “injection well” other than a “new injection well”.

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

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

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

“Federal, state, and local approvals or permits necessary to begin physical construction” means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances. (See 35 Ill. Adm. Code 700.102.)

“Final authorization” (RCRA) means approval by USEPA of the Illinois Hazardous Waste Management Program that has met the requirements of Section 3006(b) of RCRA and the applicable requirements of 40 CFR 271, Subpart A (1996). USEPA granted initial final authorization on January 31, 1986.

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

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

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

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

“Generator” (RCRA) means any person, by site location, whose act or process produces “hazardous waste” identified or listed in 35 Ill. Adm. Code 721.

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

of saturation.

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

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

“HWM facility” (RCRA) means “Hazardous Waste Management facility”.

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

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

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

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

“Interim authorization” (RCRA) means approval by USEPA of the Illinois Hazardous Waste Management program that has met the requirements of Section 3006(g)(2) of RCRA and applicable requirements of 40 CFR 271 (1996). This happened on May 17, 1982.

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

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

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

“National Pollutant Discharge Elimination System” means the program for issuing,

modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Section 12(f) of the Environmental Protection Act and Subpart A of 35 Ill. Adm. Code 309.~~Subpart A~~ and 310. The term includes an “approved program”.

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

“New injection well” (UIC) means a “well” that began injection after March 3, 1984, the date of USEPA approval of the UIC program for the State of Illinois. BOARD NOTE: See 40 CFR 147.700 (1998) and 49 Fed. Reg. 3991 (Feb. 1, 1984).

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

“On-site” (RCRA) means on the same or geographically contiguous property that may be divided by public or private right(s)-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right(s)-of-way. Non-contiguous properties owned by the same person, but connected by a right-of-way that the person controls and to which the public does not have access, is also considered on-site property.

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

“Permit” means an authorization, license, or equivalent control document issued to implement the requirements of this Part and 35 Ill. Adm. Code 703, 704, and 705.

“Permit” includes RCRA “permit by rule” (35 Ill. Adm. Code 703.141), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC “Emergency Permit” (35 Ill. Adm. Code 703.221 and 704.163). “Permit” does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704.~~Subpart C~~), or any permit that has not yet been the subject of final Agency action, such as a “Draft Permit” or a “Proposed Permit”.

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

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

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

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

“POTW” means “publicly owned treatment works”.

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

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

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

“RCRA” means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, P.L. 96-510, 42 USC 6901 et seq. (1996)). For the purposes of regulation under 35 Ill. Adm. Code 700 through 705, 720 through 728, and 739, “RCRA” refers only to RCRA Subtitle C. This does not include the RCRA Subtitle D (municipal solid waste landfill) regulations, found in 35 Ill. Adm. Code 810 through 815, and the RCRA Subtitle I (underground storage tank) regulations found in 35 Ill. Adm. Code 731 and 732.

“RCRA permit” means a permit required under Section 21(f) of the Environmental Protection Act.

“Regional Administrator” means the Regional Administrator for the USEPA Region in which the facility is located or the Regional Administrator’s designee.

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

“Sanitary waste” means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving

dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities, provided the waste is not mixed with industrial waste.

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

“SDWA” means the Safe Drinking Water Act (P.L. 93-523, as amended, 42 USC 300f et seq. (1996)).

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

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

“SIC code” means codes pursuant to the Standard Industrial Classification Manual incorporated by reference in 35 Ill. Adm. Code 720.111.

“State” means the State of Illinois.

“State Director” means the Director of the Illinois Environmental Protection Agency.

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

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

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

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

“Total dissolved solids” (UIC) means the total dissolved (filterable) solids as

determined by use of the method specified in 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 720.111.

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

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

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

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

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

“UIC” means the Underground Injection Control program.

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

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

It supplies any public water system; or

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

It currently supplies drinking water for human consumption; or

It contains less than 10,000 mg/1 total dissolved solids.

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

“Wastewater treatment unit” means a device which:

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

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

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

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

Well injection means the subsurface emplacement of fluids through a well.

“Well injection” (UIC) means the subsurface emplacement of “fluids” through a ~~bored, drilled, or driven “well”; or through a dug well, where the depth of the dug well is greater than the largest surface dimension.~~

BOARD NOTE: Derived from 40 CFR 144.3 (19981999), as amended at 64 Fed. Reg. 68565 (Dec. 7, 1999), and 270.2 (19981999), as amended at 63 Fed. Reg. 65941 (Nov. 30, 1998).

(Source: Amended at 24 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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704.289 Closure of a Class V Injection Well

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

SOURCE: Adopted in R81-32, at 47 PCB 95, 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. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 704.102 Scope of the Permit or Rule Requirement

Although five classes of wells are set forth in Section 704.106, the UIC (Underground Injection Control) permit program described in 35 Ill. Adm. Code 702, 704, 705, and 730 regulates underground injection for only four classes of wells (see definition of “well injection,” 35 Ill. Adm. Code 702.110). Class II wells (Section 704.106(b)) are not subject to the requirements found in 35 Ill. Adm. Code 702, 704, 705, and 730. The UIC permit program for Class II wells will be adopted is regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division, pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 ILCS 240). ~~Section 1425 of the SDWA (Safe Drinking Water Act, 42 U.S.C. 300f).~~ All owners or operators of Class I, Class III, Class IV, or Class V injection wells must be authorized either by permit or rule. In carrying out the mandate of the SDWA, this Part provides that no injection ~~shall~~ must be authorized by permit or rule if it results in movement of fluid containing any contaminant into underground sources of drinking water (USDWs)(Section 704.122) if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR 142 or may adversely affect the health of persons. (Section 704.122). Existing Class IV wells that inject hazardous waste directly into an underground source of drinking water are to be eliminated over a period of six months and new such Class IV wells are to be prohibited (Section 704.124). Class V wells will be inventoried and assessed, and regulatory action will be established at a later date. In the meantime, if remedial action appears necessary, an individual permit may be required (704.Subpart C of this Part) or the Agency must require remedial action or closure by order (Section 704.122(c)).

BOARD NOTE: Derived from 40 CFR 144.1(g) preamble (19931999).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 704.105 Specific Inclusions and Exclusions

- a) The following wells are included among those types of injection activities that are covered by the UIC regulations. (This list is not intended to be exclusive but is for clarification only.)
- 1) Any injection well located on a drilling platform inside territorial waters of the State of Illinois;
 - 2) Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids;
 - 3) Any ~~septic tank or cesspool well~~ used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity;
 - 4) Any septic tank, cesspool, or other well used by a multiple dwelling, community, or regional system for the injection of wastes.
- b) The following are not covered by these regulations:
- 1) Injection wells located on a drilling platform or other site that is beyond the territorial waters of the State of Illinois;
 - 2) Individual or single family residential waste disposal systems such as domestic cesspools or septic systems;
 - 3) Nonresidential cesspools, septic systems, or similar waste disposal systems if such systems are used solely for the disposal of sanitary waste, and have the capacity to serve fewer than 20 persons a day;
 - 4) Injection wells used for injection of hydro carbons that are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage;
 - 5) Any dug hole, drilled hole, or bored shaft that is not used for the subsurface emplacement of fluids ~~underground~~;
 - 6) Class II wells.
- c) The prohibition applicable to Class IV wells under Section 704.124 does not apply to injections of hazardous wastes into aquifers or portions thereof that have been exempted pursuant to 35 Ill. Adm. Code 730.104.

BOARD NOTE: Derived from 40 CFR 144.1(g)(1) through (g)(3) (~~1993~~1999), as amended at 64 Fed. Reg. 68565 (December 7, 1999).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 704.106 Classification of Injection Wells

Injection wells are classified as follows:

- a) Class I
 - 1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within 402 meters (one-quarter mile) of the well bore, ~~and an~~ an underground source of drinking water.
 - 2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within 402 meters (one quarter mile) of the well bore, an underground source of drinking water.
 - 3) Radioactive waste disposal wells that inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.
- b) Class II. Wells which inject fluids:
 - 1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
 - 2) For enhanced recovery of oil or natural gas; and
 - 3) For storage of hydrocarbons which are liquid at standard temperature and pressure.
- c) Class III. Wells which inject fluids for extraction of ~~mineral~~ minerals, including:
 - 1) Mining of sulfur by the Frasch process;
 - 2) In situ production of uranium or other metals; this category includes only in situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V;

- 3) Solution mining of salts or potash.
- d) Class IV.
 - 1) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within 402 meters (~~one-quarter~~ one-quarter mile) of the well contains an underground source of drinking water.
 - 2) Wells used by generators of hazardous waste or of radioactive waste, by owners ~~or~~ and operators of hazardous waste management facilities, or by owners ~~or~~ and operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within 402 meters (one-quarter mile) of the well contains an underground source of drinking water.
 - 3) Wells used by generators of hazardous waste or owners ~~or~~ and operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under subsections (a)(1) or (d)(1) and (d)(2) (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to 35 Ill. Adm. Code 730.104).
- e) Class V. Injection wells not included in Classes I, II, III, or IV.

~~(Board Note: See BOARD NOTE: 40 CFR 144.6 (1987/1999).)~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 704.107 Definitions

The definitions of 35 Ill. Adm. Code 702 apply to Part 704. Specific types of Class V injection wells are described in Section 704.281.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section 704.145 Existing Class IV Wells

- a) Injection into Class IV wells 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 well, the owner or operator ~~shall~~must plug or otherwise close the well in a manner acceptable to the Agency.
 - 2) By September 27, 1986, the owner and operator of any Class IV well 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 well ~~shall~~must notify the Agency of intent to abandon the well at least 30 days prior to abandonment.
- c) Notwithstanding the requirements of subsections (a) and (b) of this Section, injection wells used to inject contaminated ground water that has been treated and which is being injected into the same formation from which it was drawn are 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 U.S.C. 9601-9675, or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6992k, or the Agency, pursuant to Section 39 of the Act.

BOARD NOTE: Derived from 40 CFR 144.23 (19931999), as amended at 64 Fed. Reg. 68566 (December 7, 1999).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 704.146 Class V Wells

- a) Injection into Class V wells is authorized by rule ~~until requirements under future regulations become applicable~~, subject to the conditions set forth in Section 704.284.
- b) Duration of well authorization by rule. Well authorization under this Section expires upon the effective date of a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.
- c) Prohibition of injection. An owner or operator of a well that is authorized by rule pursuant to this Section is prohibited from injecting into the well:
 - 1) Upon the effective date of an applicable permit denial;
 - 2) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;

- 3) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148; or
- 4) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149.

BOARD NOTE: Derived from 40 CFR 144.24 (1993~~1999~~), as amended at 58~~64~~ Fed. Reg. 63896~~68566~~ (Dec. 3, 1993~~7, 1999~~).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 704.148 Inventory Requirements

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

- a) Contents. As part of the inventory, the owner or operator ~~shall~~must submit at least the following information:
 - 1) Facility name and location;
 - 2) Name and address of legal contact;
 - 3) Ownership of facility;
 - 4) Nature and type of injection wells; and
 - 5) Operating status of injection wells.

BOARD NOTE: This information is requested on national form "Inventory of Injection Wells," OMB No. 158-R0170.

- b) Additional contents. The owner or operator of a well listed in subsection (b)(1) ~~below of this Section~~ shall~~must~~ provide the information listed in subsection (b)(2) ~~below of this Section~~.
 - 1) This Section applies to the following wells:
 - A) Corresponding 40 CFR 144.26(b)(1)(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 ILCS 240). This statement maintains structural consistency with the corresponding federal provisions;

AB) Class IV wells;

BC) The following Class V wells:

- i) Sand or other backfill wells, 35 Ill. Adm. Code 730.105(e)(8);
- ii) Radioactive waste disposal wells that are not Class I wells, 35 Ill. Adm. Code 730.105(e)(11);
- iii) Geothermal energy recovery wells, 35 Ill. Adm. Code 730.105(e)(12);
- iv) Brine return flow wells, 35 Ill. Adm. Code 730.105(e)(14);
- v) Wells used in experimental technologies, 35 Ill. Adm. Code 730.105(e)(15);
- vi) Municipal and industrial disposal wells other than Class I; and
- vii) Any other Class V wells at the discretion of the Agency.

2) The owner or operator of a well listed in subsection (b)(1)-~~above~~ of this Section shall-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 ILCS 240). This statement maintains structural consistency with the corresponding federal provisions;

AB) Location of each well or project given by Township, Range, Section, and Quarter-Section;

BC) Date of completion of each well;

CD) Identification and depth of the formation(s) into which each well is injecting;

DE) Total depth of each well;

- ~~EF~~) Casing and cementing record, tubing size, and depth of packer;
 - ~~FG~~) Nature of the injected fluids;
 - ~~GH~~) Average and maximum injection pressure at the wellhead;
 - ~~HI~~) Average and maximum injection rate; and
 - ~~IJ~~) Date of the last mechanical integrity tests, if any.
- c) This subsection corresponds with 40 CFR 144.26(c), a provision relating to ~~U.S. EPA-USEPA~~ notification to facilities upon authorization of the state's program. This statement maintains structural consistency with ~~U.S. EPA-USEPA~~ rules.
- d) Deadlines. Except as provided in subsection (e) ~~below~~ of this Section:
- 1) The owner or operator of an injection well ~~shall~~ 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.
 - 2) The information need not be submitted if a complete application is submitted within one year of the effective date of the ~~U.S. EPA-USEPA~~ UIC program. The owner or operator of a Class IV well ~~shall~~ must submit inventory information no later than 60 days after the effective date of the ~~U.S. EPA-USEPA~~ UIC program.
- e) Deadlines for Class V Wells.
- 1) The owner or operator of a Class V well in which injection took place within one year after the date of approval by ~~U.S. EPA-USEPA~~ of the Illinois UIC program, and who failed to submit inventory information for the well within the time specified in subsection (d) ~~above~~ 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 well in which injection started later than March 3, 1985, ~~shall~~ must submit inventory information prior to May 2, 1995.
 - 3) The owner or operator of a Class V well in which injection started after May 2, 1994 ~~shall~~ 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) ~~above 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: Wells that were in existence as of March 3, 1984, were required to submit inventory information by March 3, 1985. Since all wells other than Class V wells are now either prohibited or required to file permit applications, the inventory requirement will apply only to new Class V wells.

BOARD NOTE: Derived from 40 CFR 144.26 (1993~~1999~~), as amended at 58~~64~~ Fed. Reg. 63896~~68566~~ (Dec. 3, 1993~~7, 1999~~).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

Section 704.279 General

This Subpart 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. The requirements described in this Subpart and elsewhere in this Part are intended to protect underground sources of drinking water and are part of the underground injection control (UIC) program established under Section 13(c) of the Act.

BOARD NOTE: Derived from 40 CFR 144.279, as added at 64 Fed. Reg. 68566 (December 7, 1999). USEPA wrote the federal counterpart to this Subpart, 40 CFR 144, Subpart G, 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: Added at 24 Ill. Reg. _____, effective _____)

Section 704.280 Definition of a Class V Injection Well

Section 704.106 defines the five classes of injection wells, including a Class V injection well, as regulated under this Subpart. Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well is either a Class I or Class IV well, not a Class V well. Examples of Class V wells are described in Section 704.281.

BOARD NOTE: Derived from 40 CFR 144.280, as added at 64 Fed. Reg. 68566 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 704.281 Examples of Class V Injection Wells

The following are examples of Class V injection wells to which this Subpart applies:

- a) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;
- b) Large capacity cesspools, including multiple-dwelling, community or regional cesspools, or other devices that receive sanitary wastes containing human excreta, that have an open bottom and sometimes perforated sides. The UIC requirements do not apply to single family residential cesspools, nor do they apply to non-residential cesspools that receive solely sanitary waste and which have the capacity to serve fewer than 20 persons a day;
- c) Cooling water return flow wells that are used to inject water previously used for cooling;
- d) Drainage wells that are used to drain surface fluids, primarily storm runoff, into a subsurface formation;
- e) Dry wells that are used for the injection of wastes into a subsurface formation;
- f) Recharge wells that are used to replenish the water in an aquifer;
- g) Salt water intrusion barrier wells that are used to inject water into a fresh aquifer to prevent the intrusion of salt water into the fresh water;
- h) Sand backfill and other backfill wells that are used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;
- i) Septic system wells that are used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells that are used solely for the disposal of sanitary waste and which have the capacity to serve fewer than 20 persons a day;
- j) Subsidence control wells (not used for the purpose of oil or natural gas production) that are used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

- k) Injection wells associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power;
- l) Wells that are used for solution mining of conventional mines such as stopes leaching;
- m) Wells that are used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;
- n) Injection wells that are used in experimental technologies;
- o) Injection wells that are used for in situ recovery of lignite, coal, tar sands, and oil shale; and
- p) Motor vehicle waste disposal wells that receive or which have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, an automotive repair shop, a new or used car dealership, a specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations (35 Ill. Adm. Code 611). These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, that pose risks to human health.

BOARD NOTE: Derived from 40 CFR 144.281, as added at 64 Fed. Reg. 68566 (December 7, 1999).

(Source: Added at 24 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, 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 704.112(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, 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 or USEPA learns that an owner's or operator's injection activity may endanger USDWs, the Agency or USEPA 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 704.112(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 or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to your 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, 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 for convenience, the owner or operator needs to read all of this Part and 35 Ill. Adm. Code 702 and 730 to understand the entire UIC Program.
- d) Other State or USEPA requirements. This Part and 35 Ill. Adm. Code 702 and 730 define minimum federally-derived UIC requirements. The Agency and USEPA Region V have the flexibility to establish additional or more stringent requirements based on the authorities in this Part and 35 Ill. Adm. Code 702 and 730 and 40 CFR 144 through 147, if such additional requirements are determined to be necessary to protect USDWs. The owner and operator must comply with any such additional requirements. The owner or operator should contact the Agency or USEPA Region V to learn more.

BOARD NOTE: Derived from 40 CFR 144.282, as added at 64 Fed. Reg. 68567 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 704.283 Notification of a Class V Injection Well

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

- a) Inventory requirements. Unless the owner or operator knows it has already

satisfied the inventory requirements in Section 704.128 that were in effect prior to the issuance of this Subpart G, the owner or operator must give the Agency certain information about itself and its injection operation.

BOARD NOTE: This information is requested on national form “Inventory of Injection Wells,” OMB No. 2040-0042.

- 1) The owner or operator of a new or existing Class V injection well must contact the Agency to determine what information it must submit and by when it must submit that information.
- 2) The following is the information that the owner or operator must submit:
 - A) No matter what type of Class V well is owned or operated, the owner or operator must submit at least the following information for each Class V well: facility name and location; name and address of a legal contact person for the facility; the ownership of the facility; the nature and type of the injection well or wells; and the operating status of 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, or by latitude and longitude to the nearest second, according to the conventional practice in this State;
 - ii) The date of completion of each well;
 - iii) The identification and depth of the underground formation(s) 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 144.283, as added at 64 Fed. Reg. 68567 (December 7, 1999).

(Source: Added at 24 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 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 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 or USEPA Region V if this is the case. Subparts D and H of this Part tells an owner or operator how to apply for a permit, and it describes 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 standard 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 or USEPA Region V);
- 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 ground water protection area or a sensitive ground water 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), as added at 40 CFR 68568 (December 7, 1999).

- 3) The owner or operator is specifically required by the Agency or USEPA Region V to get a permit (in which case, the authorization by rule expires on the effective date of the permit issued, or the owner or operator is prohibited from injecting into its well upon the occurrence of either or the following:
 - A) The failure of the owner and operator to submit a permit application in a timely manner, as specified in a notice from the Agency; or
 - B) The effective date of a permit denial);
- 4) The owner or operator has failed to submit inventory information to the Agency, as described in Section 704.283(a) (in which case, the owner and operator is prohibited from injecting into the well until it complies with the inventory requirements); or
- 5) Illinois is designated a “Primacy State” by USEPA. Corresponding 40 CFR 144.84(b)(5) 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 144.284, as added at 64 Fed. Reg. 68568 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 704.285 Applicability of the Additional Requirements

- a) Large-capacity cesspools. The additional requirements set forth in Section 704.288 apply to all new and existing large-capacity cesspools. If the owner or operator is using a septic system for these type of wastes, the owner or operator is not subject to the additional requirements in Section 704.288.
- b) Motor vehicle waste disposal wells existing on April 5, 2000. If the owner or operator has a Class V motor vehicle waste disposal well, the additional requirements in Section 704.288 apply to that owner or operator if the well is located in a ground water protection area or other sensitive ground water area that is identified by the Agency, the Board, or USEPA Region V.

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

- c) New Motor Vehicle Waste Disposal Wells. The additional requirements in Section 704.288 apply to all new motor vehicle waste disposal wells.

BOARD NOTE: A new motor vehicle waste disposal well is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.85(c), as added at 40 CFR 68568 (December 7, 1999).

BOARD NOTE: Derived from 40 CFR 144.285, as added at 64 Fed. Reg. 68569 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 704.286 Definitions

“State drinking water source assessment and protection program” is a new approach to protecting drinking water sources, specified in section 1453 of the 1996 Amendments to the Safe Drinking Water Act (42 U.S.C. 300j-13). Board Note: Under the federal requirements, states must prepare and submit for USEPA approval a program that sets out how each state will conduct local assessments, including the following: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination.

The Illinois Groundwater Protection Act [415 ILCS 55] and the regulations at 35 Ill. Adm. Code 620 adopted pursuant to that law and Sections 14.1 through 14.6 and 17.1 through 17.4 of the Environmental Protection Act [415 ILCS 14.1-14.6 and 17.1-17.4] and the regulations at 35 Ill. Adm. Code 615 through 617 adopted under those provisions are major segments of the required Illinois program.

“Complete local source water assessment for groundwater protection areas.” When USEPA has approved a state's drinking water source assessment and protection program, the state will begin to conduct local assessments for each public water system in that state. For the purposes of this Subpart, local assessments for community water systems and non-transient non-community systems are complete when the four following requirements are met: First, a State must delineate the boundaries of the assessment area for community and non-transient non-community water systems, as such are defined in 35 Ill. Adm. Code 611.101. Second, the State must identify significant potential sources of contamination in these delineated areas. Third, the State must determine the susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants. Lastly, each State will develop its own plan for making the completed assessments available to the public.

“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,” as defined in Section 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,” 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 U.S.C. 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 U.S.C. 300h-7.

“Community water system,” 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,” 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 will 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 underground sources of drinking water from contamination. For the purposes of this Subpart I, the Board considers a “regulated recharge area,” as defined in Section 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 144.286, as added at 64 Fed. Reg. 68569 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

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

- a) A person is subject to the requirements of Section 704.288 if the person owns or operates an existing motor vehicle well and that person is located in a ground water protection area or another sensitive ground water area.

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 G. Further, the Board has not included this statewide applicability provision because 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) Ground water 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 codifies 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, USEPA requires States to complete all local source water assessments for ground water protection areas by January 1, 2004. Once a local assessment for a ground water protection area is complete every existing motor vehicle waste disposal well owner in that ground water protection area has one year to close the well or receive a permit. If the State fails to complete all local assessments for ground water protection areas by January 1, 2004, the following may occur:
- A) The new requirements in this Subpart I will apply to all existing motor vehicle waste disposal wells in the State and the owner and operator of a motor vehicle waste disposal well located outside of the areas of the completed area assessments for ground water protection areas must close their well or receive a permit by January 1, 2005.
- B) USEPA may grant a State an extension for up to one year from the January 1, 2004 deadline if the State is making reasonable progress toward completing the source water assessments for ground water protection areas. States must apply for the extension by June 1, 2003. If a State fails to complete the assessments for the remaining ground water protection areas by the extended date, the rule requirements will apply to all motor vehicle waste disposal wells in the State, and owners and operators of motor vehicle waste disposal wells located outside of ground water protection areas with completed assessments must close their well or receive 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.
- 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) Other sensitive ground water areas. Existing motor vehicle waste disposal well

owners and operators within other sensitive ground water areas have until January 1, 2007 to receive a permit or close the well. 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 ground water 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 has 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 has 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. Finally, the Board has not included this statewide applicability provision because Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], 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 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 ground water protection area for ground water 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 ground water protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well is 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 ground water 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.

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) If the State elects not to delineate the additional sensitive ground water 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 2008 if an extension has been granted as provided in subsection (c) of this Section, except for wells in ground water 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 ground water 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 144.287, as added at 64 Fed. Reg. 68569 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 704.288 Additional Requirements

The 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.
- 1) If the cesspool is existing (operational or under construction by April 5, 2000):
- A) The owner or operator must close the well by April 5, 2005.
- B) The owner or operator must notify the Agency of its intent to close

the well at least 30 days prior to closure.

BOARD NOTE: This information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells," available from the Agency on request.

- 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) and any of the following is also true:

A) The well is in a ground water protection area, the owner or operator must close the well or obtain a permit within one year of 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; or

B) The well is in an other sensitive groundwater area, the owner or operator must close the well or obtain a permit 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; or

C) 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; or

D) 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; or

- E) The State has not completed all their 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 close the well or obtain a permit by January 1, 2005, unless the State obtains an extension, as described in Section 704.287(b), in which case the deadline is January 1, 2006; 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; or
- F) The State has not delineated other sensitive ground water 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) 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: This information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells," available from the Agency on request.

BOARD NOTE: Any Agency determination of the most efficient compliance option under subsection (b)(1)(A), (b)(1)(B), or (b)(1)(E) 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 144.288, as added at 64 Fed. Reg. 68570 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 704.289 Closure of a Class V Injection Well

The following describes the requirements for closing 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 standard set forth in Section 704.112 and summarized in Section 704.282(a). The owner or operator must also dispose 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 sewer; and 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 following two conditions are fulfilled: (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. 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 well.

BOARD NOTE: Derived from 40 CFR 144.289, as added at 64 Fed. Reg. 68572 (December 7, 1999).

(Source: Added at 24 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND
 UNDERGROUND STORAGE TANK PROGRAMS

PART 730
 UNDERGROUND INJECTION CONTROL OPERATING REQUIREMENTS

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730.103	Definitions
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Section

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730.173 Financial Responsibility for Post-Closure Care

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

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19, 53 PCB 131 at 7 Ill. Reg. 14426, effective March 3, 1984; recodified at 10 Ill. Reg. 14174; amended in R89-2 at 14 Ill. Reg. 3130, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11959, effective July 9, 1990; amended in R93-6 at 17 Ill. Reg. 15646, effective September 14, 1993; amended in R94-5 at 18 Ill. Reg. 18391, effective December 20, 1994; amended in R95-4 at 19 Ill. Reg. 10047, effective June 27, 1995; amended in R00-11/R01-1 at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 730.103 Definitions

The following definitions apply to the underground injection control program.

“Abandoned well” means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

“Act” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, (P.L. 94-580, as amended by P.L. 95-609, 42 U.S.C. 6901-).

“Administrator” means the Administrator of the U.S. Environmental Protection Agency or the Administrator’s designee.

“Agency” means the Illinois Environmental Protection Agency.

“Application” means the Agency forms for applying for a permit, including any additions, revisions or modifications to the forms. For RCRA, application also includes the information required by the Agency under 35 Ill. Adm. Code 703.182 et seq. (contents of Part B of the RCRA application).

“Aquifer” means a geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

“Area of review” means the area surrounding an “injection well” described according to the criteria set forth in Section 730.106 or, in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (~~1/4~~one-quarter of a mile) or a number calculated according to the criteria set forth in Section 730.106.

“Casing” means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground or to prevent water gas or other fluid from entering or leaving the hole.

“Catastrophic collapse” means the sudden and utter failure of overlying “strata” caused by removal of underlying materials.

“Cementing” means the operation whereby a cement slurry is pumped into a drilled hole or forced behind the casing.

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

“Confining bed” means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

“Confining zone” means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

“Contaminant” means any physical, chemical, biological or radiological substance

or matter in water.

“Conventional mine” means an open pit or underground excavation for the production of minerals.

“Date of approval by USEPA of the Illinois UIC program” means February 1, 1984.

“Director” means the Director of the Illinois Environmental Protection Agency or the Administrator’s designee.

“Disposal well” means a well used for the disposal of waste into a subsurface stratum.

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

“Effective date of the UIC program” means February 1, 1984.

“Environmental Protection Act” means the Environmental Protection Act (~~Ill. Rev. Stat. 1987 and 1988 Supp. ch. 111 1/2, par. 1001 et seq.~~), as amended [415 ILCS 5].

“EPA” means the United States Environmental Protection Agency.

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

“Existing injection well” means an “injection well” other than a “new injection well.”

“Experimental technology” means a technology which has not been proven feasible under the conditions in which it is being tested.

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

“Fault” means a surface or zone of rock fracture along which there has been displacement.

“Flow rate” means the volume per unit time of the flow of a gas or other fluid substance which emerges from an orifice, pump or turbine or which passes along a conduit or channel.

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

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

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

“Generator” means any person, by site location, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721.

“Groundwater” means water below the land surface in a zone of saturation.

“Hazardous waste” means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

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

“HWM facility” means “Hazardous Waste Management facility.”

“Illinois” means the State of Illinois.

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

“Injection well” means a “well” into which “fluids” are being injected.

“Injection zone” means a geological “formation,” group of formations or part of a formation receiving fluids through a well.

“Lithology” means the description of rocks on the basis of their physical and chemical characteristics.

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under the RCRA, UIC, Environmental Protection Act .

“Packer” means a device lowered into a well which can be expanded to produce a

fluid-tight seal.

“Permit” means an authorization, license or equivalent control document issued by the Agency to implement the requirements of this Part and 35 Ill. Adm. Code 702 through 705. Permit does not include RCRA interim status, (35 Ill. Adm. Code 703, Subpart C), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit which has not yet been the subject of final Agency action, such as a “draft permit” or a “proposed permit.”

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

“Plugging record” means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness and location of plugging structures.

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

“Pressure” means the total load or force per unit area acting on a surface.

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

“Radioactive Waste” means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR 20, Appendix B, Table II, Column 2, incorporated by reference in 35 Ill. Adm. Code 720.111.

“RCRA” means “Act”.

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

“SDWA” means the Safe Drinking Water Act (Pub. L. 95-523, as amended by P.L.

95-190, 42 U.S.C. 300(f)).

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

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

“Sole or principal source aquifer” means an aquifer which has been designated by the Administrator pursuant to Sections 1424(a) or (3) of the SDWA.

“State” means the State of Illinois.

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

“Subsidence” means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure, removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (Hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

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

“Surface casing” means the first string of well casing to be installed in the well.

“Total dissolved solids” (“TDS”) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 720.111.

“UIC” means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including the approved Illinois program.

“Underground injection” means a “well injection.”

“Underground source of drinking water” (“USDW”) means an “aquifer” or its portion:

Which supplies any public water system; or

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

Currently supplies drinking water for human consumption; or

Contains less than 10,000 ~~mg/L~~mg/l total dissolved solids; and

Which is not an exempted “aquifer”.

“USDW” means “underground source of drinking water.”

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

“Well injection” means the subsurface emplacement of fluids through a ~~bored, drilled or driven well; or through a dug well~~, where the depth of the dug well is greater than the largest surface dimension.

“Well monitoring” means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

“Well plug” means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

“Well stimulation” means several processes used to clean the well bore, enlarge channels and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing and hydraulic fracturing.

BOARD NOTE: Derived from 40 CFR 146.3 (1988~~1999~~), as amended at 64 Fed. Reg. 68573 (December 7, 1999).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.105 Classification of Injection Wells

Injection wells are classified as follows:

- a) Class I.
 - 1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water within 402 meters (~~1/4~~one-quarter mile) of the well bore.
 - 2) Other industrial and municipal disposal wells that inject fluids beneath the lowermost formation containing an underground source of drinking water

within 402 meters (~~1/4~~one-quarter mile) of the well bore.

- 3) Radioactive waste disposal wells that inject fluids below the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

b) Class II. Wells that inject fluids:

- 1) That are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewaters 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) For enhanced recovery of oil or natural gas; and
- 3) For storage of hydrocarbons that are liquid at standard temperature and pressure.

c) Class III. Wells that inject for extraction of minerals, including:

- 1) Mining of sulfur by the Frasch process;
- 2) 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 in Class V; and
- 3) Solution mining of salts or potash.

BOARD NOTE: Class III wells include the recovery of geothermal energy to produce electric power but do not include wells used in heating or aquaculture that fall under Class V.

d) Class IV.

- 1) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation that contains an underground source of drinking water within 402 meters (~~1/4~~one-quarter mile) of the well.
- 2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation that contains an

underground source of drinking water within 402 meters (~~1/4~~one-quarter mile) of the well.

- 3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste that cannot be classified under subsection (a)(1), (d)(1), or (d)(2)~~above of this Section~~ (e.g., wells used to dispose of hazardous wastes into or above a formation that contains an aquifer that has been exempted pursuant to Section 730.104).
- e) Class V. Injection wells not included in Class I, Class II, Class III, or Class IV. Specific types of Class V injection wells include the following:
- 1) Air conditioning return flow wells used to return the water used in a heat pump for heating or cooling to the supply aquifer;
 - 2) Cesspools, including multiple dwelling, community, or regional cesspools, or other devices that receive wastes that have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools or to non-residential cesspools that receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;
 - 3) Cooling water return flow wells used to inject water previously used for cooling;
 - 4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;
 - 5) Dry wells used for the injection of wastes into a subsurface formation;
 - 6) Recharge wells used to replenish the water in an aquifer;
 - 7) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
 - 8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;
 - 9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells that are used solely for the disposal of sanitary waste and which have the capacity to serve fewer than 20 persons a day;

- 10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;
- 11) Radioactive waste disposal wells other than Class IV wells;
- 12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture or production of electric power;
- 13) Wells used for solution mining of conventional mines such as stopes leaching;
- 14) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and
- 15) Injection wells used in experimental technologies.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.110 Plugging and Abandoning Class I and Class III Wells

a) Requirements for Class I, II and III injection wells.

- a1) Prior to abandoning a Class I or Class III well, the well ~~shall~~must be plugged with cement in a manner that will not allow the movement of fluids either into or between underground sources of drinking water. The Agency may allow Class III wells to use other plugging materials if it is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.
- B2) Placement of the cement plugs ~~shall~~must be accomplished by one of the following:
 - 1A) The Balance Method;
 - 2B) The Dump Bailer Method;
 - 3C) The Two-Plug Method; or
 - 4D) An alternative method approved by the Agency in the permit that will reliably provide a comparable level of protection to underground sources of drinking water.
- €3) The well to be abandoned must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the

well at least once or by a comparable method prescribed by the Agency, prior to the placement of the cement plug.

~~D4~~) The plugging and abandonment required in 35 Ill. Adm. Code ~~704.188~~ 704.181(f) and 704.187-704.188 must also demonstrate adequate protection of USDWs in the case of a Class III well that underlies or is in an aquifer that has been exempted under Section 730.104. The Agency ~~shall~~ must prescribe aquifer cleanup and monitoring where it deems it necessary and feasible to insure adequate protection of USDWs.

b) Requirements for Class IV injection wells. Prior to abandoning a Class IV well, the owner or operator must close the well in accordance with 35 Ill. Adm. Code 704.145(b).

c) Requirements for Class V injection wells.

1) Prior to abandoning a Class V injection well, the owner or operator must close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation under 35 Ill. Adm. Code 611, any of the ground water quality standards of 35 Ill. Adm. Code 620, or may otherwise adversely affect the health of persons. Closure requirements for motor vehicle waste disposal wells and large-capacity cesspools are reiterated at Section 704.289.

2) The owner or operator must 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.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND
UNDERGROUND STORAGE TANK PROGRAMS

PART 738
HAZARDOUS WASTE INJECTION RESTRICTIONS

SUBPART A: GENERAL

Section
738.101

Purpose, Scope, and Applicability

738.102	Definitions
738.103	Dilution Prohibited as a Substitute for Treatment
738.104	Case-by-Case Extensions of an Effective Date
738.105	Waste Analysis

SUBPART B: PROHIBITIONS ON INJECTION

Section	
738.110	Waste Specific Prohibitions - Solvent Wastes
738.111	Waste Specific Prohibitions - Dioxin-Containing Wastes
738.112	Waste Specific Prohibitions - California List Wastes
738.114	Waste Specific Prohibitions - First Third Wastes
738.115	Waste Specific Prohibitions - Second Third Wastes
738.116	Waste Specific Prohibitions - Third Third Wastes
738.117	Waste-Specific Prohibitions - Newly-Listed Wastes
738.118	Waste-Specific Prohibitions - Newly-Listed and Identified Wastes

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section	
738.120	Petitions to Allow Injection of a Prohibited Waste
738.121	Required Information to Support Petitions
738.122	Submission, Review and Approval or Denial of Petitions
738.123	Review of Adjusted Standards
738.124	Termination of Adjusted Standards

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

SOURCE: Adopted in R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993; amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. _____, effective _____.

SUBPART B: PROHIBITIONS ON INJECTION

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

- a) All newly identified D004 through D011 wastes and characteristic mineral processing wastes, except those identified in subsection (b) of this Section, are prohibited from underground injection.
- b) ~~Effective May 26, 2000, characteristic~~ Characteristic hazardous wastes from

titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004 through D011 or mixed with newly identified characteristic mineral processing wastes, are prohibited from underground injection.

- c) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 are prohibited from underground injection.
- d) ~~Effective May 12, 1999, the~~ The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 that are mixed with radioactive wastes are prohibited from underground injection.
- e) The wastes specified in 35 Ill. Adm. Code 721.132 as having the following USEPA hazardous waste numbers are prohibited from underground injection: K156, K157, K158, K159, K160, K161, P127, P128, P185, P188, P189, P190, P191, P192, P194, P196, P197, P198, P199, P201, P202, P203, P204, P205, U271, U277, U278, U279, U280, U364, U365, U366, U367, U372, U373, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U387, U389, U390, U391, U392, U393, U394, U395, U396, U400, U401, U402, U403, U404, U407, U409, U410, and U411.

~~K156~~

~~K157~~

~~K158~~

~~K159~~

~~K160~~

~~K161~~

~~P127~~

~~P128~~

~~P185~~

~~P188~~

~~P189~~

~~P190~~

~~P191~~

~~P192~~

~~P194~~

~~P196~~

~~P197~~

~~P198~~

~~P199~~

~~P201~~

~~P202~~

~~P203~~

~~P204~~

~~P205~~

~~U271~~

~~U277~~

U278
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U403
U404
U407
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U411

- f) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K088 is prohibited from underground injection.
- g) The wastes specified in 35 Ill. Adm. Code 721 as having the following USEPA hazardous waste numbers and Mixed TC/Radioactive wastes are prohibited from underground injection: D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037,

D038, D039, D040, D041, D042, and D043.

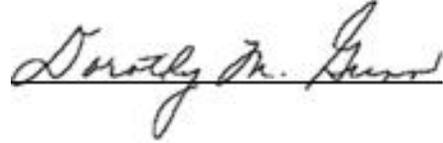
D018
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 D043

- h) ~~The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K140, and in 35 Ill. Adm. Code 721.133(f) as USEPA hazardous waste number U408 are prohibited from underground injection.~~ This subsection corresponds with 40 CFR 148.18(h), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the federal regulations.
- i) ~~Effective February 8, 1999, the~~ The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K169 through K172 are prohibited from underground injection.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above opinion and order was adopted on the 7th day of September 2000 by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board