

ILLINOIS POLLUTION CONTROL BOARD  
November 3, 1994

IN THE MATTER OF: )  
 )  
UIC UPDATE, USEPA REGULATIONS ) (Identical in Substance Rules)  
(7-1-93 THROUGH 12-31-93) )

R94-5

Adopted Rule. Final Order.

ORDER OF THE BOARD (by R.C. Flemal):

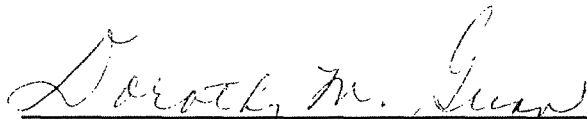
Pursuant to Sections 13(c) of the Environmental Protection Act (Act), the Board amends the Illinois Underground Injection Control (UIC) regulations.

Section 13(c) provides for quick adoption of regulations that are "identical in substance" to federal regulations adopted pursuant to Section 1421 of the Safe Drinking Water Act (42 U.S.C. § 300h), and that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The federal RCRA regulations are found at 40 CFR 144, 146, and 148. This rulemaking updates UIC rules to correspond with major federal amendments more fully outlined in the accompanying opinion.

This order is supported by an opinion adopted on the same day. The Board will delay filing these amendments for 30 days, specifically to allow U.S. EPA an opportunity to comment on the adopted amendments. The complete text of the proposed rules follows.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted by the Board on the 3rd day of November, 1994, by a vote of 6-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER a: GENERAL PROVISIONS

PART 700  
 OUTLINE OF WASTE DISPOSAL REGULATIONS

SUBPART A: GENERAL

Section	
700.101	<u>Applicability (Repealed)</u>
700.102	<u>Other Regulations (Repealed)</u>
700.103	<u>Organization (Repealed)</u>
700.104	<u>Intent and Purpose (Repealed)</u>
700.105	<u>Interim Status (Renumbered/Repealed)</u>
700.106	<u>Effective Dates</u>
700.107	<u>Severability (Repealed)</u>
700.108	<u>References to Federal Rules (Repealed)</u>
700.109	<u>Permits Prior to Authorization (Repealed)</u>

SUBPART B: DEFINITIONS

Section	
700.201	<u>Definitions (Repealed)</u>
700.205	<u>Act (Repealed)</u>
700.210	<u>Chapter 7 Operating Requirements (Repealed)</u>
700.215	<u>Chapter 7 Permits (Repealed)</u>
700.220	<u>Chapter 9 Operating Requirements (Repealed)</u>
700.225	<u>Chapter 9 Permits (Repealed)</u>
700.230	<u>Conflict (Repealed)</u>
700.235	<u>HWM (Repealed)</u>
700.240	<u>Operating Requirements (Repealed)</u>
700.245	<u>Permit Requirements (Repealed)</u>
700.250	<u>RCRA Operating Requirements (Repealed)</u>
700.255	<u>RCRA Permit (Repealed)</u>
700.260	<u>RCRA Rules (Repealed)</u>
700.265	<u>Subject To (Repealed)</u>

SUBPART C: GENERATORS

Section	
700.301	<u>Permits (Repealed)</u>
700.302	<u>Operating Requirements (Repealed)</u>
700.303	<u>Manifests (Repealed)</u>
700.304	<u>Small Quantity Exemptions (Repealed)</u>

SUBPART D: TRANSPORTERS

Section	
700.401	<u>Permits (Repealed)</u>
700.402	<u>Operating Requirements (Repealed)</u>
700.403	<u>Manifests (Repealed)</u>
700.404	<u>Small Quantity Exemptions (Repealed)</u>

SUBPART E: OWNERS AND OPERATORS OF  
 HWM SITES

Section	
700.501	<u>Permits (Repealed)</u>
700.502	<u>Operating Requirements (Repealed)</u>
700.503	<u>Manifests (Repealed)</u>
700.504	<u>Small Quantity Exemptions (Repealed)</u>

SUBPART F: HAZARDOUS (INFECTIOUS)  
 HOSPITAL WASTE

Section

700.601 Hazardous (Infectious) Hospital Waste (Repealed)  
 700.602 General Rule (Repealed)  
 700.603 Generators (Repealed)  
 700.604 Transporters (Repealed)  
 700.605 Owners and Operators (Repealed)

700.Appendix A: Applicability Provisions (Repealed)

AUTHORITY: Implementing Sections 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (~~Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1013, 1022.4 and 1027.~~)[415 ILCS 5/13, 22.4, 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in ~~35 Ill. Adm. Code 700.106~~ May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in ~~35 Ill. Adm. Code 700.106~~ May 17, 1982; amended in R81-32, 47 PCB 93, at 6 Ill. Reg. 127-655, effective as noted in ~~35 Ill. Adm. Code 700.106~~ May 17, 1982; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, at 7 Ill. Reg. 14457, effective October 12, 1983; amended in R83-24, at 8 Ill. Reg. 200, effective December 27, 1983; amended in R94-5 at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

Section 700.101 Applicability (Repealed)

~~This Part sets forth rules which determine which provisions of Parts 700-749 are applicable to various persons and facilities.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.102 Other Regulations (Repealed)

- a) ~~Unless otherwise expressly stated, persons and facilities subject to Parts 700-749 are also subject to other Board regulations. Applicability is determined on the basis of the language in the other Chapters.~~
- b) ~~The following are specific examples of other Chapters which may be applicable to facilities subject to this Chapter:~~
  - 1) ~~Incinerators are subject to Chapter 2: Air Pollution.~~
  - 2) ~~Open burning of wastes creating a hazard of explosion, fire or other serious harm is subject to Part V of Chapter 2: Air Pollution.~~
  - 3) ~~Facilities which discharge to waters of the State must obtain an NPDES (National Pollutant Discharge Elimination System) permit pursuant to Subpart A, Part 309 of Subtitle G: Water Pollution.~~
  - 4) ~~Facilities which discharge to sewers may be required to obtain permits pursuant to Subpart B, Part 309.~~
  - 5) ~~Land application of sludge is regulated pursuant to Part 309.~~
  - 6) ~~Coal mine overburden returned to the mine site is subject to Subtitle D: Mine Related Water Pollution but not to this~~

~~Chapter (Section 3 of the Act and Section 721.104(b)).~~

- ~~7) Livestock waste disposal is subject to Subtitle E: Agriculture Related Pollution.~~
- ~~8) Operation of public water supplies is subject to Subtitle F: Public Water Supplies (prior to codification, Chapter 6), but water supply sludge disposal may be subject to this Chapter.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.103 Organization (Repealed)

~~Subtitle G is only partly codified. The following table is the intended assignment of Part numbers:~~

<del>Part</del>	<del>40 CFR Codification</del>	<del>Name or Part</del>	<del>Abbreviated Name</del>	<del>Prior</del>
<del>Chapter I: Pollution Control Board</del>				
<del>Subchapter a: General Provisions</del>				
<del>700</del>	<del>-----</del>	<del>-----</del>	<del>Outline</del>	
<del>701</del>	<del>-----</del>	<del>-----</del>	<del>Reserved</del>	
<del>Subchapter b: Permits</del>				
<del>702</del>	<del>-----</del>	<del>122</del>	<del>RCRA and UIG Permits</del>	
<del>703</del>	<del>-----</del>	<del>122</del>	<del>RCRA Permits</del>	
<del>704</del>	<del>-----</del>	<del>122</del>	<del>UIG Permits</del>	
<del>705</del>	<del>-----</del>	<del>124</del>	<del>Procedures for Permit Issuance</del>	
<del>706</del>	<del>Ch. 9, Parts I and II</del>	<del>-----</del>	<del>Special Waste Transporter Permits</del>	
<del>707-709</del>	<del>-----</del>	<del>-----</del>	<del>Reserved</del>	
<del>710</del>	<del>Ch. 7, Parts I and II</del>	<del>-----</del>	<del>Reserved for General Waste Permits</del>	
<del>711-719</del>	<del>-----</del>	<del>-----</del>	<del>Reserved</del>	
<del>Subchapter c: Hazardous Waste Operating Requirements</del>				
<del>720</del>	<del>-----</del>	<del>260</del>	<del>General</del>	
<del>721</del>	<del>-----</del>	<del>261</del>	<del>Identification and Listing</del>	
<del>722</del>	<del>-----</del>	<del>262</del>	<del>Generators</del>	
<del>723</del>	<del>-----</del>	<del>263</del>	<del>Transporters</del>	
<del>724</del>	<del>-----</del>	<del>264</del>	<del>Reserved</del>	
<del>725</del>	<del>-----</del>	<del>265</del>	<del>Interim Standards for Owners and Operators</del>	
<del>726-728</del>	<del>-----</del>	<del>-----</del>	<del>Reserved</del>	
<del>729</del>	<del>-----</del>	<del>-----</del>	<del>Reserved for Prohibited Hazardous Wastes</del>	

~~Subchapter d: Underground Injection  
Control Program~~

<del>730</del>	<del>----- 146 -----</del>	<del>Underground Injection Control Operating Requirements</del>
<del>731-732</del>	<del>-----</del>	<del>Reserved</del>

~~Subchapter e: Special Waste Operating  
Requirements~~

<del>733-735</del>	<del>-----</del>	<del>Reserved for Chapter 9 Operating Requirements</del>
<del>736</del>	<del>Ch. 9, Part IX -----</del>	<del>Reserved for Hazardous (Infectious) Hospital Waste</del>

~~Subchapter f: General Waste Operating  
Requirements~~

<del>737</del>	<del>Ch. 7, Part III -----</del>	<del>Reserved for Solid Waste Operating Requirements</del>
<del>738-744</del>	<del>-----</del>	<del>Reserved</del>

~~Subchapter g: Operator Certification~~

<del>745-749</del>	<del>-----</del>	<del>Reserved for Certification</del>
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~~Chapter II: Illinois Environmental  
Protection Agency~~

<del>750-799</del>	<del>-----</del>	<del>Reserved for IEPA Use</del>
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(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.104 Intent and Purpose (Repealed)

- a) ~~Prior to phase I authorization the Agency administered the RCRA (Resource Conservation and Recovery Act [P.L. 94-580, 12 USC 6901]) program under contract with USEPA (U.S. Environmental Protection Agency). The affected public was obliged to comply both with RCRA and existing Board regulations. It is the Board's intention to continue this during the interim status period, except where the contrary intention is clearly stated.~~
- b) ~~The Board intends:~~
- 1) ~~That, prior to RCRA permit issuance, all facilities otherwise subject to Part 725 comply with its requirements whether or not they have interim status under 40 CFR Section 122.23.~~
  - 2) ~~That, prior to RCRA permit issuance, facilities which would have interim status under 40 CFR Section 122.23 should be deemed to have a permit under Section 21(f) of the~~

~~Environmental Protection Act (Ill. Rev. Stat. 1981, Ch. 111 1/2, par 1021(f)) ("the Act").~~

- 3) ~~To require RCRA permits of HWM facilities under conditions identical to those required by USEPA, except where the contrary intention is clearly stated.~~
- a) ~~The Board is adopting RCRA operating requirements. The Board intends these to be applicable to the same wastes and persons that would be subject to them under a USEPA administered program, except where the contrary intention is clearly stated.~~
- d) ~~The Board intends the RCRA operating requirements to be cumulative with its existing requirements. However, having expressly identified in Part 700 those Chapter 7 and Chapter 9 provisions which are not inconsistent and at least as stringent as federal requirements, the Board intends the RCRA operating requirements to prevail in the event of conflict.~~
- e) ~~The Board does not intend to impose duplicative paperwork requirements. Where existing Board rules and RCRA rules require the filing of forms which are similar, the Board intends to require only one form. In particular, the Board intends that only a single manifest should accompany each load of hazardous waste.~~
- f) ~~The Board intends the generator to make the first determination as to whether a waste is hazardous and whether it is subject to exemption under either Chapter 9 or the RCRA rules (Rule 501 of Chapter 9 and Section 722.111).~~
- g) ~~The Board intends to provide methods whereby information concerning the status of unmanifested waste can be transmitted to subsequent handlers. These are intended as optional methods which parties handling unmanifested waste may require for their protection.~~
- h) ~~The Board intends that a transporter or HWM (Hazardous Waste Management site) owner or operator should be able to accept manifested waste without the necessity for inquiry as to whether it is subject to regulation under Chapter 9 or the RCRA rules. The Board intends that Chapter 9 requirements should be deemed satisfied where the waste has been properly handled as though it were RCRA hazardous.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg.g. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.105 Interim Status ~~(renumbered)~~(Repealed)

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.106 Effective Dates

- a) U.S. EPA granted interim authorization to the Illinois RCRA Subtitle C Program effective May 17, 1982, at 47 Fed. Reg. 21043 (May 17, 1982). U.S. EPA granted final authorization effective

January 31, 1986, at 51 Fed. Reg. 3778 (January 30, 1986).

- 1) The effective date of 35 Ill. Adm. Code 700, 720, 721, 722, 723, and 725 is was May 17, 1982. — Earlier effective dates specified in the rules are inoperative and are applicable only as federal rules.
  - 2) The effective date of 35 Ill. Adm. Code 702 and 705, to the extent they apply to the issuance of RCRA permits, was May 17, 1982; however, RCRA permits were not issued prior to January 31, 1986.
  - 3) The effective date of 35 Ill. Adm. Code 703 and 724 was October 12, 1983; however, RCRA permits were not issued prior to January 31, 1986.
- b) U.S. EPA authorized the Illinois UIC program effective March 3, 1984, at 49 Fed. Reg. 3991 (Feb. 1, 1984).
- 1) The effective date of 35 Ill. Adm. Code 702, 704 and 705, to the extent they apply to the issuance of UIC (Underground Injection Control) permits, became effective on the effective date of this Section was March 3, 1984. — However, UIC permits shall not be issued prior to the date on which USEPA approves the UIC program for the State of Illinois pursuant to Section 1422 of the SDWA (Safe Drinking Water Act) and 40 CFR 123.
- e) 2) The effective date of 35 Ill. Adm. Code 730 became effective on the effective date of this Section was March 3, 1984. — However, UIC permits shall not be issued prior to the date upon which USEPA approves the UIC program for the State of Illinois pursuant to Section 1422 of the SDWA and 40 CFR 123.
- d) ~~35 Ill. Adm. Code 702 and 705, to the extent they apply to the issuance of RCRA permits, became effective on the effective date of this Section. However, RCRA permits shall not be issued prior to the date upon which USEPA grants final authorization for any component of the Phase II RCRA program.~~
- e) ~~35 Ill. Adm. Code 703 and 724 became effective October 12, 1983; however, RCRA permits shall not be issued prior to the date on which USEPA grants final authorization to the Agency to issue permits for that class of facility or unit.~~

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 700.107 Severability (Repealed)

~~In the event any portion of Part 700 is declared invalid by a final order, no longer subject to appeal, of any court of competent jurisdiction, then the entirety of Part 700, except for Section 700.105, shall be inapplicable until the Board acts to revalidate it. During the period of inapplicability persons subject to Chapter 7, 9 or Part 702 through 730 shall comply fully with each as they are made applicable under their own terms, including use of separate Chapter 9 and RCRA manifests; provided, however, that persons shall comply only with those provisions of Chapter 7 or 9 which are not inconsistent with and at least as stringent as Parts 702 through 730.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.108 References to Federal Rules (Repealed)

~~References to the Code of Federal Regulations and other materials referred to but not reproduced in this Chapter are as of the date of adoption or last amendment by the Board of the section in which the reference occurs.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.109 Permits Prior to Authorization (Repealed)

~~Persons who have federal interim status pursuant to 40 CFR 122.23 shall be deemed in compliance with the permit requirement of Section 21(f)(1) of the Act from the effective date of P.A. 82-380 until May 17, 1982.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

SUBPART B: DEFINITIONS

Section 700.201 Definitions (Repealed)

~~The terms used in Part 700 have the same meaning as those used in the Act and other Board regulations, including Chapter 7, Solid Waste Disposal, Chapter 9, Special Waste Transportation, and Parts 702 through 730. Because Part 700 contains rules which reconcile these regulations it is necessary to use terms as they are used in the other rules. The source of the definition should be clear from the context. This Subpart contains definitions applicable only to Part 700.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.205 Act (Repealed)

~~In Part 700 "Act" means the Illinois Environmental Protection Act (Ill. Rev. Stat. 1979, Ch. 111 1/2, Section 1001).~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.210 Chapter 7 Operating Requirements (Repealed)

~~Part III of Chapter 7.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)



Section 700.215 Chapter 7 Permits (Repealed)~~Permits required pursuant to Part II of Chapter 7.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.220 Chapter 9 Operating Requirements (Repealed)~~Parts III through VIII of Chapter 9, excluding various provisions which are permit rules, such as Rule 601(A).~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.225 Chapter 9 Permits (Repealed)~~Special waste hauling permits required pursuant to Part II of Chapter 9.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.230 Conflict (Repealed)~~As used in Part 700, "conflict" means an unresolved inconsistency, between Chapter 7 or Chapter 9 and Parts 720 through 725, which appears to require the performance of mutually exclusive acts by persons affected by the rules. Inconsistent definitions are not themselves conflicts, although they may give rise to conflicting substantive regulations. In Part 700 the Board has resolved all known inconsistencies, but has provided general rules for the resolution of conflicts which may arise in application.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.235 HWM (Repealed)~~HWM means hazardous waste management site.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.240 Operating Requirements (Repealed)~~Regulations which apply directly to the affected public other than requirements to obtain a permit and other than requirements concerning application for, modification of, conditions to be included in and issuance of permit.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

\_\_\_\_\_)

Section 700.245 Permit Requirements (Repealed)

~~Regulations which require permits together with related regulations concerning application, modification, conditions and issuance of permits.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.250 RCRA Operating Requirements (Repealed)

~~Parts 702, 721, 722, 723, 724 and 725.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.255 RCRA Permit (Repealed)

~~Permits required under Section 21(f) of the Act which may be deemed issued under Section 700.105.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.260 RCRA Rules (Repealed)

~~The term "RCRA rules" means Board rules which are intended to be identical in substance to those USEPA rules adopted pursuant to the Resource Conservation and Recovery Act (42 USC 6901 et. seq.). This includes Parts 720, 721, 722, 723 and 725.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.265 Subject To (Repealed)

~~In this Part the term "subject to" a set of rules means a person would have to comply with that set of rules if it were read apart from other rules. For example, "subject to RCRA rules" means that the person should have to comply with corresponding USEPA rules under a USEPA administered program in the absence of Board regulations. Appendix I contains a table listing important provisions which determine the applicability of various rules.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: GENERATORS

Section 700.301 Permits (Repealed)

- a) ~~Neither Chapter 9 nor the RCRA rules imposes a permit requirement on generators as such.~~
- b) ~~Generators must obtain an EPA identification number from USEPA pursuant to Part 722.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.302 Operating Requirements (Repealed)

- a) ~~Generators which are subject to RCRA rules but not Chapter 9 shall comply only with RCRA operating requirements.~~
- b) ~~Generators which are subject to Chapter 9 but not RCRA rules shall comply only with Chapter 9 operating requirements.~~
- c) ~~Generators subject to both RCRA rules and Chapter 9 shall comply with both. However, in the event of conflict, RCRA rules shall prevail.~~
- d) ~~As used in this Section, operating requirements do not include rules relating to manifests.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.303 Manifests (Repealed)

- a) ~~Manifest requirements of Subpart B of Part 722 provide that the generator must forward a copy of manifests to the Agency in addition to the actions which would be required under 40 CFR Part 262.~~
- b) ~~Generators subject to RCRA rules shall comply with the manifest requirements of Part 722, Subpart B. Compliance shall be deemed compliance with Chapter 9 manifest requirements.~~
- c) ~~No person shall deliver, transport off-site or offer for transportation off-site, waste without a manifest if a manifest is required under either Chapter 9 or the RCRA rules.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.304 Small Quantity Exemptions (Repealed)

- a) ~~Chapter 9 has a 100 kg/mo. (kilograms per month) exemption (Rule 210).~~
- b) ~~The RCRA rules have a 1000 kg/mo. exemption coupled with a 1 kg/mo. exemption for acute hazardous waste and other small quantity rules (Section 721.105).~~
- c) ~~A generator is exempt from Chapter 9 if it generates less than 100 kg/mo. of Chapter 9 special waste, including special waste which~~

~~is hazardous under RCRA rules (Rule 210).~~

- d) ~~A generator is exempt from the RCRA rules if it generates less than 1000 kg/mo. of RCRA hazardous waste, including hazardous waste which is also special waste under Chapter 9, provided however that the generator may be subject to the RCRA rules with smaller quantities as set out in Section 721.105.~~
- e) ~~The generator must make the first determination as to whether a waste is subject to Chapter 9 or RCRA rules and whether it is exempt. (Rule 501 of Chapter 9 and Section 722.111).~~
- f) ~~The following table summarizes the small quantity exemptions:~~

Quantity Per Month	*RCRA Hazardous Waste		Special Waste
	Regular	Acute	
1000 kg or more	Applicable	Applicable	Applicable
100 to 1000 kg	Exempt	Applicable	Applicable
1 to 100 kg	Exempt	Applicable	Exempt
Less than 1 kg	Exempt	Exempt	Exempt

\*There are other small quantity RCRA rules which are not summarized in this table (Section 721.105).

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART D: TRANSPORTERS

##### Section 700.401 Permits (Repealed)

- a) ~~The RCRA rules do not require permits of transporters. Transporters subject to Part 723 must obtain identification numbers from USEPA (Section 723.112). Transporters subject to Chapter 9 must obtain Agency identification numbers from the Illinois Environmental Protection Agency.~~
- b) ~~Rule 201 of Chapter 9 requires permits of transporters of special waste. Transporters who are subject to Part 723 must comply with this permit requirement if they are subject to Rule 201.~~
- c) ~~Transporters who are exempt from Rule 201 of Chapter 9 under Rule 210 or 211 need not obtain transporter permits even if they are subject to Part 723.~~

~~Comment: The Board recommends that all transporters obtain transporter permits.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 700.402 Operating Requirements (Repealed)

- a) ~~Any transporter subject to the operating requirements of RCRA but not Chapter 9 must comply only with the RCRA operating requirements (Part 723).~~

- ~~b) Transporters subject to Chapter 9 operating requirements but not RCRA rules must comply only with Chapter 9 operating requirements. For example, a transporter hauling only Chapter 9 special waste which is not hazardous as defined in the RCRA rules need comply only with Chapter 9 operating requirements.~~
- ~~c) Transporters subject both to RCRA rules and Chapter 9 operating requirements shall comply with both sets of rules. In the event of a conflict, RCRA rules shall prevail.~~
- ~~d) Transporters which have a Chapter 9 permit shall placard and display their Chapter 9 number in accordance with Chapter 9 regardless of whether a load is subject to Chapter 9 or RCRA rules.~~
- ~~e) As used in this Section, operating requirements do not include rules relating to manifests.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

#### Section 700.403 Manifests (Repealed)

- ~~a) Rules for handling of manifests by transporters are substantially identical in RCRA rules and Chapter 9.~~
- ~~b) Transporters who accept manifested waste in accordance with RCRA regulations shall be deemed to have complied with the Chapter 9 manifest requirements (Part V of Chapter 9).~~
- ~~c) Transporters shall not accept unmanifested waste if a manifest would be required under either RCRA rules or Chapter 9.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

#### Section 700.404 Small Quantity Exemptions (Repealed)

- ~~a) Small quantity exemptions are directly applicable only to generators in both Chapter 9 and the RCRA rules.~~
- ~~b) Transporters must obtain Chapter 9 permits and Agency identification numbers even if they only transport loads which do not require manifests because of small quantity exemptions. However, this does not apply to an exempt generator who transports his own waste. USEPA identification numbers are not required of transporters who haul only exempt waste.~~

~~Comment: Transporters should obtain a certification from the generator that a load is subject to exemption under Chapter 9 and RCRA rules prior to accepting unmanifested waste (Section 725.176).~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

SUBPART E: OWNERS AND OPERATORS OF  
HWM SITES

Section 700.501 Permits (Repealed)

- a) ~~Section 21(f) of the Environmental Protection Act and 35 Ill. Adm. Code 703 require RCRA permits for owners and operators of HWM facilities. 35 Ill. Adm. Code 703 contains "interim status" rules which provide that RCRA permits are deemed issued for certain facilities.~~
- b) ~~1) After final authorization the owner or operator of an HWM facility for which an actual RCRA permit has been issued must obtain a permit pursuant to Section 21(d) of the Environmental Protection Act, and 35 Ill. Adm. Code 807.201 and 807.202 only for treatment, storage and disposal units which accept non hazardous waste and which are otherwise subject to that permit requirement. The Agency may consolidate these permits for review.~~
- ~~2) Until final authorization HWM owners and operators must obtain permits pursuant to Section 21(d) of the Environmental Protection Act and 35 Ill. Adm. Code 807.201 and 807.202 if they are subject to those rules. Examples of facilities subject to the RCRA rules but not Chapter 7 include sites conducting open burning of explosive waste or land application of sludge.~~
- e) ~~Owners and operators subject to the RCRA rules must obtain a USEPA identification number from USEPA (Section 725.111).~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 700.502 Operating Requirements (Repealed)

- a) ~~Owners and operators who are subject to RCRA operating requirements (Part 725) but not Part III of Chapter 7 shall comply with Part 725. For example, sites conducting open burning of explosive waste are not subject to Chapter 7 operating requirements.~~
- b) ~~Owners and operators who are subject to the operating requirements of Chapter 7, Part III, but not Part 725, shall comply only with Chapter 7, Part III. For example, landfills need comply only with Chapter 7 if they accept only garbage and special waste (as defined in Chapter 9) which is not hazardous (as defined in the RCRA rules).~~
- e) ~~Owners and operators subject both to the operating requirements of Part 725 and Part III of Chapter 7 must comply with both. However, in the event of conflict, Part 725 controls.~~
- d) ~~Subpart A contains rules on application of other Board chapters.~~
- e) ~~As used in this Section, operating requirements do not include rules relating to manifests.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.503 Manifests (Repealed)

- a) ~~The HWM owner or operator must forward a copy of manifests to the Agency in addition to the actions which would be required under 40 CFR Part 265 (Section 725.171).~~
- b) ~~For waste which is subject to Chapter 9 but not the RCRA rules, the owner or operator need comply only with the Chapter 9 manifest rules. For waste which is subject to both the Chapter 9 and RCRA rules, the owner or operator shall comply with the manifest requirements of Part 725, Subpart E. This is deemed compliance with the requirements of Rule 302 of Chapter 9.~~

~~Comment: It is recommended that the owner or operator comply with Section 725.176, unmanifested waste report, regardless of whether the waste is unmanifested because it is claimed to be exempt under the RCRA rules of Chapter 9. The owner or operator should request a certification from the generator or transporter before accepting unmanifested waste claimed to be exempt under the 100 kg exemption of Rule 210.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.504 Small Quantity Exemptions (Repealed)

~~Small quantity exemptions are not generally directly applicable to owners and operators. Chapter 7 prohibits landfilling of hazardous waste in any quantity without a proper permit (Rule 310).~~

~~Comment: The owner or operator should complete an unmanifested waste report for waste which is received without a manifest regardless of whether exemption is claimed under Chapter 9 or the RCRA rules. The owner or operator should request a certification pursuant to Section 725.176 for waste which is claimed to be exempt under Chapter 9.~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

SUBPART F: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

Section 700.601 Hazardous (Infectious) Hospital Waste (Repealed)

- a) ~~"Hazardous (infectious) hospital waste" is defined in Section 3 of the Act and Rule 901 of Chapter 9. The definition of "hazardous" found in Part 720 is not intended to be read with this definition. "Hazardous (infectious) hospital waste" is not necessarily a "hazardous" waste subject to the RCRA rules. However, it may be RCRA "hazardous". The applicability of the RCRA rules is determined by the language found there.~~
- b) ~~Hazardous (infectious) hospital waste is a special waste within the meaning of Chapter 9.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.602 General Rule (Repealed)

~~A person who is subject to Part IX of Chapter 9 but not the RCRA rules shall comply with Part IX of Chapter 9 but not the RCRA rules. A person who is subject to both Part IX of Chapter 9 and the RCRA rules shall comply with both. However, in the event of conflict, the RCRA rules control, except that hazardous (infectious) hospital waste cannot be landfilled.~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.603 Generators (Repealed)

~~A person who generates hazardous (infectious) hospital waste which is also hazardous under the RCRA rules must comply with the applicable requirements, including:~~

- ~~a) USEPA identification numbers (Section 722.112)~~
- ~~b) Manifest requirements (Section 722.120)~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.604 Transporters (Repealed)

~~A person who transports hazardous (infectious) hospital waste must have a Chapter 9 transporter permit (Rule 201 of Chapter 9). If it is also RCRA hazardous, a USEPA identification number is required (Section 723.111). Transportation may require a manifest (Section 723.120 or Rule 501 of Chapter 9).~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

Section 700.605 Owners and Operators (Repealed)

- ~~a) A person who renders innocuous hazardous (infectious) hospital waste which is also RCRA hazardous is an HWM owner or operator who is subject to Part 725. This is true even if the treatment is ineffective against the RCRA hazardous component. For example, an owner or operator who sterilizes infectious waste which is RCRA hazardous only because of a toxic component unaltered by sterilization is treating hazardous waste (Section 720.110 and Section 725.101).~~
- ~~b) A person who renders hazardous (infectious) hospital waste innocuous by incineration is subject to an incinerator permit requirement (Rule 103 of Chapter 2 and Rule 904 of Chapter 9, Section 700.102).~~
- ~~c) A person who renders innocuous hazardous (infectious) hospital~~



~~waste may become a hazardous, or special waste generator if he initiates a shipment of innocuous waste which is hazardous under the RCRA rules, or special under Chapter 9 (Section 3 of the Act, Rule 301 of Chapter 9 and Section 722.101(f)). For example, an infectious waste which has been sterilized but which also contains a toxic component would require a manifest if shipped for further treatment or disposal.~~

- ~~d) Innocuous waste which is not hazardous may be landfilled only in facilities which have a Chapter 7 permit (Rule 904 of Chapter 9).~~
- ~~e) Hazardous (infectious) hospital waste may not be deposited in landfills (Section 21(h) of the Act).~~

(Source: Repealed at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

700.APPENDIX~~appendix A TO PART 700\_~~ Applicability Provisions (Repealed)

~~APPLICABILITY PROVISIONS~~

~~The following table lists rules which are important in determining the applicability of various sets of regulations.~~

~~RCRA Rules Part 703.121 RCRA Permit Requirement~~

~~Part 703.140 Permits by Rule and Interim Status  
— et seq.~~

~~Part 720,) Definition of RCRA Hazardous Waste  
— Appendix A) and Small Quantity Exemptions  
Part 721,)  
— Subpart A)~~

~~Part 722.110 Generators~~

~~Part 723.110 Transporters~~

~~Part 724.101 HWM Owners and Operators  
— and Part  
— 725.101~~

~~Chapter 9 Rule 103 Definition of Special Waste~~

~~Rule 201 Special Waste Permits~~

~~Rule 210 Small Quantity Exemptions~~

~~Rule 211 Transporter Exemptions~~

~~Hazardous Rule 901 Definition of Hazardous Hospital  
— (Infectious) Waste  
— Hospital  
— Waste  
— (Chapter 9)~~

~~Chapter 7 Rule 104 Definition of Solid Waste  
— Management~~

~~Section 3 of~~ ~~Definition of Waste~~  
~~the Act~~

~~Rules 201, 202~~ ~~Permit Requirements~~  
~~and 302~~

~~Rule 310~~ ~~Special Waste Permits~~

(Source: Repealed at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_  
\_\_\_\_\_)

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

PART 702  
RCRA AND UIC PERMIT PROGRAMS

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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 Section 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (~~Ill. Rev. Stat. 1991, ch. 111, pars. 1013, 1022.4 and 1027~~) [415 ILCS 5/13, 22.4 and 27].

**SOURCE:** Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective as ~~noted in 35 Ill. Adm. Code 700.106~~ May 17, 1982; amended in R82-19, at 53 PCB 131, 7 Ill. Reg. 14352, ~~as noted in 35 Ill. Adm. Code 700.106~~ 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. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

Section 702.101 Purpose, Scope, and Applicability

a) Coverage

- 1) These permit regulations include provisions for two permit programs:
  - A) The RCRA (Resource Conservation and Recovery Act) permit program under Title V and Title X of the Environmental Protection Act.
  - B) The UIC (Underground Injection Control) permit program under Title III and Title X of the Environmental Protection Act.
- 2) These regulations cover basic permitting requirements (35 Ill. Adm. Code 702, 703, and 704) and procedures for processing of permit applications (35 Ill. Adm. Code 705) for the RCRA and UIC permit programs.
- 3) 35 Ill. Adm. Code 702, 703, 704, and 705 are derived from 40 CFR ~~122 and 124~~ 144 and 270.

b) Structure

- 1) These regulations comprise four Parts:
  - A) 35 Ill. Adm. Code 702 contains definitions applicable to 35 Ill. Adm. Code 702, 703, 704, and 705. It also contains basic permitting requirements for the RCRA and UIC programs.
  - B) 35 Ill. Adm. Code 703 contains requirements specific to RCRA permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 703, 35 Ill. Adm. Code 703 will control.
  - C) 35 Ill. Adm. Code 704 contains requirements specific to UIC permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 704, 35 Ill. Adm. Code 704 will control.
  - D) 35 Ill. Adm. Code 705 establishes procedures for issuance by the Agency of RCRA and UIC permits.
- 2) 35 Ill. Adm. Code 702, 703, and 704 are organized into subparts. The structure and coverage of these Parts is indicated in the following table:

	RCRA AND UIC 35 Ill. Adm. CODE 702, SUBPART	RCRA 35 Ill. Adm. CODE 703, SUBPART	UIC 35 Ill. Adm. CODE 704 SUBPART
General	A	A	A
Prohibitions	----	B	B
Authorization by Rule	----	C	C
Application	B	D and E	D
Conditions	C	F	E
Issued Permits	D	----	----
Hazardous Waste Wells	----	----	F

c) Relation to Other Requirements

- 1) Permit Application Forms. Applicants for RCRA or UIC permits and persons seeking interim status under RCRA must submit their applications on Agency permit application forms when available.
- 2) Technical Regulations. The two permit programs ~~which~~that are covered in these permit regulations each have separate additional regulations that contain technical requirements for those programs. These separate regulations are used by the Agency to determine what requirements must be placed in permits if they are issued. These separate regulations are located as follows:

RCRA	35 Ill. Adm. Code 720 through 7256, <u>728,</u> <u>and 739</u>
UIC	35 Ill. Adm. Code 730 <u>and 738</u>

~~{Board~~OARD NoteOTE: ~~See 40 CFR 122.1~~Derived in significant

part from 40 CFR 144.1 (1993) and 270.1 (1992).†

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.102 Purpose and Scope (Repealed)

- a) ~~Part 702 contains definitions (Sec. 702.110) and basic permitting requirements (Subparts B, C and D). Definitions are given for the RCRA and UIC programs. The permitting requirements apply to the RCRA and UIC programs.~~
- b) ~~35 Ill. Adm. Code 703 and 704 contain additional requirements for RCRA and UIC permitting, respectively.~~

~~{Board Note: See 40 CFR 122.2.}~~

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.103 Confidentiality of Information Submitted to the Agency or Board

- a) In accordance with Section 7 of the Environmental Protection Act, and as required by 40 CFR 2, certain information submitted to the Agency or Board pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed ~~on the application form or instructions or, in case of other submissions, by stamping the words "confidential business information" on each page containing such information by 35 Ill. Adm. Code 101.Subpart D and 120~~. If no claim is made at the time of submission, the Agency or Board may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with 35 Ill. Adm. Code 120 and Board and Agency procedures. ~~{35 Ill. Adm. Code 101.107 and 120}~~
- b) Claims of confidentiality for the following information will be denied:
- 1) The name and address of any permit applicant or permittee;
  - 2) The identity of substances being placed or to be placed in landfills or hazardous waste treatment, storage, or disposal facilities.
  - 3) For UIC permits, information ~~which~~that deals with the existence, absence, or level of contaminants in drinking water.

~~{Board Note}~~BOARD NOTE: See Derived from 40 CFR 122.19144.5 (1993) and 270.12 (1992).†

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.104 References

~~See 35 Ill. Adm. Code 720.111 includes all sources incorporated by reference for the Illinois RCRA and UIC programs.~~

~~BOARD NOTE: Derived from~~This Section corresponds with 40 CFR 270.6 (1988).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 702.105 Rulemaking

a) Identical-in-Substance Regulations.

1) Twice each year, the Board reserves rulemaking dockets pursuant to Sections 13(c) and 22.4(a) of the Act, generally to include all federal RCRA or UIC amendments that occurred in either of the prior concluded periods of January 1 through June 30 or July 1 through December 31 of each calendar year. The Board reviews the federal actions that occurred in the period of interest and includes those that require Board action in the docket. The Board initiates proposed amendments to the RCRA or UIC program if any are made necessary, so no rulemaking proposal is necessary for the included amendments.

2) For any other identical-in-substance rulemaking actions, any person may petition the Board to adopt, pursuant to Sections 13(c) and 22.4(a) of the Environmental Protection Act, as state regulations, rules which that are identical in substance with newly adopted federal amendments or regulations applicable pertinent to the Illinois RCRA or UIC program or permit issuance. The petition shall take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 102. The proposal shall include a listing of all amendments, since the last amendment of or proposal to amend 35 Ill. Adm. Code 702 through 705, to the portions of 40 CFR 122 and 124 which relate to RCRA and UIC permits of interest to the petitioner.

b) Other Regulations. With respect to the Illinois RCRA and/or UIC program or permits issuance, any person may petition the Board to adopt amendments or additional regulations which that are not identical in substance with to federal regulations. Such proposal shall conform to 35 Ill. Adm. Code 102, and Title VII and Sections 13(d), 22.4(b) and 22.4(c) of the Environmental Protection Act.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.106 Adoption of Agency Criteria

a) The purpose of this sSection is to allowauthorize the Agency to publish criteria whichthat will give guidance to the public as to what it will approve in RCRA and UIC permit applications and as to what conditions it will impose in permit issuance. The statutory authority for the Agency adopting such criteria is the Agency's authority to issue permits pursuant to Sections 4 and 39 of the Environmental Protection Act, and the requirement of the Administrative Procedure Act (Ill. Rev. Stat. 1981, ch. 127, par. 1001)[5 ILCS 100] that agencies codify policies or interpretations of general applicability that affecting persons outside the agency areg rules.

b) With respect to review of permit applications and establishment of permit conditions, the Agency shall adopt as criteria any policies and interpretations of general applicability affecting persons outside the Agency.

c) Any criteria whichthat are adopted shall include:

1) Clear references to related provisions of the appropriate Act and Board regulations;

- 2) A statement that the criteria are not Board regulations;
  - 3) A statement that the criteria apply only to review of permit applications and establishment of conditions; and
  - 4) Procedures to be followed if an applicant wishes to deviate from Agency criteria.
- d) For purposes of permit issuance, proof of compliance with criteria is prima facie proof of compliance with related provisions of the appropriate Act and Board regulations. ~~However,~~ persons other than the Agency may challenge criteria as applied in the context of permit issuance.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.107 Permit Appeals and Review of Agency Determinations

Unless the contrary intention is indicated, all actions taken by the Agency under 35 Ill. Adm. Code 702, ~~703~~, through 704, 7241 through 726, 728, ~~or 730,~~ or 738 are to be done as part of an original permit application or a proceeding for modification of an issued permit. Such actions are subject to the procedural requirements of 35 Ill. Adm. Code 705.

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

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.108 Variances and Adjusted Standards

- a) The Agency has no authority to issue any permit ~~which that~~ is inconsistent with Board regulations. If an applicant seeks a permit ~~which that~~ would authorize actions which ~~would be~~ are inconsistent with Board regulations, including delayed compliance dates, the applicant should file for either of two forms of relief:
  - 1) A petition for a variance petition pursuant to Title IX of the Environmental Protection Act (Act) [415 ILCS 5] and 35 Ill. Adm. Code 104; or
  - 2) A petition for an adjusted standard pursuant to Section 28.2 of the Act and 35 Ill. Adm. Code 106.
- b) The Agency must file a recommendation ~~prior to any public hearing on such a~~ within prescribed times following the filing of a petition for a variance petitioner or adjusted standard. The

recommendation must include a draft of the language the Agency proposes to include in the permit if its recommendation is accepted.

- c) If the Board grants a variance or adjusted standard, it will order the Agency to issue or modify the permit pursuant to the variance.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.109 Enforcement Actions

Any person may file an ~~enforcement action~~ civil complaint with the Board alleging violation of the RCRA or UIC regulations, a permit requirement, or permit conditions, pursuant to Title VIII of the Environmental Protection Act and 35 Ill. Adm. Code 103.

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

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### 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 ~~et seq.~~ through 703.212 (contents of Part B of the RCRA application).

"Appropriate act and regulations" means the Resource Conservation and Recovery Act (RCRA); 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 ~~which~~ that has been approved or authorized by EPA under 40 CFR 271 (1992) (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 ~~which~~that is either 402 meters (1/4 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.

"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 ~~which~~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 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 only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: U.S. EPA 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 U.S.C. 1251 et seq. (1992).

"Date of approval by U.S. EPA of the Illinois UIC program" means ~~February~~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".

"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 ~~which~~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 Act" means the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111, par. 1001 et seq. [415 ILCS 5]).~~

"Environmental Protection Agency" ("EPA" or "U.S. EPA") 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 ~~which~~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--~~which~~that cannot be cancelled or modified without substantial loss--for physical construction of the facility to be completed within a reasonable time.

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

"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-~~et seq.~~)

"Final authorization" (RCRA) means approval by EPA of the Illinois Hazardous Waste Management Program ~~which~~that has met the requirements of Section 3006(b) of RCRA and the applicable requirements of 40 CFR 271, Subpart A (1992). EPA granted initial final authorization on January 31, 1986.

"Fluid" (UIC) means any material or substance ~~which~~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 ~~which~~that is prevailing, 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 ~~which~~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".

"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 ~~which~~that is treating, storing, or disposing of "hazardous waste".

"Interim authorization" (RCRA) means approval by EPA of the Illinois Hazardous Waste Management program ~~which~~that has met the

requirements of Section 3006(c) of RCRA and applicable requirements of 40 CFR 271 (1992). 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" ~~which~~that contains the information required by 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 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" ~~which~~that began operation or for which construction commenced after November 19, 1980.

"New injection well" (UIC) means a "well" ~~which~~that began injection after the UIC program for the State of Illinois applicable to the well is approved.

"Off-site" (RCRA) means any site ~~which~~that is not "on-site".

"On-site" (RCRA) means on the same or geographically contiguous property ~~which~~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 ~~which~~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 ~~et seq. through 703.157~~), UIC authorization by rule (35 Ill. Adm. Code 704.Subpart C), or any permit ~~which~~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.

"Phase I" (RCRA) means, as used in the corresponding federal regulations, the period of time commencing May 19, 1980. For Illinois purposes, Phase I began on May 17, 1982.

"Phase II" (RCRA) means, as used in the corresponding federal regulations, the period of time commencing May 19, 1980. For Illinois purposes, Phase II commenced when U.S. EPA granted final authorization to the Agency to issue RCRA permits for any class of facility or unit. This occurred on January 31, 1986.

"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.

"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 ~~which~~that contains radioactive material in concentrations ~~which~~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 U.S.C. 6901 et seq. (1992)). 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 EPA Region in which the facility is located or the Regional Administrator's designee.

"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 (Pub. L. 93-523, as amended 42 U.S.C. 300f et seq. (1992)).

"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/EPA Agreement" means an agreement between the Regional Administrator and the State ~~which~~that coordinates EPA 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, 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.

"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:

Which:

Supplies any public water system; or

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/1 total dissolved solids; and

~~Which~~That is not an "exempted aquifer".

"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 ~~which~~that is subject to regulation under 35 Ill. Adm. Code 309.Subpart A or 310; and

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

"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, as amended at 58 Fed. Reg. 63895 (Dec. 3, 1993), and 270.2 (1992), as amended at 58 Fed. Reg. 8685 (Feb. 16, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: PERMIT APPLICATIONS

Section 702.120 Permit Application

Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Agency as described in this Section and in 35 Ill. Adm. Code 703.180 (RCRA) and 35 Ill. Adm. Code 704.161 (UIC). Persons currently authorized with interim status under RCRA (35 Ill. Adm. Code 703.Subpart C) or UIC authorization by rule (35 Ill. Adm. Code 704.Subpart C) shall apply for permits when required by the Agency. Persons covered by RCRA permits by rule (35 Ill. Adm. Code 703.141) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in 35 Ill. Adm. Code 703.221 (RCRA) and 35 Ill. Adm. Code 704.163 (UIC). Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in 35 Ill. Adm. Code 703.231

(RCRA).

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.31(a) (1993) and 270.10(a) (1992).→

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.121 Who Applies

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

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.4144.31(b) (1993) and 270.10(b) (1992).→

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.122 Completeness

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

BOARD NOTE: Derived from 40 CFR 144.31(d) (1993) and 270.10(c) (1992), ~~as amended at 54 Red. Reg. 9607, March 7, 1989.~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.123 Information Requirements

All applicants for RCRA or UIC permits shall provide the following information to the Agency, using the application form provided by the Agency (additional information required of applicants is set forth in 35 Ill. Adm. Code 703.180 ~~et seq.~~ Subpart D (RCRA) and 35 Ill. Adm. Code 704.161 (UIC)).

- a) The activities conducted by the applicant ~~which that~~ require it to obtain permits under RCRA or UIC.
- b) Name, mailing address, and location of the facility for which the application is submitted.
- c) Up to four SIC codes ~~which that~~ best reflect the principal products or services provided by the facility.
- d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.
- e) The name, address, and phone number of the owner of the facility.
- f) A listing of all permits or construction approvals received or applied for under any of the following programs:
  - 1) Hazardous Waste Management program under RCRA, this Part, and 35 Ill. Adm. Code 703.
  - 2) UIC program under SDWA, this Part, and 35 Ill. Adm. Code



704.

- 3) NPDES program under CWA and 35 Ill. Adm. Code 309.
  - 4) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.
  - 5) Nonattainment program under the Clean Air Act.
  - 6) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.
  - 7) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.
  - 8) Dredge or fill permits under Section 404 of CWA.
  - 9) Other relevant environmental permits, including Illinois permits.
- g) A topographic map (or other map if a topographic map is unavailable) extending 1609 meters (one mile) beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 402 meters (one fourth mile) of the facility property boundary.
- h) A brief description of the nature of the business.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.31(e) (1993) and 270.10(d) and 270.13 (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.124 Recordkeeping

Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under 35 Ill. Adm. Code 702.123, 703.180 ~~et seq~~ Subpart D (RCRA); and 35 Ill. Adm. Code 704.161 (UIC) for a period of at least 3 years from the date the application is signed.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.4(e) 144.31(f) and 270.10(i) (1993).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.125 Continuation of Expiring Permits

- a) The conditions of an expired permit continue in force until the effective date of a new permit (see 35 Ill. Adm. Code 705.201) if:
- 1) The permittee has submitted a timely application under 35 Ill. Adm. Code 703.181 (RCRA) or 704.161 (UIC) ~~which that~~ is a complete (under Section 702.122) application for a new permit; and
  - 2) The Agency, through no fault of the permittee, does not issue a new permit with an effective date under 35 Ill. Adm.

Code 705.201 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

- b) Effect. Permits continued under this section remain fully effective and enforceable.
- c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the Agency may choose to do any or all of the following:
  - 1) Initiate enforcement action based upon the permit ~~which~~that has been continued;
  - 2) Issue a notice of intent to deny the new permit under 35 Ill. Adm. Code 705.141. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
  - 3) Issue a new permit under 35 Ill. Adm. Code 705 with appropriate conditions; or
  - 4) Take other actions authorized by the Environmental Protection Act, or regulations adopted thereunder.

~~Board Note~~BOARD NOTE: See Derived from 40 CFR 122-5144.37 (1993) and 270.51 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.126 Signatories to Permit Applications and Reports

- a) Applications. All applications shall be signed as follows:
  - 1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
    - A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
    - B) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

~~Board Note~~BOARD NOTE: The Board does not require specific assignments or delegations of authority to responsible corporate officers identified in ~~paragraph~~subsection (a)(1)(A) above. The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Agency to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or

delegation to applicable corporate positions under paragraphsubsection (a)(1)(B) above rather than to specific individuals.

- 2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - 3) For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes:
    - A) The chief executive officer of the agency, or
    - B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA).
- b) Reports. All reports required by permits or other information requested by the Agency shall be signed by a person described in paragraphsubsection (a) above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 1) The authorization is made in writing by a person described in paragraphsubsection (a) above;
  - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
  - 3) The written authorization is submitted to the Agency.
- c) Changes to authorization. If an authorization under paragraphsubsection (b) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraphsubsection (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d) Certification. Any person signing a document under paragraphsubsections (a) or (b) above shall make the following certification:

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

knowing violations.

~~(Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.32 (1993) and 270.11 (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART C: PERMIT CONDITIONS

##### Section 702.140 Conditions Applicable to all Permits

~~The following conditions of Secs. 702.141 et seq. this Subpart~~ apply to all RCRA and UIC permits. For additional conditions applicable to all permits for each of the programs individually, see 35 Ill. Adm. Code 703.241 ~~et seq. Subpart F (RCRA) and 704.181 Subpart E (UIC)~~. All conditions applicable to all permits, and all additional conditions applicable to all permits for individual programs, shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

~~(Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.7144.51 preamble (1993) and 270.30 preamble (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 702.141 Duty to Comply

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

~~(Board Note~~ BOARD NOTE: See Sections 703.242 (RCRA) and 704.181(a) (UIC) contain additional information on operation under an emergency permit. Derived from 40 CFR 122.7144.51(a) (1993) and 270.30(a) (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 702.142 Duty to Reapply

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

~~(Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.7144.51(b) (1993) and 270.30(b) (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 702.143 Need to Halt or Reduce Activity Not a Defense

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

~~(Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.7144.51(c) (1993) and 270.30(c) (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 702.144 Duty to Mitigate

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

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.51(d) (1993) and 270.30(d) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.145 Proper Operation and Maintenance

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

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR ~~122.71~~144.51(e) (1993) and 270.30(e) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.146 Permit Actions

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

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR ~~122.71~~144.51(f) (1993) and 270.30(f) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.147 Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR ~~122.71~~144.51(g) (1993) and 270.30(g) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.148 Duty to Provide Information

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

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 122.7144.51(h) (1993) and 270.30(h) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.149 Inspection and Entry

The permittee shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to:

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

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 122.7144.51(i) (1993) and 270.30(i) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.150 Monitoring and Records

- a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Agency at any time.
- c) Records of monitoring information shall include:
  - 1) The date, exact place, and time of sampling or measurements;
  - 2) The individual(s) who performed the sampling or measurements;
  - 3) The date(s) analyses were performed;
  - 4) The individual(s) who performed the analyses;
  - 5) The analytical techniques or methods used; and
  - 6) The results of such analyses.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 144.51(j) (1993) and 270.30(j) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.151 ~~Signature~~ Requirements

All application, reports, or information submitted to the Agency shall be signed and certified ~~(in accordance with the requirements of Section 702.126).~~

~~(Board Note)~~ BOARD NOTE: ~~See~~ Derived from 40 CFR ~~122.71~~ 144.51(k) (1993) and 270.30(k) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 702.160 Establishing Permit Conditions

- a) In addition to conditions required in permits for both programs (Sections 702.140 through 702.152), the Agency shall establish conditions, as required on a case-by-case basis, in RCRA and UIC permits under Section 702.150 (monitoring and records), Section 702.161 (duration of permits), Section 702.162 (schedules of compliance), Section 702.163 (alternate schedules of compliance), and Section 702.164 (Recording and Reporting). For UIC only, permits for owners and operators of hazardous waste injection wells must include conditions meeting the requirements of 35 Ill. Adm. Code 704.201 through 704.203 (requirements for wells injecting hazardous waste), 704.189, and 704.191, and 35 Ill. Adm. Code 730.Subpart G. Permits for other wells must contain the requirements set forth in 35 Ill. Adm. Code 704.Subpart E when applicable.

~~BOARD NOTE: Derived from 40 CFR 144.52(a) (1988), as amended at 53 Fed. Reg. 28147, July 26, 1988 and 270.32(a) (1988).~~

- b) Additional conditions.

- 1) In addition to conditions required in all permits for a particular program (35 Ill. Adm. Code 703.241 ~~et seq.~~ Subpart ~~F~~ for RCRA and 35 Ill. Adm. Code 704.181 ~~et seq.~~ Subpart ~~C~~ for UIC), the Agency shall establish conditions in permits for the individual programs, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the appropriate Act and regulations.

~~BOARD NOTE: Derived from 40 CFR 144.52(b) and 270.32(b) (1988).~~

- 2) An applicable requirement is a statutory or regulatory requirement ~~which~~ ~~that~~ takes effect prior to final administrative disposition of a permit. 35 Ill. Adm. Code 705.184 (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the Agency where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement ~~which~~ ~~that~~ takes effect prior to the modification of a permit, to the extent allowed in 35 Ill. Adm. Code 705.201.

~~BOARD NOTE: Derived from 40 CFR 144.52(b) and 270.32(e) (1988).~~

- 3) New or reissued permits, and to the extent allowed under 35

Ill. Adm. Code 705.201 modified permits, shall incorporate each of the applicable requirements referenced in 35 Ill. Adm. Code 703.241 et seq. (RCRA) and 35 Ill. Adm. Code 704.182 through 704.191 (UIC).

~~BOARD NOTE: Derived from 40 CFR 144.52(b) and 270.32(d) (1988).~~

- c) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.52(e) (1993) and 270.32(e) (1989).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.161 Duration of Permits

- a) Fixed term of permits determined by the Agency:
- 1) RCRA. RCRA permits shall be effective for a fixed term, to be determined by the Agency on a case-by-case basis, not to exceed ten years.
  - 2) UIC. UIC permits for Class I and Class V wells shall be effective for a fixed term, to be determined by the Agency on a case-by-case basis, not to exceed ten years. UIC permits for Class III wells shall be issued for a period not to exceed five years; provided, however, that the Agency shall, without requiring a new application, renew such permits for a period not to exceed five years per renewal unless the Agency determines that the permit should be modified, revoked, or a minor modification made as provided in Sections 702.183 through 702.187, in which case the permittee shall be required to file a new application.
- b) Except as provided in Section 702.125, the term of a permit shall not be extended by modification beyond the maximum duration specified in this Section.
- c) The Agency may issue any permit for a duration that is less than the full allowable term under this Section.
- d) The Agency shall review each RCRA permit for a land disposal facility five years after the date of permit issuance or reissuance, and shall modify the permit as necessary, as provided in Section 702.183 and 702.184.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.36 (1993) and 270.50 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.162 Schedules of Compliance

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

- a) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible. For UIC, in



addition, schedules of compliance shall require compliance not later than 3 years after the effective date of the permit.

- b) Interim dates. If a permit establishes a schedule of compliance ~~which~~that exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.
- 1) The time between interim dates shall not exceed 1 year.
  - 2) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward compliance of the interim requirements and indicate a projected completion date.
- c) Reporting. A RCRA permit shall be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee shall notify the Agency in writing of its compliance or noncompliance with the interim or final requirements. A UIC permit shall be written to require that if ~~paragraph~~subsection (a) above is applicable progress reports be submitted no later than 30 days following each interim date and the final date of compliance.
- d) The Agency may not permit a schedule of compliance involving violation of regulations adopted by the Board unless the permittee has been granted a variance. To avoid delay an applicant seeking a schedule of compliance should file a variance petition pursuant to 35 Ill. Adm. Code 104 at the same time the permit application is filed.

~~(Board Note)~~ **BOARD NOTE:** See Derived from 40 CFR 122.10144.53(a) (1993) and 270.33(a) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.163 Alternative Schedules of Compliance

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

- a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit ~~which~~that has already been issued:
  - 1) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or
  - 2) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
- b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the

termination date, the permit shall contain a schedule leading to termination ~~which~~that will ensure timely compliance with applicable requirements.

- c) If the permittee is undecided whether to cease conducting regulated activities, the Agency may issue or modify a permit to contain two schedules as follows:
- 1) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date ~~which~~that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
  - 2) One schedule shall lead to timely compliance with applicable requirements;
  - 3) The second schedule shall lead to cessation of regulated activities by a date ~~which~~that will ensure timely compliance with applicable requirements.
  - 4) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under ~~paragraph~~subsection (c)(1) above it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
- d) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Agency, such as a resolution of the board of directors of a corporation.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.10(a)144.53(b) (1993) and 270.33(b) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 702.164 Recording and Reporting

All permits shall specify:

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

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.11144.54 (1993) and 270.31 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: ISSUED PERMITS

## Section 702.181 Effect of a Permit

- a) The existence of a RCRA or UIC permit does not constitute a defense to a violation of the Environmental Protection Act or this Subtitle, except for development, modification, or operation without a permit. However, a permit may be modified, reissued, or revoked during its term for cause as set forth in 35 Ill. Adm. Code 703.270 through 703.273 (RCRA) ~~and/or~~ 35 Ill. Adm. Code 704.261 through 704.263 (UIC) and Section 702.186.
- b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
- c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations, except as noted in subsection (a).

BOARD NOTE: Derived from 40 CFR 144.35 (1991~~3~~) and 40 CFR 270.4 (1991~~2~~), ~~as amended at 57 Fed. Reg. 3486, January 29, 1992.~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 703  
 RCRA PERMIT PROGRAM

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703.Appendix A Classification of Permit Modifications

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (~~Ill. Rev. Stat. 1991, ch. 1111, pars. 1022.4 and 1027-[415 ILCS 5/22.4 and 27]~~).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1987; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

Section 703.110 References

- a) ~~When used in this Part the following publications are incorporated by reference.~~

~~(See 35 Ill. Adm. Code 720.111.)~~

- b) ~~The references listed in subsection (a) above are also available for inspection at the offices of the Pollution Control Board. This incorporation includes no later amendments or editions.~~

35 Ill. Adm. Code 720.111 includes all sources incorporated by reference for the Illinois RCRA and UIC programs.

~~(BOARD NOTE: Derived from This Section corresponds with 40 CFR 270.6 (1992), as amended at 58 Fed. Reg. 46051 (Aug. 31, 1993)).~~

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: PROHIBITIONS

Section 703.125 Reapplications

Any HWM facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Agency. (The Agency shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

~~Board~~ BOARD Note OTE: See Derived from 40 CFR 122.22(d) 270.10(h) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.126 Initial Applications

Except as provided in 703.Subpart C, no person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and received a finally effective RCRA permit.

~~Board~~ BOARD Note OTE: See Derived from 40 CFR 122.22(a) and (b) 270.10(f)(1) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

#### Section 703.140 Purpose and Scope

- a) The Sections of this Subpart are divided into two groups:
  - 1) Section 703.141, Permits by Rule; and
  - 2) Sections 703.151 through 703.158, relating to interim status;
- b) The interim status rules correspond to ~~those portions of 40 CFR 122.21, 122.22 and 122.23 270, Subpart G,~~ which relates to interim status. Other portions of the federal rules may be found in 703.Subpart B. The intent is to group the interim status rules so they can be more easily ignored by those to whom they do not apply, and so they can be conveniently repealed after the interim status period.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.154 Prohibitions During Interim Status

During the interim status period the facility shall not:

- a) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;
- b) Employ processes not specified in Part A of the permit application;
- c) Exceed the design capacities specified in Part A of the permit application.

~~Board~~ BOARD Note OTE: See Derived from 40 CFR 122.23(b) 270.71(a) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.156 Interim Status Standards

During interim status, owners or operators shall comply with the interim status standards at 35 Ill. Adm. Code 725.

~~Board~~BOARD NoteOTE: ~~See~~Derived from 40 CFR 122.23(d)270.71(b) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.158 Permits for Less Than an Entire Facility

The Agency may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

BOARD NOTE: Derived from 40 CFR 270.1(c)(4) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### SUBPART D: APPLICATIONS

#### Section 703.184 Facility Location Information

- a) In order to show compliance with the facility location requirements of Section 21(1) of the Environmental Protection Act, the owner or operator shall include the following information, or a demonstration that Section 21(1) does not apply:
- 1) Location of any active or inactive shaft or tunneled mine below the facility;
  - 2) Location of any active faults in the earth's crust within 2 miles of the facility boundary;
  - 3) Location of existing private wells or existing sources of a public water supply within 1000 feet of any disposal unit boundary;
  - 4) Location of the corporate boundaries of any municipalities within one and one-half miles of the facility boundary;
- ~~Board~~BOARD NoteOTE: Subsections (a)(1), (a)(2), (a)(3), and (a)(4) above request information necessary to allow the Agency to determine the applicability of Section 21(1) of the Environmental Protection Act requirements. These provisions are not intended to modify the requirements of the Act. For example, the operator is required to give the location of wells on its own property, even though the Agency might find that these do not prohibit the site location.
- 5) Documentation showing approval of municipalities if such approval is required by Section 21(1) of the Environmental Protection Act;
- c) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant flood map produced by the Federal Emergency Management Agency, National Flood Insurance Program (NFIP), if used, or the

calculations and maps used where a NFIP map is not available. Information must also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) ~~which that~~ must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood;

~~(Board Note)~~ OTE: NFIP maps are available as follows: Flood Map Distribution Center, National Flood Insurance Program, Federal Emergency Management Agency, 6930 (A-F) San Tomas Road, Baltimore, MD 21227-6227. 800/638-6620; and, Illinois Floodplain Information Depository, State Water Survey, 514 WSRC, University of Illinois, Urbana, IL 61801. 217/333-0447. ~~+~~\_\_

~~(Board Note)~~—Where NFIP maps are available, they will normally be determinative of whether a facility is located within or outside of the 100-year flood plain. However, where the NFIP map excludes an area (usually areas of the flood plain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where NFIP maps are not available for a proposed facility location, the owner or operator shall use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation is. ~~+~~

- d) Owners and operators of facilities located in the 100-year floodplain shall provide the following information:
- 1) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;
  - 2) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;
  - 3) If applicable, and in lieu of subsections (d)(1) and (d)(2) above, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:
    - A) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;
    - B) A description of the locations to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with 35 Ill. Adm. Code 702, 703, 724, and 725;
    - C) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use;
    - D) The potential for accidental discharges of the waste during movement;

~~(Board Note)~~—Derived from 40 CFR 270.14(b)(11)(iv) (1988). ~~+~~



- e) Owners and operators of existing facilities not in compliance with 35 Ill. Adm. Code 724.118(b) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance. Such owners and operators shall file a concurrent variance petition with the Board;

~~{Board Note: Derived from 40 CFR 270.14(b)(11)(v) (1988).}~~

- f) Owners or operators of new regional pollution control facilities, as defined in Section 3 of the Environmental Protection Act, shall provide documentation showing site location suitability from the county board or other governing body as provided by Section 39(c) and 39.2 of that Act.

~~{Board Note: See Subsections (b) through (e) derived from 40 CFR 270.14(b)(11)(iii) through (b)(11)(v) (1992). The Board has not codified an equivalent to 40 CFR 270.14(b)(11)(i) and (b)(11)(ii), relating to certain seismic zones not located within Illinois.}~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.186 Exposure Information

- a) Any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:
- 1) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;
  - 2) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subsection (a)(1) above; and
  - 3) The potential magnitude and nature of the human exposure resulting from such releases.
- b) By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already submitted a Part B application must submit the exposure information required in subsection (a).

~~{Board Note: See Derived from 40 CFR 270.104(j) (1992).}~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.200 Specific Part B Application Information

Additional information is required in the Part B application by the following Sections from owners or operators of specific types of TSD unit:

- a) Containers (Section 703.201);
- b) Tanks (Section 703.202);
- c) Surface impoundments (Section 703.203);

- d) Waste piles (Section 703.204);
- e) Incinerators (Section 703.205);
- f) Land treatment (Section 703.206);
- g) Landfills (Section 703.207).

~~Board~~ BOARD Note OTE: See Derived in part from 40 CFR  
~~122.25(b)~~ 270.14(a) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.201 Containers

For facilities that store containers of hazardous waste, except as otherwise provided in 35 Ill. Adm. Code 724.270, the Part B application must include:

- a) A description of the containment system to demonstrate compliance with 35 Ill. Adm. Code 724.275. Show at least the following:
  - 1) Basic design parameters, dimensions, and materials of construction;
  - 2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;
  - 3) Capacity of the containment system relative to the number and volume of containers to be stored;
  - 4) Provisions for preventing or managing run-on;
  - 5) How accumulated liquids can be analyzed and removed to prevent overflow;
- b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with 35 Ill. Adm. Code 724.275(c), including:
  - 1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and
  - 2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;
- c) Sketches, drawings, or data demonstrating compliance with 35 Ill. Adm. Code 724.276 (location of buffer zone and containers holding ignitable or reactive wastes) and Section 724.277(c) (location of incompatible wastes), where applicable.
- d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 35 Ill. Adm. Code 724.117(b) and (c) and 724.277(a) and (b).

~~Board~~ BOARD Note OTE: See Derived from 40 CFR ~~122.25(b)(1)~~ 270.15  
(1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 703.205 Incinerators that Burn Hazardous Waste

For facilities that incinerate hazardous waste, except as 35 Ill. Adm. Code 724.440 provides otherwise, the applicant must fulfill the requirements of subsections (a), (b) or (c) below in completing the Part B application:

- a) When seeking exemption under 35 Ill. Adm. Code 724.440(b) or (c) (ignitable, corrosive or reactive wastes only):
  - 1) Documentation that the waste is listed as a hazardous waste in 35 Ill. Adm. Code 721.Subpart D solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or
  - 2) Documentation that the waste is listed as a hazardous waste in 35 Ill. Adm. Code 721.Subpart D solely because it is reactive (Hazard Code R) for characteristics other than those listed in 35 Ill. Adm. Code 721.123(a)(4) and (a)(5) and will not be burned when other hazardous wastes are present in the combustion zone; or
  - 3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability or corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under 35 Ill. Adm. Code 721.Subpart C; or
  - 4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 35 Ill. Adm. Code 721.123-(a)(1) through (a)(3) or (a)(6) through (a)(8) and that it will not be burned when other hazardous wastes are present in the combustion zone; or
- b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.222 et seq.; or
- c) In lieu of a trial burn, the applicant may submit the following information:
  - 1) An analysis of each waste or mixture of wastes to be burned including:
    - A) Heat value of the waste in the form and composition in which it will be burned;
    - B) Viscosity (if applicable) or description of physical form of the waste;
    - C) An identification of any hazardous organic constituents listed in 35 Ill. Adm. Code 721.Appendix H that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in 35 Ill. Adm. Code 721.Appendix H that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", U.S. EPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their

equivalent;

- D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", U.S. EPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110;
  - E) A quantification of those hazardous constituents in the waste that may be designated as POHCs based on data submitted from other trial or operational burns that demonstrate compliance with the performance standard in 35 Ill. Adm. Code 724.443;
- 2) A detailed engineering description of the incinerator, including:
- A) Manufacturer's name and model number of incinerator;
  - B) Type of incinerator;
  - C) Linear dimension of incinerator unit including cross sectional area of combustion chamber;
  - D) Description of auxiliary fuel system (type/feed);
  - E) Capacity of prime mover;
  - F) Description of automatic waste feed cutoff system(s);
  - G) Stack gas monitoring and pollution control monitoring system;
  - H) Nozzle and burner design;
  - I) Construction materials;
  - J) Location and description of temperature, pressure and flow indicating devices and control devices;
- 3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in subsection (c)(1) above. This analysis should specify the POHCs that the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided;
- 4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;
- 5) A description of the results submitted from any previously conducted trial burn(s) including:
- A) Sampling and analysis techniques used to calculate performance standards in 35 Ill. Adm. Code 724.443;

- B) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);
  - C) The certification and results required by subsection (b) above;
- 6) The expected incinerator operation information to demonstrate compliance with 35 Ill. Adm. Code 724.443 and 724.445 including:
- A) Expected carbon monoxide (CO) level in the stack exhaust gas;
  - B) Waste feed rate;
  - C) Combustion zone temperature;
  - D) Indication of combustion gas velocity;
  - E) Expected stack gas volume, flow rate, and temperature;
  - F) Computed residence time for waste in the combustion zone;
  - G) Expected hydrochloric acid removal efficiency;
  - H) Expected fugitive emissions and their control procedures;
  - I) Proposed waste feed cut-off limits based on the identified significant operating parameters;
- 7) The Agency may, pursuant to 35 Ill. Adm. Code 705.122, request such additional information as may be necessary for the Agency to determine whether the incinerator meets the requirements of 35 Ill. Adm. Code 724.Subpart 07 and what conditions are required by that Subpart and Section 39(d) of the Environmental Protection Act;
- 8) Waste analysis data, including that submitted in subsection (c)(1) above, sufficient to allow the Agency to specify as permit Principal Organic Hazardous Constituents (permit POHCs) those constituents for which destruction and removal efficiencies will be required;
- d) The Agency shall approve a permit application without a trial burn if it finds that:
- 1) The wastes are sufficiently similar; and
  - 2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under 35 Ill. Adm. Code 724.445) operating conditions that will ensure that the performance standards in 35 Ill. Adm. Code 724.443 will be met by the incinerator.

{BOARD NOTE: Derived from 40 CFR 270.19 (1992), as amended at 58 Fed. Reg. 46051 (Aug. 31, 1993).—See 40 CFR 122.25(b)(5).}

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 703.206 Land Treatment

For facilities that use land treatment to dispose of hazardous waste, except as otherwise provided in 35 Ill. Adm. code 724.101, the Part B application must include:

- a) A description of plans to conduct treatment demonstration as required under 35 Ill. Adm. Code 724.372. The description must include the following information:
  - 1) The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;
  - 2) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);
  - 3) Any specific laboratory or field test that will be conducted, including:
    - A) the type of test (e.g., column leaching, degradation);
    - B) materials and methods, including analytical procedures;
    - C) expected time for completion;
    - D) characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions and operating practices;
- b) A description of a land treatment program, as required under 35 Ill. Adm. Code 724.371. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:
  - 1) The wastes to be land treated;
  - 2) Design measures and operating practices necessary to maximize treatment in accordance with 35 Ill. Adm. Code 724.373(a) including:
    - A) Waste application method and rate;
    - B) Measures to control soil pH;
    - C) Enhancement of microbial or chemical reactions;
    - D) Control of moisture content;
  - 3) Provisions for unsaturated zone monitoring, including:
    - A) Sampling equipment, procedures, and frequency;
    - B) Procedures for selecting sampling locations;
    - C) Analytical procedures;

- D) Chain of custody control;
  - E) Procedures for establishing background values;
  - F) Statistical methods for interpreting results;
  - G) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in 35 Ill. Adm. Code 724.378(a);
- 4) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to 35 Ill. Adm. Code 724.113;
  - 5) The proposed dimensions of the treatment zone;
- c) A description of how the unit is or will be designed, constructed, operated and maintained in order to meet the requirements of 35 Ill. Adm. Code 724.373. This submission must address the following items:
- 1) Control of run-on;
  - 2) Collection and control of run-off;
  - 3) Minimization of run-off of hazardous constituents from the treatment zone;
  - 4) Management of collection and holding facilities associated with run-on and run-off control systems;
  - 5) Periodic inspection of the unit. This information should be included in the inspection plan submitted under Section 703.183(e);
  - 6) Control of wind dispersal of particulate matter, if applicable;
- d) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under 35 Ill. Adm. Code 724.376(a) will be conducted including:
- 1) Characteristics of the food-chain crop for which the demonstration will be made;
  - 2) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;
  - 3) Procedures for crop growth, sample collection, sample analysis, and data evaluation;
  - 4) Characteristics of the comparison crop including the location and conditions under which it was or will be grown;
- e) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of 35 Ill. Adm. Code 724.376(b) will be complied with;
- f) A description of the vegetative cover to be applied to closed

portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under 35 Ill. Adm. Code 724.380(a)(8) and (c)(2). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under Section 703.183(m);

- g) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of 35 Ill. Adm. Code 724.381 will be complied with;
- h) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how 35 Ill. Adm. Code 724.382 will be complied with; and
- i) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.383. This submission must address the following items as specified in that Section:
  - 1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
  - 2) The attenuative properties of underlying and surrounding soils or other materials;
  - 3) The mobilizing properties of other materials co-disposed with these wastes; and
  - 4) The effectiveness of additional treatment, design, or monitoring techniques.

~~Board~~ OARD Note OTE: See Derived from 40 CFR 7270.20 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 703.208 ~~Specific Part B Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste~~

- a) Trial burns.
  - 1) General. Except as provided below, owners and operators that are subject to the standards to control organic emissions provided by 35 Ill. Adm. Code 726.204, standards to control particulate matter provided by 35 Ill. Adm. Code 726.205, standards to control metals emissions provided by 35 Ill. Adm. Code 726.206, or standards to control hydrogen chloride (HCl) or chlorine gas emissions provided by 35 Ill. Adm. Code 726.207 shall conduct a trial burn to demonstrate conformance with those standards and shall submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.232.
    - A) Under subsection (a)(2) through (a)(5) below and 35 Ill. Adm. Code 726.204 through 726.207, the Agency may waive a trial burn to demonstrate conformance with a particular emission standard; and
    - B) The owner or operator may submit data in lieu of a trial burn, as prescribed in subsection (a)(6), below.



- 2) Waiver of trial burn of DRE (destruction removal efficiency).
- A) Boilers operated under special operating requirements. When seeking to be permitted under 35 Ill. Adm. Code 726.204(a)(4) and 726.210, ~~that~~ which automatically waive the DRE trial burn, the owner or operator of a boiler shall submit documentation that the boiler operates under the special operating requirements provided by 35 Ill. Adm. Code 726.210.
- B) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by 35 Ill. Adm. Code 726.204(a)(5) and 726.209(a), ~~that~~ which waive the DRE trial burn, the owner or operator shall submit:
- i) Documentation that the device is operated in conformance with the requirements of 35 Ill. Adm. Code 726.209(a)(1).
  - ii) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in 35 Ill. Adm. Code 721.Appendix H, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on analytical techniques specified in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods (incorporated by reference, see 35 Ill. Adm. Code 720.111).
  - iii) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in subsection (a)(2)(B)(ii) ~~above~~ using procedures provided by 35 Ill. Adm. Code 726.209(a)(2)(B).
  - iv) Results of emissions dispersion modeling for emissions identified in subsection (a)(2)(B)(iii) ~~above~~ using modeling procedures prescribed by 35 Ill. Adm. Code 726.206(h). The Agency shall review the emission modeling conducted by the applicant to determine conformance with these procedures. The Agency shall either approve the modeling or determine that alternate or supplementary modeling is appropriate.
  - v) Documentation that the maximum annual average ground level concentration of each constituent identified in subsection (a)(2)(B)(ii) ~~above~~ quantified in conformance with subsection (a)(2)(B)(iv) ~~above~~ does not exceed the allowable ambient level established in 35 Ill. Adm. Code 726.Appendixes D or E. The acceptable ambient concentration for emitted constituents for which a specific reference air

concentration has not been established in 35 Ill. Adm. Code 726. Appendix D or risk-specific does has not been established in 35 Ill. Adm. Code 726. Appendix E is 0.1 micrograms per cubic meter, as noted in the footnote to 35 Ill. Adm. Code 726. Appendix D.

- 3) Waiver of trial burn for metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) and (e) that control metals emissions without requiring a trial burn, the owner or operator shall submit:
  - A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;
  - B) Documentation of the concentration of each metal controlled by 35 Ill. Adm. Code 726.206(b) or (c) in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of each metal;
  - C) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) or (e) will not be exceeded during the averaging period provided by that subsection;
  - D) Documentation to support the determination of the TESH (terrain-adjusted effective stack height), good engineering practice stack height, terrain type, and land use as provided by 35 Ill. Adm. Code 726.206(b)(3) through (5);
  - E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.206(b)(6), if applicable, for facilities with multiple stacks;
  - F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.206(b)(7) for eligibility to comply with the screening limits; and
  - G) Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.
- 4) Waiver of trial burn for PM (particulate matter). When seeking to be permitted under the low risk waste provisions of 35 Ill. Adm. Code 726.209(b), which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants shall submit documentation supporting conformance with subsections (a)(2)(B) and (a)(3) above.
- 5) Waiver of trial burn for HCl and chlorine gas. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chlorine and chloride provided by 35 Ill. Adm. Code 726.207(b)(1) and (e) that control emissions by HCl and chlorine gas without requiring a trial burn, the owner or operator shall submit:

- A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;
  - B) Documentation of the levels of total chlorine and chloride in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of total chlorine and chloride;
  - C) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by 35 Ill. Adm. Code 726.207(b)(1) or (e) will not be exceeded during the averaging period provided by that subsection;
  - D) Documentation to support the determination of the TESH, good engineering practice stack height, terrain type and land use as provided by 35 Ill. Adm. Code 726.207(b)(3)<sub>i</sub>;
  - E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.207(b)(4), if applicable, for facilities with multiple stacks;
  - F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.207(b)(3) for eligibility to comply with the screening limits; and
  - G) Proposed sampling and analysis plan for total chlorine and chloride for the hazardous waste, other fuels, and industrial furnace feedstocks.
- 6) Data in lieu of trial burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Section 703.232 and 35 Ill. Adm. Code 726.204 through 726.207 by providing the information required by Section 703.232 from previous compliance testing of the device in conformance with 35 Ill. Adm. Code 726.203<sub>r</sub> or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by Section 703.232 from previous compliance testing of the device in conformance with 35 Ill. Adm. Code 726.203, or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by Section 703.232 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Agency shall approve a permit application without a trial burn if the Agency finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under 35 Ill. Adm. Code 726.102) operating conditions that will ensure conformance with 35 Ill. Adm. Code 726.102(c). In addition, the following information shall be submitted:

- A) For a waiver from any trial burn:
- i) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing or operational or trial burns are provided to support the contention that a trial burn is not needed;
  - ii) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and
  - iii) Such supplemental information as the Agency finds necessary to achieve the purposes of this subsection.
- B) For a waiver of the DRE trial burn, the basis for selection of POHCs (principal organic hazardous constituents) used in the other trial or operational burns which demonstrate compliance with the DRE performance standard in 35 Ill. Adm. Code 726.204(a). This analysis should specify the constituents in 35 Ill. Adm. Code 721.Appendix H, that the applicant has identified in the hazardous waste for which a permit is sought, and any differences from the POHCs in the hazardous waste for which burn data are provided.
- b) Alternative HC limit for industrial furnaces with organic matter in raw materials. Owners and operators of industrial furnaces requesting an alternative HC limit under 35 Ill. Adm. Code 726.204(f) shall submit the following information at a minimum:
- 1) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;
  - 2) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;
  - 3) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuel(s) and destruction of hydrocarbon emissions from nonfuel sources;
  - 4) Trial burn plan to:
    - A) Demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level; and
    - B) Identify, in conformance with Section 703.232(d), the types and concentrations of organic compounds listed in 35 Ill. Adm. Code 721.Appendix H that are emitted when burning hazardous waste;

- 5) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and
  - 6) Such other information as the Agency finds necessary to achieve the purposes of this subsection.
- c) Alternative metals implementation approach. When seeking to be permitted under an alternative metals implementation approach under 35 Ill. Adm. Code 726.206(f), the owner or operator shall submit documentation specifying how the approach ensures compliance with the metals emissions standards of 35 Ill. Adm. Code 726.106(c) or (d) and how the approach can be effectively implemented and monitored. Further, the owner or operator shall provide such other information that the Agency finds necessary to achieve the purposes of this subsection.
  - d) Automatic waste feed cutoff system. Owners and operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.
  - e) Direct transfer. Owners and operators that use direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in 35 Ill. Adm. Code 726.211) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by 35 Ill. Adm. Code 726.211.
  - f) Residues. Owners and operators that claim that their residues are excluded from regulation under the provisions of 35 Ill. Adm. Code 726.212 shall submit information adequate to demonstrate conformance with those provisions.

BOARD NOTE: Derived from 40 CFR 270.22 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.210 Process Vents

Except as otherwise provided in 35 Ill. Adm. Code 724.101, owners and operators of facilities which have process vents to which 35 Ill. Adm. Code 724.Subpart AA applies shall provide the following additional information:

- a) For facilities which cannot install a closed-vent system and control device to comply with 35 Ill. Adm. Code 724.Subpart AA<sub>7</sub> on the effective date on which the facility becomes subject to that Subpart or 35 Ill. Adm. Code 725.Subpart AA, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2).
- b) Documentation of compliance with the process vent standards in 35 Ill. Adm. Code 724.932, including:
  - 1) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for the affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan)<sub>i</sub>
  - 2) Information and data supporting estimates of vent emissions

and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) ~~which~~that represent the conditions ~~which~~that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

- 3) Information and data used to determine whether or not a process vent is subject to 35 Ill. Adm. Code 724.932.
- c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with 35 Ill. Adm. Code 724.932, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).
- d) Documentation of compliance with 35 Ill. Adm. Code 724.933, including:
  - 1) A list of all information references and sources used in preparing the documentation.
  - 2) Records including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(k).
  - 3) A design analysis, specifications, drawings, schematics, and piping, and instrumentation diagrams based on the appropriate sections of APTI Course 415, incorporated by reference in 35 Ill. Adm. Code 720.111, or other engineering texts approved by the Agency which present basic control device design information. The design analysis must address the vent stream characteristics and control device parameters as specified in 35 Ill. Adm. Code 724.935(b)(4)(C).
  - 4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions which exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.
  - 5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 35 Ill. Adm. Code 724.932(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

BOARD NOTE: Derived from 40 CFR 270.24 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 703.211 Equipment

Except as otherwise provided in 35 Ill. Adm. Code 724.101, owners and operators of facilities which have equipment to which 35 Ill. Adm. Code 724.Subpart BB applies shall provide the following additional information:

- a) For each piece of equipment to which 35 Ill. Adm. Code 724.Subpart BB applies:
  - 1) Equipment identification number and hazardous waste management unit identification*+*i
  - 2) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan)*+*i
  - 3) Type of equipment (e.g., a pump or pipeline valve)*+*i
  - 4) Percent by weight total organics in the hazardous wastestream at the equipment*+*i
  - 5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid)*+*i and
  - 6) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").
- b) For facilities which cannot install a closed-vent system and control device to comply with 35 Ill. Adm. Code 724.Subpart BB on the effective date that facility becomes subject to this Subpart or 35 Ill. Adm. Code 724.Subpart BB, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2).
- c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).
- d) Documentation which demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 or 724.959. This documentation must contain the records required under 35 Ill. Adm. Code 724.964. The Agency shall request further documentation if necessary to demonstrate compliance. Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960 must include the following information:
  - 1) A list of all information references and sources used in preparing the documentation*+*i
  - 2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(j)*+*i
  - 3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of APTI Course 415, incorporated by reference in 35 Ill. Adm. Code 720.111, or other engineering texts approved by the Agency which present basic control device design information. The design analysis must address the vent stream characteristics and control device parameters as specified in 35 Ill. Adm. Code 724.935(b)(4)(C)*+*i

- 4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions which exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur; and
- 5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Derived from 40 CFR 270.25 (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART E: SHORT TERM AND PHASED PERMITS

##### Section 703.224 Incinerator Conditions After Trial Burn

For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Agency may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of 35 Ill. Adm. Code 724.445, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation, and submission of the trial burn results by the applicant and modification of the facility permit by the Agency:

- a) Applicants must submit a statement, with Part B of the permit application, ~~which~~ that identifies the conditions necessary to operate in compliance with the performance standards of 35 Ill. Adm. Code 724.443, during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in 35 Ill. Adm. Code 724.445;
- b) The Agency will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of 35 Ill. Adm. Code 724.443 based on engineering judgment.

~~Board~~ BOARD Note: ~~See~~ Derived from 40 CFR 270.62(c) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

- a) General. Owners and operators of new boilers and industrial furnaces (those not operating under the interim status standards of 35 Ill. Adm. Code 726.203) are subject to subsection (b) through (f) below. Boilers and industrial furnaces operating under the interim status standards of 35 Ill. Adm. Code 726.203 are subject to subsection (g) below.
- b) Permit operating periods for new boilers and industrial furnaces. A permit for a new boiler or industrial furnace must specify appropriate conditions for the following operating periods:



- 1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operation readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Agency shall establish in the Pretrial Burn Period of the permit conditions, including but not limited to allowable hazardous waste feed rates and operating conditions. The Agency shall extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit must be modified to reflect the extension according to Section 703.280 et seq.
  - A) Applicants must submit a statement, with part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of 35 Ill. Adm. Code 726.204 through 726.207 during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in 35 Ill. Adm. Code 726.202 (e).
  - B) The Agency shall review this statement and any other relevant information submitted with part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
- 2) Trial burn period. For the duration of the trial burn, the Agency shall establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and determining adequate operating conditions under 35 Ill. Adm. Code 726.202(e). Applicants shall propose a trial burn plan, prepared under subsection (c) below, to be submitted with part B of the permit application.
- 3) Post-trial burn period.
  - A) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Agency to reflect the trial burn results, the Agency shall establish the operating requirements most likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
  - B) Applicants shall submit a statement, with part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. This statement should include, at a minimum, restrictions on the operating requirements provided by 35 Ill. Adm. Code 726.202 (e).

- C) The Agency shall review this statement and any other relevant information submitted with part B of the permit application and specify requirements of this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
- 4) Final permit period. For the final period of operation the Agency shall develop operating requirements in conformance with 35 Ill. Adm. Code 726.202(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. Based on the trial burn results, the Agency shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification must proceed according to Section 703.280 et seq.
- c) Requirements for trial burn plans. The trial burn plan must include the following information. The Agency, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection.
- 1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes:
- A) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride and ash;
- B) Viscosity or description of the physical form of the feed stream;
- 2) An analysis of each hazardous waste, as fired, including:
- A) An identification of any hazardous organic constituents listed in 35 Ill. Adm. Code 721. Appendix H that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix H that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified as the basis for this exclusion explained. The analysis must be conducted in accordance with analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", U.S. EPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent.
- B) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", U.S. EPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or other equivalent.

- C) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.
- 3) A detailed engineering description of the boiler or industrial furnace, including:
    - A) Manufacturer's name and model number of the boiler or industrial furnace;
    - B) Type of boiler or industrial furnace;
    - C) Maximum design capacity in appropriate units;
    - D) Description of the Feed system for the hazardous waste, and as appropriate, other fuels and industrial furnace feedstocks;
    - E) Capacity of hazardous waste feed system;
    - F) Description of automatic hazardous waste feed cutoff system(s); and
    - G) Description of any pollution control system; and
    - H) Description of stack gas monitoring and any pollution control monitoring systems.
  - 4) A detailed description of sampling and monitoring procedures including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency and sample analysis.
  - 5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the Agency's decision under subsection (b)(2) above.
  - 6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in 35 Ill. Adm. Code 726.204 through 726.207.
  - 7) A description of and planned operating conditions for any emission control equipment that will be used.
  - 8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.
  - 9) Such other information as the Agency finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection and the criteria in subsection (b)(2) above.

- d) Trial burn procedures.
- 1) A trial burn must be conducted to demonstrate conformance with the standards of 35 Ill. Adm. Code 726.104 through 726.107.
  - 2) The Agency shall approve a trial burn plan if the Agency finds that:
    - A) The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of 35 Ill. Adm. Code 726.104 through 726.107.
    - B) The trial burn itself will not present an imminent hazard to human health and the environment;
    - C) The trial burn will help the Agency to determine operating requirements to be specified under 35 Ill. Adm. Code 726.102(e); and
    - D) The information sought in the trial burn cannot reasonably be developed through other means.
  - 3) The applicant shall submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and submit the results of all the determinations required in subsection (c) above. The Agency shall, in the trial burn plan, require that the submission be made within 90 days after completion of the trial burn, or later if the Agency determines that a later date is acceptable.
  - 4) All data collected during any trial burn must be submitted to the Agency following completion of the trial burn.
  - 5) All submissions required by this subsection must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 35 Ill. Adm. Code 702.126.
- e) Special procedures for DRE trial burns. When a DRE trial burn is required under 35 Ill. Adm. Code 726.104, the Agency shall specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Agency based on information including the Agency's estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in 35 Ill. Adm. Code 721.Subpart D, the hazardous waste organic constituent(s) identified in 35 Ill. Adm. Code 721.Appendix G as the basis for listing.
- f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant shall make the following determinations:
- 1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury,

thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

- 2) When a DRE trial burn is required under 35 Ill. Adm. Code 726.204(a):
    - A) A quantitative analysis of the trial POHCs in the hazardous waste feed;
    - B) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and
    - C) A computation of (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 726.204(a).
  - 3) When a trial burn for chlorinated dioxins and furans is required under 35 Ill. Adm. Code 726.204(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard.
  - 4) When a trial burn for PM, metals, or HCl/Chlorine gas is required under 35 Ill. Adm. Code 726.205, 726.206(c) or (d) or 726.207(b)(2) or (c), a quantitative analysis of the stack gas for the concentrations and mass emissions of PM, metals, or HCl and chlorine gas and computations showing conformance with the applicable emission performance standards;
  - 5) When a trial burn for DRE, metals, and HCl/Chlorine gas is required under 35 Ill. Adm. Code 726.204(a), 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine/chloride;
  - 6) An identification of sources of fugitive emissions and their means of control;
  - 7) A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas; and
  - 8) Such other information as the Agency specifies as necessary to ensure that the trial burn will determine compliance with the performance standards 35 Ill. Adm. Code 726.204 through 726.207 and to establish the operating conditions required by 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions under 35 Ill. Adm. Code 726.203, and to establish the operating conditions required by 35 Ill. Adm. Code 726.202(e) as necessary to meet those performance standards.
- g) Interim status boilers and industrial furnaces. for the purpose of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions under 35 Ill. Adm. Code 726.203, applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of 35 Ill. Adm. Code 726.203 shall either prepare and submit a trial

burn plan and perform a trial burn in accordance with the requirements of the Section or submit other information as specified in Section 703.208(a)(6). Applicants that submit a trial burn plan and receive approval before submission of the part B permit application shall complete the trial burn and submit the results specified in subsection (f) above with the part B permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant shall contact the Agency to establish a later date for submission of the part B application or the trial burn results. If the applicant submits a trial burn plan with part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Agency.

BOARD NOTE: Derived from 40 CFR 270.66 (1992), as amended at 58 Fed. Reg. 46051 (Aug. 31, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART F: PERMIT CONDITIONS OR DENIAL

##### Section 703.241 Establishing Permit Conditions

###### a) General conditions:

- 1) In addition to the conditions established under 35 Ill. Adm. Code 702.160(a), each RCRA permit shall include permit conditions necessary to achieve compliance with each of the applicable requirements specified in 35 Ill. Adm. Code 724 and 726 through 728. In satisfying this provision, the Agency may incorporate applicable requirements of 35 Ill. Adm. Code 724 and 726 through 728 directly into the permit or establish other permit conditions that are based on these Parts;
- 2) Each RCRA permit issued under Section 39(d) of the Environmental Protection Act shall contain terms and conditions ~~which~~that the Agency determines are necessary to protect human health and the environment.

~~(Board~~BOARD Note~~OTE: See~~Derived from 270.32(b) (198692), ~~as~~as amended at 51 Fed. Reg. 40636, November 7, 1986).

- b) The conditions specified in ~~the~~is following ~~Section~~Subpart, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, apply to all RCRA permits.

~~(Board~~BOARD Note~~OTE: See~~Derived from 40 CFR ~~122.28~~270.30 preamble (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 703.242 Noncompliance Pursuant to Emergency Permit

In addition to 35 Ill. Adm. Code 702.141 (duty to comply)~~+,~~ the permittee need not comply with the conditions of ~~this~~its permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (See Section 703.221).

~~(Board~~BOARD Note~~OTE: See~~Derived from 40 CFR ~~122.28~~270.30(a) (1992).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 703.244 Notice of Planned Changes (Repealed)

~~In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes), for a new HWM facility, the permittee may not commence treatment, storage or disposal of hazardous waste, and for a facility being modified the permittee may not treat, store or dispose of hazardous waste in the modified portion of the facility, until:~~

- ~~a) The permittee has submitted to the Agency by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit, and~~
- ~~b)
 
  - ~~1) The Agency has inspected the modified or newly constructed facility and finds it is in compliance with the condition of the permit, or~~
  - ~~2) If, within 15 days of the date of submission of the letter in paragraph (a), the permittee has not received notice from the Agency of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage or disposal of hazardous waste.~~~~

~~{Board Note: See 40 CFR 122.28(e).}~~

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 703.245 Twenty-four Hour Reporting

- a) The permittee shall report any non-compliance which may endanger health or the environment orally within 24 hours after the permittee becomes aware of the circumstances, including:
  - 1) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;
  - 2) Any information of a release or discharge of hazardous waste, or of a fire or explosion from a HWM facility, which could threaten the environment or human health outside the facility.
- b) The description of the occurrence and its cause shall include:
  - 1) Name, address, and telephone number of the owner or operator;
  - 2) Name, address, and telephone number of the facility;
  - 3) Date, time, and type of incident;
  - 4) Name and quantity of material(s) involved;
  - 5) The extent of injuries, if any;
  - 6) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

- 7) Estimated quantity and disposition of recovered material that resulted from the incident~~†~~.
- c) A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the non-compliance and its cause; the period of noncompliance including exact dates, ~~and times~~, and, if the noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Agency may waive the five day written notice requirement in favor of a written report within fifteen days.

~~Board~~BOARD Note~~OTE~~: See Derived from 40 CFR 270.30(1)(6).~~†~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.246 Reporting Requirements

The following reports required by 35 Ill. Adm. Code 724 shall be submitted in addition to those required by 35 Ill. Adm. Code 702.152 (reporting requirements):

- a) Manifest discrepancy report: if a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee must submit a letter report including a copy of the manifest to the Agency (See 35 Ill. Adm. Code 724.172)~~†~~.
- b) Unmanifested waste report: if hazardous waste is received without an accompanying manifest, the permittee must be submitted an unmanifested waste report to the Agency within 15 days of receipt of unmanifested waste. (See 35 Ill. Adm. Code 724.176)
- c) Annual report: an annual report must be submitted covering facility activities during the previous calendar year (See 35 Ill. Adm. Code 724.175).

~~Board~~BOARD Note~~OTE~~: See Derived from 40 CFR ~~122.28(e)~~270.30(1)(7) through (1)(9) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 703.247 Anticipated Noncompliance

In addition to 35 Ill. Adm. Code 702.152(b), for a new facility, the permittee shall not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee shall not treat, store, or dispose of hazardous waste in the modified portion of the facility, except as provided in Section 703.280, until:

- a) The permittee has submitted to the Agency by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and
- b) Either:
- 1) The Agency has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or



- 2) Within 15 days after the date of submission of the letter in subsection (a), the permittee has not received notice from the Agency of its intent to inspect, the permittee may commence treatment, storage, or disposal of hazardous waste.

~~Board~~ BOARD Note OTE: Derived from 40 CFR 270.30(±1)(2) (198892), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART G: CHANGES TO PERMITS

##### Section 703.283 Class 3 Modifications

- a) For Class 3 modifications, listed in Appendix A, the permittee shall submit a modification request to the Agency ~~which~~that:
- 1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
  - 2) Identifies that the modification is a Class 3 modification;
  - 3) Explains why the modification is needed; and
  - 4) Provides the applicable information required by Section 703.181 through 703.187, 703.201 through 703.209, 703.221 through 703.225, 703.230, and 703.232.
- b) The permittee shall send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government, as specified in 35 Ill. Adm. Code 705.163(a)(5), and shall publish this notice in a newspaper of general circulation in the county in which the facility is located. This notice must be mailed and published within 7 days before or after the date of submission of the modification request, and the permittee shall provide to the Agency evidence of the mailing and publication. The notice must include:
- 1) Announcement of a 60-day comment period, in accordance with subsection (e) below, and the name and address of an Agency contact to whom comments must be sent;
  - 2) Announcement of the date, time, and place for a public meeting held in accordance with subsection (d) below;
  - 3) Name and telephone number of the permittee's contact person;
  - 4) Name and telephone number of an Agency contact person;
  - 5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and
  - 6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person."
- c) The permittee shall place a copy of the permit modification request and supporting documents in a location accessible to the

public in the vicinity of the permitted facility.

- d) The permittee shall hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) above, and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.
- e) ~~The~~ The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.
- f) After the conclusion of the 60-day comment period, the Agency shall grant or deny the permit modification request, according to the permit modification procedures of 35 Ill. Adm. Code 705. In addition, the Agency shall consider and respond to all significant written comments received during the 60-day comment period.

BOARD NOTE: Derived from 40 CFR 270.42(c) (1992).

(Source: Amended at 18 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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AUTHORITY: Implementing Sections 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (~~Ill. Rev. Stat. 1987, ch. 111 1/2, pars.~~

~~1013, 1022.4 and 1027~~ [415 ILCS 5/13, 22.4, and 27].

SOURCE: Adopted in R81-32, at 47 PCB 95, at 6 Ill. Reg. 12479, effective as noted in ~~35 Ill. Adm. Code 700.106~~ March 3, 1984; amended in R82-19, at 7 Ill. Reg. 14402, effective as noted in ~~35 Ill. Adm. Code 700.106~~ 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 R94-5 at 18 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 by the Illinois Department of Mines and Minerals pursuant to 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 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 ~~which~~ that inject hazardous waste directly into an under ground 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) or the Agency must require remedial action or closure by order (Section 704.122(c)).

~~{Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.31(d) 144.1(g) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 704.103 Identification of Aquifers

During UIC program development, the Agency may identify aquifers and portions of aquifers with are actual or potential sources of drinking water. This identification will provide an aid to the Agency in carrying out its duty to protect all USDWs. An aquifer is a USDW if it fits the definition, even if it has not been "identified." ~~(35 Ill. Adm. Code 702.106)~~

~~{Note~~ BOARD NOTE: See 35 Ill. Adm. Code 702.106. Derived from 40 CFR 122.31(d) 144.1(g) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.104 Exempted Aquifers

The Board may designate "exempted aquifers" using criteria in 35 Ill. Adm. Code 730. Such aquifers are those ~~which~~that would otherwise qualify as "underground sources of drinking water" to be protected, but which have no real potential to be used as drinking water sources. Therefore they are not USDWs. No aquifer is an "exempted aquifer" until it has been affirmatively designated under the procedures in Section 704.123. Aquifers ~~which~~that do not fit the definition of "underground sources of drinking water" are not "exempted aquifers." They are simply not subject to the special protection afforded USDWs. ~~(See 35 Ill. Adm. Code 702.105)~~

~~(Note~~BOARD NOTE: See 35 Ill. Adm. Code 702.105. Derived from 40 CFR ~~122.31(d)~~144.1(g) (1993)).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.105 Specific Inclusions and Exclusions

- a) The following wells are included among those types of injection activities ~~which~~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 used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste;
  - 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 ~~which~~that are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage;
  - 5) Any dug hole ~~which~~that is not used for 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 ~~which~~that have been exempted pursuant to 35 Ill. Adm. Code 730.104.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 122.31(d) 144.1(g)(1) through (g)(3) (1993).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART B: PROHIBITIONS

##### Section 704.121 Prohibition of Unauthorized Injection

~~Any~~ underground injection, ~~is prohibited except as into a well authorized by permit or rule or except as authorized by a permit issued under this part and 35 Ill. Adm. Code 705, as applicable, is prohibited.~~ The construction of any well required to have a permit under this part is prohibited until the permit has been issued.

~~(Note)~~ BOARD NOTE: See Derived from 40 CFR 122.31 144.11 (1993), as amended at 58 Fed. Reg. 63895 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 704.123 Identification of USDW and Exempted Aquifers

- a) The Agency may identify (by narrative description, illustrations, maps or other means) and shall protect, except where exempted under ~~paragraph~~subsection (b) below, as an underground source of drinking water, all aquifers or parts of aquifers ~~which~~that meet the definition of an "underground source of drinking water" in 35 Ill. Adm. Code 702.110. Even if an aquifer has not been specifically identified by the Agency, it is an underground source of drinking water if it meets the definition in 35 Ill. Adm. Code 702.110. Identification of USDWs shall be by Agency criteria pursuant to 35 Ill. Adm. Code 702.106.
- b) Identification of exempted aquifers:
- 1) This subsection corresponds with 40 CFR 144.7(b)(1), a provision relating to federal actions that the Board repealed in R82-19, on July 26, 1983. This statement maintains structural consistency with federal regulations.
  - 2) No designation of an exempted aquifer shall be final until approved by the Administrator as part of the State program.
  - 3) Subsequent to program approval, the Board may, after notice and opportunity for a public hearing, identify additional exempted aquifers.
  - 4) Identification of exempted aquifers shall be by rulemaking pursuant to 35 Ill. Adm. Code 702.105.
- c) For Class III wells, an applicant for a permit ~~which~~that necessitates an aquifer exemption under 35 Ill. Adm. Code 730.104(b)(1) shall furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as map and general description of the mining zone, general

information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method and a timetable of planned development of the mining zone shall be considered by the Board in addition to the information required by Section 704.161(c). Approval of the exempted aquifer shall be by rulemaking pursuant to 35 Ill. Adm. Code 702.105. Rules shall not become final until approved by the Administrator as a program revision.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 122.35144.7 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

##### Section 704.141 Existing Class I and III Wells

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

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 144.21(a) and 144.21(b) (1993), as renumbered and amended at 58 Fed. Reg. 63895 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 704.142 ~~Existing Class IV Wells, not into USDW~~ ~~(Renumbered)~~ Prohibitions on Injection into Wells Authorized by Rule

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

- a) Upon the effective date of an applicable permit denial;
- b) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;
- c) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148;

- d) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149;
- e) Upon a failure to provide alternative financial assurance pursuant to Section 704.150(d)(6);
- f) 48 hours after receipt of a determination by the Agency pursuant to Section 704.150(f)(3) that the well lacks mechanical integrity, unless the Agency orders immediate cessation pursuant to Section 34 of the Act or as ordered by a court pursuant to Section 43 of the Act;
- g) Upon receipt of notification from the Agency that the transferee has not demonstrated financial assurance pursuant to Section 704.150(d); or
- h) For Class I and Class III wells: after March 3, 1989, unless a timely and complete permit application was pending the Agency's decision;
- i) This subsection corresponds with 40 CFR 144.21(c)(9), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with U.S. EPA rules.

BOARD NOTE: Derived from 40 CFR 144.21(c), as added at 58 Fed. Reg. 63895 (Dec. 3, 1993).

(Source: Former Section 704.142 renumbered to Section 702.145, New Section added at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.143 Expiration of Authorization

The authorization provided in Section 704.141 shall expire upon the earliest of the following:

- a) ~~Upon the effective date of the permit or permit denial, if a permit application has been filed in a timely manner as specified in issued pursuant to any of Sections 704.147, 704.161(b)(1), 704.162, or 704.163; or~~

~~BOARD NOTE: Derived from 40 CFR 144.21(a)(1) (1987).~~

- b) ~~If a permit application has not been filed in a timely manner as specified in Section 704.161(b)(1) After plugging and abandonment in accordance with an approved plugging and abandonment plan pursuant to Section 704.150(c) and 35 Ill. Adm. Code 730.110, and upon submission of a plugging and abandonment report pursuant to Section 704.150(k); or~~

~~BOARD NOTE: Derived from 40 CFR 144.21(a)(2) (1987).~~

- c) ~~If the person authorized by rule under Section 704.141 fails to comply with Section 704.144 or 704.148; or Upon conversion in compliance with Section 704.150(j).~~

~~BOARD NOTE: Derived from 40 CFR 144.21(c) and 144.26 (1987).~~

- d) ~~February 2, 1986, unless, at that time, there is a pending UIC permit application for the injection previously authorized by rule.~~



BOARD NOTE: Derived from 40 CFR ~~122.37(a)(1)(i)(G)~~144.21(b) (198193), as renumbered and amended at 58 Fed. Reg. 63895 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.144 Requirements

- a) Any person authorized by rule under Section 704.141 shall comply with the applicable requirements of Section 704.148 and 35 Ill. Adm. Code 730.

~~Board Note~~BOARD NOTE: SeeDerived from 40 CFR 144.21(ee) (1993), as amended and renumbered at 58 Fed. Reg. 63895 (Dec. 3, 1993).→

- b) An owner or operator of a facility authorized by rule shall comply with any operational conditions imposed by the Agency pursuant to Section 704.150(f)(2)(B) or 704.194.
- c) The imposition of operational conditions by the Agency under subsection (b) above and Section 704.150(f)(2)(B) or 704.194 does not require the Agency to require a permit pursuant to Section 704.147 and 704.Subparts D and E.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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 plug or otherwise close the well in a manner acceptable to the Agency.
  - 2) ~~Within 60 days after the effective date of this Section~~By September 27, 1986, the owner and operator of any Class IV well ~~shall~~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 notify the Agency of intent to abandon the well at least 30 days prior to abandonment.

~~Board Note~~BOARD NOTE: SeeDerived from 40 CFR 144.23 (1993).→

(Source: Amended at 18 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.
- 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 or upon proper closure of the well.

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~~BOARD NOTE: ~~See~~Derived from 40 CFR 122.37(a)(4)144.24 (1993), as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993).~~†~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.147 Requiring a Permit

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

- 1) The injection well is not in compliance with any requirement of this ~~§~~Subpart;  
~~Board Note~~BOARD NOTE: Any underground injection ~~which~~that violates any rule under this Subpart is subject to appropriate enforcement action.~~†~~
- 2) The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule;
- 3) The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, which are not contained in this Subpart.
- 4) When the injection well is a Class I or Class III well, in accordance with a schedule established by the Agency pursuant to Section 704.161(b).

b) The Agency may require the owner or operator of any well that is authorized by a rule under this Subpart to apply for an individual or area UIC permit under this subsection only if the owner or operator has been notified in writing that a permit application is required. The injection activities are no longer owner or operator of a well that is authorized by rule is prohibited from injecting into the well:

- 1) Upon the effective date of a ~~permit or~~ a permit denial, or
- 2) Upon the failure of the owner or operator to submit an application in a timely manner as specified in the notice.
- 3) The notice shall include:

- A) ~~A~~ brief statement of the reasons for this decision;
  - B) ~~A~~an application form;
  - C) ~~A~~a statement setting a time for the owner or operator to file the application; and
  - D) ~~A~~a statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this subsection.
- c) Any owner or operator of a well that is authorized by a rule may request to be excluded from the coverage of the rule by applying for an individual or area UIC permit. The owner or operator shall submit an application under Section 704.161 with reasons supporting the request, to the Agency. The Agency may grant any such request.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.25, as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993).†

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.148 Inventory Requirements

~~All~~The owner or operator of an injection wells that is authorized by rule under this Subpart shall submit inventory information to the Agency. ~~Notwithstanding any other provision of this Section, any authorization by rule granted under this Section shall terminate if the person so authorized by rule~~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 ~~(ed)~~ or (e) below.

- a) Contents. As part of the inventory, the owner or operator shall 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~~ 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 shall provide the information listed in subsection (b)(2) below.
  - 1) This Section applies to the following wells:
    - A) Class IV wells;
    - B) The following Class V wells:
      - i) Sand or other backfill wells, 35 Ill. Adm. Code 730.105(e)(8);

- ii) Radioactive waste disposal 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 shall 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) Location of each well or project given by Township, Range, Section, and Quarter-Section;
- B) Date of completion of each well;
- C) Identification and depth of the formation(s) into which each well is injecting;
- D) Total depth of each well;
- E) Casing and cementing record, tubing size, and depth of packer;
- F) Nature of the injected fluids;
- G) Average and maximum injection pressure at the wellhead;
- H) Average and maximum injection rate; and
- I) 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 notification to facilities upon authorization of the state's program. This statement maintains structural consistency with U.S. EPA rules.

d) Deadlines. Except as provided in subsection (e) below:

1) The owners or operators of an injection wells must shall submit inventory information no later than one year after the authorization by rule 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 this time one year of the

effective date of the U.S. EPA UIC program. The owner or operator of a Class IV well shall submit inventory information from any facility with interim status under 35 Ill. Adm. Code 703 is not required no later than 60 days after the effective date of the U.S. EPA 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 of the Illinois UIC program, and who failed to submit inventory information for the well within the time specified in subsection (d) above 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 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 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 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~~ BOARD NOTE: Wells which that were in existence as of ~~February 1~~ March 3, 1984, were required to submit inventory information by ~~February 1~~ 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~~ BOARD NOTE: See Derived from 40 CFR 144.26 (1993), as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.149 Requiring other Information

- a) 1) In addition to the inventory requirements of Section 704.148, the Agency may require the owner or operator of any well authorized by rule under this Subpart to submit information as deemed necessary by the Agency to determine whether a well may be endangering an underground source of drinking water in violation of Section 704.122.
- 2b) Such information requirements may include, but are not limited to:
  - A1) Performance of groundwater monitoring and the periodic submission of reports of such monitoring;
  - B2) An analysis of injected fluids, including periodic submission of such analyses; and

- 3) A description of the geologic strata through and into which injection is taking place.
- 3c) Any request for information under this Section shall be made in writing, and include a brief statement of the reasons for requiring the information. An owner or operator shall submit the information within the time period(s) provided in the notice.
- ~~b) Any authorization by rule under this Subpart automatically terminates for any owner or operator who fails to comply with a request for information under this Section.~~
- d) An owner or operator of an injection well authorized by rule under this Subpart is prohibited from injecting into the well upon failure of the owner or operator to comply with a request for information within the time period specified by the Agency pursuant to subsection (c) above. An owner or operator of a well prohibited from injection under this Section shall not resume injection except under a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 144.27 (1993), as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993). →

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.150 Requirements for Class I and III Wells authorized by Rule

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

- a) The owner or operator shall comply with all applicable requirements of this Subpart and with Sections 704.121, 704.122, 704.124, 704.201, 704.202, and 704.203. Any noncompliance with these requirements constitutes a violation of the Act and the Safe Drinking Water Act and is grounds for enforcement action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under Section 704.163.
- b) Twenty-four hour reporting. The owner or operator shall report any noncompliance ~~which~~that may endanger health or the environment, including:
- 1) Any monitoring or other information ~~which~~that indicates that any contaminant may cause an endangerment to a USDW; ~~or~~
  - 2) Any noncompliance or malfunction of the injection system ~~which~~that may cause fluid migration into or between USDW's; or
  - 3) Any information shall be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission shall also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance; including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken

or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

c) Plugging and abandonment plan.

- 1) The owner or operator shall prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection, temporary intermittent cessation of injection operations is not abandonment.
- 2) Submission of plan.
  - A) The owner or operator shall submit the plan on any forms prescribed by the Agency.
  - B) The owner or operator shall submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i) (i.e., 45 days prior to plugging unless shorter notice is approved).
  - C) The plan shall include the following information:
    - i) The nature and quantity and material to be used in plugging;
    - ii) The location and extent (by depth) of the plugs;
    - iii) Any proposed test or measurement to be made;
    - iv) The amount, size, and location (by depth) of casing to be left in the well;
    - v) The method and location where casing is to be parted; and
    - vi) The estimated cost of plugging the well.
  - D) After a cessation of operations of two years the owner or operator shall plug and abandon the well in accordance with the plan unless the owner or operator:
    - i) Provides notice to the Agency;
    - ii) Describe actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger USDW's during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless the operator obtains a variance from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the Environmental Protection Act.
  - E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and has met the requirements of subsection

(c)(2)(D)(i) and (c)(2)(D)(ii)) shall notify the Agency prior to resuming operation of the well.

d) Financial responsibility.

- 1) The owner or operator or transferor of a Class I or Class III well is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency. ~~The owner or operator shall show evidence of such financial responsibility to the Agency by the submission of a surety bond, or other adequate assurance such as a financial statement, until:~~
  - A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) above and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) below;
  - B) The well has been converted in compliance with the requirements of subsection (j) below; or
  - C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator shall show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.
- 2) The owner or operator was to have submitted such evidence no later than March 3, 1985. Where the ownership or operational control of the well was transferred later than March 3, 1985, the transferee shall submit such evidence no later than the date specified in the notice required pursuant to subsection (1)(2) below.
- 3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.
- 34) The owner or operator of a well injecting hazardous waste shall comply with the financial responsibility requirements of 704.Subpart G.
- 5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for the purpose of financial responsibility must so notify the Agency if the guarantor is named as debtor in any such proceeding.
- 6) In the event of commencement of a proceeding specified in subsection (d)(5) above, an owner or operator that has furnished a financial statement for the purpose of demonstrating financial responsibility under this Section



shall be deemed to be in violation of this subsection until an alternative financial assurance demonstration acceptable to the Agency is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties shall be prohibited from injecting into the well until such alternative financial assurance is provided.

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

ef) Operating requirements.

1) No person shall cause or allow injection between the outermost casing protecting underground sources of drinking water and the well bore.

2) Maintenance of mechanical integrity.

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

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

ii) The well is converted in compliance with subsection (j) below.

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

BOARD NOTE: The issuance of a written notice pursuant to this subsection is an Agency action pursuant to Section 39 of the Act. As such, it is appealable pursuant to Section 40 of the Act.

3) Cessation upon Lack of Mechanical Integrity.

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

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

- C) The Agency may allow plugging of the well in accordance with the requirements of 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.
- D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
- 4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.
- 5) For Class I wells, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator shall fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer shall fill the annulus between tubing and casing with a non-corrosive fluid and maintain a positive pressure on the annulus. For other Class I wells, the owner or operator shall insure that the alternative completion method will reliably provide a comparable level of protection of underground sources of drinking water.
- 36) Injection pressure for Class I and III wells+.
- A) Except during stimulation, the owner or operator shall not exceed an injection pressure at the wellhead ~~which~~that shall be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and
- B) The owner or operator shall not inject at a pressure ~~which~~that will initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water.
- fg) Monitoring Requirements. The owner or operator shall perform the monitoring as described in this subsection. Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited in Table I of 40 CFR 136.3 (198593) or in Appendix III of 40 CFR 261 (198592), or with other methods ~~which~~that have been approved by the Agency.
- 1) The owner or operator of a Class I well shall:
- A) Analyze the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics;
- B) Install and use continuous recording devices to monitor injection pressure, flow rate and volume, and

the pressure on the annulus between the tubing and the long string of casing;

- C) Install and use monitoring wells within the area of review, if required by the Agency, to monitor any migration of fluids into and pressure in the underground sources of drinking water. The type, number, and location of the wells, the parameters to be measured, and the frequency of monitoring must be approved by the Agency.
- 2) This subsection corresponds with 40 CFR 144.28(g)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with U.S. EPA rules.
  - 3) The owner or operator of a Class III injection well shall:
    - A) ~~For Class III wells the owner or operator shall~~ provide to the Agency a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete.
      - i) The owner or operator may request confidentiality pursuant to Sections 7 and 7.1 of the Act, and 35 Ill. Adm. Code 120.
      - ii) If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations ~~which~~ that shall not be exceeded.
      - iii) In such a case the owner or operator shall retain records of the undisclosed concentration and provide them upon request to the Agency as part of any enforcement investigation; ~~and~~
    - B) Monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;
    - C) Monitor the fluid level in the injection zone semi-monthly, where appropriate; and
    - D) All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Agency that manifold monitoring is comparable to individual well monitoring.
- g) Reporting requirements. The owner or operator shall submit reports to the Agency as follows:
    - 1) For Class I wells, quarterly reports on:

- A) The physical, chemical, and other relevant characteristics of the injection fluids;
  - B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;
  - C) The results from groundwater monitoring wells prescribed in subsection (f)(1)(C);
  - D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and
  - E) Any well work over performed during the reported quarter.
- 2) This subsection corresponds with 40 CFR 144.28(h)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with U.S. EPA rules.
- 3) For Class III wells:
- A) Quarterly reporting on all monitoring, as required in subsections (f)(2)(A), (f)(2)(B), and (f)(2)(C);
  - B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter;
  - C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.
- h<sub>i</sub>) Retention of records. The owner or operator shall retain records of all monitoring information, including the following:
- 1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and
  - 2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188. The owner or operator shall retain the records after the three year retention period unless it delivers the records to the Agency or obtains written approval from the Agency to discard the records.
- i<sub>j</sub>) Notice of abandonment. The owner or operator shall notify the Agency at least 45 days before conversion or abandonment of the well.
- j<sub>k</sub>) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator shall submit a report to the Agency. If the quarterly report is due less than 15 days before completion

of plugging, then the report shall be submitted within 60 days. The report shall be certified as accurate by the person who performed the plugging operation. Such report shall consist of either:

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

\*l) Change of ownership.

- 1) The owner or operator transferor of a Class I or Class III well authorized by rule shall notify the Agency of a transfer of ownership or operational control of the well within at least 30 days in advance of such the proposed transfer.
- 2) The notice shall include a written agreement between the transferor and the transferee containing a specific date for transfer of ownership or operational control of the well; and a specific date when the financial responsibility demonstration of subsection (d) above will be met by the transferee.
- 3) The transferee is authorized to inject unless it receives notification from the Agency that the transferee has not demonstrated financial responsibility pursuant to subsection (d) above.

lm) Requirements ~~of~~ for Class I Hazardous Waste Wells. The owner or operator of any Class I well injecting hazardous waste shall comply with Section 704.203. In addition the owner or operator shall properly dispose of, or decontaminate by removing all hazardous waste residues, all injection well equipment.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 144.28 (1993), as amended at 58 Fed. Reg. 63897 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: APPLICATION FOR PERMIT

Section 704.161 Application for Permit; Authorization by Permit

- a) Permit application. ~~Except for owners or operators~~ Unless an underground injection well is authorized by rule under 704.Subpart C, all underground-injection activities, including construction of an injection well, are prohibited unless until the owner or operator is authorized by permit. Persons An owner or operator of a well currently authorized by rule must still apply for a permit as specified in subsection (b) under this Section unless the well authorization was for a Class V well under Section 704.146 the life of the well or project. Rules authorizing well injections Authorization by rule for a well or project for which a permit applications have been submitted shall lapse terminates for a particular the well injection or project upon the effective date of the permit or permit denial for that well injection or project.

Procedures for application, issuance, and administration of emergency permits are found exclusively in Section 704.163. A RCRA permit applying the standards of 35 Ill. Adm. Code 724. Subpart ~~XC~~ will constitute a UIC permit for hazardous waste injection wells for which the technical standards in 35 Ill. Adm. Code ~~72430~~ are not generally appropriate.

BOARD NOTE: Derived from 40 CFR 144.31(a) (198893), as amended at 528 Fed. Reg. ~~46963, 63897~~ (December, ~~103~~, 198793).

- b) Time to apply. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Agency as follows:

- 1) For existing wells:
  - A) Within 180 days after the Agency notifies such person that an application is required; or
  - B) If the waste being injected into the well is a hazardous waste accompanied by a manifest or delivery document, by August 1, 1984; or
  - C) Except as otherwise provided in subsections (b)(1)(A) and (b)(1)(B), by ~~February 1~~March 3, 1986.
- 2) For new injection wells, except new wells in projects authorized under Section 704.141(b) or covered by an existing area permit under Section 704.162(c), a reasonable time before construction is expected to begin.

BOARD NOTE: Derived from 40 CFR 144.31(c) (198893), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993).

- c) Contents of UIC application. The applicant shall demonstrate that the underground injection will not endanger drinking water sources. The form and content of the UIC permit application may be prescribed by the Agency including the materials required by 35 Ill. Adm. Code 702.123.
- d) Information requirements for Class I hazardous waste injection wells.
  - 1) The following information is required for each active Class I hazardous waste injection well at a facility seeking a UIC permit:
    - A) Dates well was operated.
    - B) Specification of all wastes ~~which~~that have been injected into the well, if available.
  - 2) The owner or operator of any facility containing one or more active hazardous waste injection wells must submit all available information pertaining to any release of hazardous waste or constituents from any active hazardous waste injection well at the facility.
  - 3) The owner or operator of any facility containing one or more active Class I hazardous waste injection wells must conduct such preliminary site investigations as are necessary to

determine whether a release is occurring, has occurred, or is likely to have occurred.

BOARD NOTE: Derived from 40 CFR 144.31(g) (198893).

- e) In addition to the materials required by 35 Ill. Adm. Code 702.123*r*;
- 1) The applicant shall identify and submit on a list with the permit application the names and addresses for all owners of record of land within one-quarter mile (401 meters) of the facility boundary. This requirement may be waived by the Agency where the site is located in a populous area such that the requirement would be impracticable.
  - 2) The applicant shall submit a plugging and abandonment plan that meets the requirements of 35 Ill. Adm. Code 730.110.

BOARD NOTE: Derived from 40 CFR 144.31(e)(9) and (e)(10) (198893), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.162 Area Permits

- a) The Agency may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:
  - 1) Described and identified by location in permit application(s), if they are existing wells, except that the Agency may accept a single description of wells with substantially the same characteristics; and
  - 2) Within the same well field, facility site, reservoir, project, or similar unit in the same State; and
  - 3) Operated by a single owner or operator; and
  - 4) Used to inject other than hazardous waste.
- b) Area permits shall specify:
  - 1) The area within which underground injections are authorized, and
  - 2) The requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.
- c) The area permit may authorize the permittee to construct and operate, convert, or plug and abandon new injection wells within the permit area provided:
  - 1) The permittee notifies the Agency at such time as the permit requires;
  - 2) The additional well satisfies the criteria in ~~paragraph subsection (a) above~~ and meets the requirements specified in the permit under ~~paragraph subsection (b) above~~; and

- 3) The cumulative effects of drilling and operation of additional injection wells are considered by the Agency during evaluation of the area permit application and are acceptable to the Agency.
- d) If the Agency determines that any well constructed pursuant to ~~paragraph~~ subsection (c) above does not satisfy any of the requirements of ~~paragraph~~ subsections (c)(1) and (c)(2) above, the Agency may modify the permit under 35 Ill. Adm. Code 702.183 through 702.185, ~~or~~ seek revocation under 35 Ill. Adm. Code 702.186, or take enforcement action. If the Agency determines that cumulative effects are unacceptable, the permit may be modified under 35 Ill. Adm. Code 702.183 through 702.185.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 122.39144.33 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.164 Signatories to Permit Applications

~~For purposes of 35 Ill. Adm. Code 702.126(a)(1), a responsible corporate officer means a principal executive officer of at least the level of vice-president.~~

~~Board Note~~ BOARD NOTE: See 35 Ill. Adm. Code 702.12640 CFR 144.32(a)(i).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### SUBPART E: PERMIT CONDITIONS

#### Section 704.181 Additional Conditions

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

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

BOARD NOTE: Derived from 40 CFR 144.51(a) (198893).

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

BOARD NOTE: Derived from 40 CFR 144.51(j)(2)(ii) (198893), ~~as amended at 53 Fed. Reg. 28147, July 26, 1988.~~



- c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes): except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and
- 1) The permittee has submitted notice of completion of construction to the Agency; and
  - 2) Inspection Review
    - A) The Agency has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or
    - B) The permittee has not received notice from the Agency of its intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in subsection (c)(1), in which case prior inspection or review is waived, and the permittee may commence injection. The Agency shall include in its notice a reasonable time period in which it will inspect the well.

BOARD NOTE: Derived from 40 CFR 144.51(m) (198893).

d) Reporting Noncompliance

- 1) Twenty-four hour reporting. The permittee shall report any noncompliance ~~which~~that may endanger health or the environment, including:
  - A) Any monitoring or other information ~~which~~that indicates that any contaminant may cause an endangerment to a USDW.
  - B) Any noncompliance with a permit condition or malfunction of the injection system ~~which~~that may cause fluid migration into or between USDWs.
- 2) Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates, ~~and times,~~ and, if the noncompliance has not been corrected, the anticipated time is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance of the noncompliance.

BOARD NOTE: Derived from 40 CFR 144.51(1)(6) (198893).

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

BOARD NOTE: Derived from 40 CFR 144.51(n) (198893).

- f) A Class I or Class III permit shall include, and a Class V permit may include, conditions that meet the applicable requirements of 35 Ill. Adm. Code 730.110 to insure that plugging and abandonment

of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of 35 Ill. Adm. Code 730.110, the Agency shall incorporate it into the permit as a permit condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate, the Agency may require the applicant to revise the plan, prescribe conditions meeting the requirements of this subsection, or deny the permit. For purposes of this subsection, temporary or intermittent cessation of injection operations is not abandonment.

BOARD NOTE: Derived from 40 CFR 144.51(o), as added at 58 Fed. Reg. 63898 (Dec. 3, 1993).

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

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

BOARD NOTE: Derived from 40 CFR 144.51(ep) (198893), as renumbered at 58 Fed. Reg. 63898 (Dec. 3, 1993).

- ~~g) Mechanical integrity demonstration. The Agency by written notice may require the owner or operator to comply with a schedule describing when mechanical integrity demonstrations must be made.~~

~~BOARD NOTE: Derived from 40 CFR 144.51(p) (1988).~~

- h) Duty to establish and maintain mechanical integrity.

- 1) The owner or operator of a Class I or Class III well permitted under this Part and 35 Ill. Adm. Code 702 shall establish prior to commencing injection or on a schedule determined by the Agency, and thereafter mechanical integrity, as defined in 35 Ill. Adm. Code 730.108. The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.
- 2) When the Agency determines that a Class I or Class III well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, it shall give written notice of its determination to the owner or operator. Unless the Agency requires immediate cessation, the owner or operator shall cease injection into the well within 48 hours of receipt of the Agency determination. The Agency may allow plugging of the well pursuant to the requirements of 35 Ill. Adm. Code 730.110 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon

written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.

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

BOARD NOTE: Derived from 40 CFR 144.51(g), as added at 58 Fed. Reg. 63898 (Dec. 3, 1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.182 Establishing UIC Permit Conditions

In addition to the conditions established under 35 Ill. Adm. Code 702.160(a) and Section 704.181, each UIC permit shall include conditions meeting the requirements of the following sections, when applicable.

~~(Note~~BOARD NOTE: See~~Derived from 40 CFR 122.42~~144.52(a) preamble (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.183 Construction Requirements

Existing wells shall achieve compliance with construction requirements as set forth in 35 Ill. Adm. Code 730 according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see Section 704.121). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Agency as minor modifications. (See 35 Ill. Adm. Code 702.187.) No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Agency.

~~(Note~~BOARD NOTE: See~~Derived from 40 CFR 122.42(a)~~144.52(a)(1) (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.184 Corrective Action

UIC permits shall require by condition corrective action as set forth in Section 704.193 and 35 Ill. Adm. Code 730.107.

~~(Note~~BOARD NOTE: See~~Derived from 40 CFR 122.42(b)~~144.52(a)(2) (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 704.185 Operation Requirements.

The permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to assure compliance with the 35 Ill. Adm. Code 730 operating requirements.

~~(Note~~BOARD NOTE: ~~See~~Derived from 40 CFR ~~122.21(e)~~144.52(a)(3) (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.186 Hazardous Waste Requirements

UIC permits shall require by condition requirements for wells managing hazardous waste, as set forth in 704.Subpart F.

~~(Note~~BOARD NOTE: ~~See~~Derived from 40 CFR ~~122.42(d)~~144.52(a)(4) (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.189 Financial Responsibility

- a) ~~The permit for any well which does not inject hazardous waste shall require the permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Agency until:~~

- 1) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to Section 704.181(f) and 35 Ill. Adm. Code 730.110, and submitted a plugging and abandonment report pursuant to Section 704.181(g);
- 2) The well has been converted in compliance with the requirements of 704.181(e); or
- 3) The transferor of a permit has received notice from the Agency that the owner or operator receiving transfer of the permit (the new permittee) has demonstrated financial responsibility for the well.

- b) The permittee must show evidence of financial responsibility to the Agency by the submission of a surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Agency. The Agency may on a periodic basis require the holder of a life-time permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary. ~~Where appropriate, the Agency may require a performance bond with the following:~~

- ~~1) A corporate surety such as an insurance or bonding company; or~~
- ~~2) Individual sureties, such as officers or stockholders of a corporation requesting a permit; or~~
- ~~3) Any other lawful security, including real estate, personal property, marketable securities or certificates of deposit.~~

- bc) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of 704.Subpart G.

~~(Board Note~~BOARD NOTE: ~~See~~Derived from 40 CFR 144.52(a)(7) (1993), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.190 Mechanical Integrity

A permit for any Class I or Class III well or injection project ~~which that~~ lacks mechanical integrity shall include, ~~and/or~~ for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Agency under 35 Ill. Adm. Code 730.108 that the well has mechanical integrity.

~~(Note~~BOARD NOTE: ~~See~~Derived from 40 CFR ~~122.42(h)~~144.52(a)(8) (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.191 Additional Conditions

The Agency shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into underground sources of drinking water.

~~(Note~~BOARD NOTE: ~~See~~Derived from 40 CFR ~~122.42(i)~~144.52(a)(9) (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.192 Waiver of Requirements by Agency

- a) When injection does not occur into, through, or above an underground source of drinking water, the Agency may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.
- b) When injection occurs through or above an underground source of drinking water, but the radius of endangering influence when computed under 35 Ill. Adm. Code 730.106(a) is smaller or equal to the radius of the well, the Agency may authorize a well or project with less stringent requirements for operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an underground source of drinking water.
- c) When reducing requirements under ~~paragraph~~subsection (a) or (b) above, the Agency shall prepare a fact sheet under 35 Ill. Adm. Code 705.143 explaining the reasons for the action.

~~(Note~~BOARD NOTE: ~~See~~Derived from 40 CFR ~~122.43~~144.16 (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.193 Corrective Action

- a) Coverage. Applicants for Class I or Class III injection well permits shall identify the location of all known wells within the injection well's area of review ~~which that~~ penetrate the injection zone. For such wells ~~which that~~ are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water ("corrective action"). Where the plan is adequate, the Agency shall incorporate it into the permit as a condition. Where the Agency's

review of an application indicates that the permittee's plan is inadequate (based on the factors in 35 Ill. Adm. Code 730.107), the Agency shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under ~~paragraph~~ subsection (b) below, or deny the application.

b) Requirements

- 1) Existing Injection Wells. Any permit issued for an existing injection well requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under ~~paragraph~~ subsection (a) above to be completed as soon as possible.
- 2) New injection wells. No permit for a new injection well may authorize injection until all required corrective action has been taken.
- 3) Injection pressure limitation. The Agency may require as a permit condition that injection pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule as long as all other required corrective action has been taken.
- 4) Class III wells only. When setting corrective action requirements the Agency shall consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in 35 Ill. Adm. Code 730.133(b) shall be designed to verify the validity of such determinations.

~~(Note~~ BOARD NOTE: See Derived from 40 CFR 122.44144.55 (1993).~~)~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.194 Maintenance and Submission of Records

- a) The Agency may require as a condition to any UIC permit, or may require by written notice to the owner or operator of a facility authorized by rule, that the owner or operator of the injection well shall establish and maintain such records, make such reports, conduct such monitoring, and provide such other information as the Agency deems necessary to determine whether the owner or operator has acted or is acting in compliance with the Act and Board regulations.
- b) Agency action under this Section is not subject to the limitations to permit modification for cause set forth in Section 704.261. However, any permit modifications not wholly based on this Section shall be subject to the limitations of Section 704.261.

BOARD NOTE: Derived from 40 CFR 144.17, as added at 58 Fed. Reg. 63895 (Dec. 3, 1993). An Agency written notice to the owner or operator of a facility authorized by rule is an Agency action pursuant to Section 39 of the Act. As such, it is appealable pursuant to Section 40 of the Act.

(Source: Added at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

##### Section 704.203 Requirements

In addition to requiring compliance with the applicable requirements of this Part, and 35 Ill. Adm. Code 730, the owner or operator of any facility described in Section 704.202 shall comply with the following:

- a) Notification. The owner or operator shall comply with the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).
- b) Identification number. The owner or operator shall comply with the requirements of 35 Ill. Adm. Code 724.111 and 40 CFR 264.11 (198592).
- c) Manifest system. The owner or operator shall comply with the applicable recordkeeping and reporting requirements for manifested wastes in 35 Ill. Adm. Code 724.171 and 40 CFR 264.71 (198592).
- d) Manifest discrepancies. The owner or operator shall comply with 35 Ill. Adm. Code 724.172 and 40 CFR 264.72 (198592).
- e) Operating record. The owner or operator shall comply with 35 Ill. Adm. Code 724.173(a), (b)(1), and (b)(2) and 40 CFR 264.73(a), (b)(1) and (b)(2) (198592), as amended at 57 Fed. Reg. 3487 (Jan. 29, 1992).
- f) Annual report. The owner or operator shall comply with 35 Ill. Adm. Code 724.175 and 40 CFR 264.75 (198592).
- g) Unmanifested waste report. The owner or operator shall comply with 35 Ill. Adm. Code 724.176 and 40 CFR 264.76 (198592).
- h) Personnel training. The owner or operator shall comply with the applicable personnel training requirements of 35 Ill. Adm. Code 724.116 and 40 CFR 264.16 (198592).
- i) Certification of closure. When abandonment is completed, the owner or operator must submit to the Agency certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the specifications in Section 704.188.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 144.14(c) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I HAZARDOUS WASTE INJECTION WELLS

##### Section 704.213 Financial Assurance for Plugging and Abandonment

An owner or operator of each facility must establish "financial assurance" for the plugging and abandonment of each existing and new Class I hazardous waste injection well. The owner or operator must choose ~~from one of~~ the following financial assurance mechanisms:

- a) Trust fund (Section 704.214);
- b) Surety bond guaranteeing payment (Section 704.215);
- c) Surety bond guaranteeing performance (Section 704.216);
- d) Letter of credit (Section 704.217);
- e) Insurance (Section 704.218); or
- f) Financial test and corporate guarantee (Section 704.219);

~~(Board Note~~ BOARD NOTE: See Derived from 40 CFR 144.63 preamble (1993).)

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART H: ISSUED PERMITS

##### Section 704.261 Modification

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (See 35 Ill. Adm. Code 702.140 through 702.152), receives a request for modification or reissuance, or conducts a review of the permit file), it may determine whether or not one or more of the causes listed in Sections 704.262 and 704.263 for modification or reissuance exist. If cause exists, the Agency may modify or reissue the permit accordingly, subject to the limitations of Section 704.263 and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If cause does not exist under Sections 704.261 through 704.264, the Agency shall not modify or reissue the permit. If a permit modification satisfies the criteria in Section 704.264 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 followed.

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.183. Derived from 40 CFR 144.39 preamble (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 704.262 Causes for Modification

- a) The following are causes for modification of permits. For Class I hazardous waste injection wells or Class III wells, the following may be causes for reissuance as well as modification. For all other wells the following may be cause for reissuance as well as modification when the permittee requests or agrees:
  - 1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity ~~which~~ that occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.



- 2) Information. Permits other than for UIC Class III wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For UIC area permits this cause shall include any information indicating that cumulative effects on the environment are unacceptable.
  - 3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. Permits other than for UIC Class I hazardous wells or Class III wells may be modified during their terms for this cause only as follows:
    - A) The Agency may modify the permit when standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.
    - B) The permittee may request modification when:
      - i) The permit condition requested to be modified was based on a promulgated 35 Ill. Adm. Code 730 regulation; and
      - ii) The Board has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and
      - iii) A permittee requests modification in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days after Illinois Register notice of the rulemaking on which the request is based.
    - C) For judicial decisions, a court of competent jurisdiction has remanded and stayed Board promulgated regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based or if a request is filed by the permittee in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days of judicial remand.
  - 4) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.
- b) The following are causes to modify or, alternatively, reissue a permit:
- 1) The Agency has received notification (as required in the permit, see Section 702.152(c)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Section 702.182(b)), but will not be reissued after the effective date of the transfer except upon the request of the new permittee.

- 2) A determination that the waste being injected is a hazardous waste as defined in 35 Ill. Adm. Code 721.103 either because the definition has been revised, or because a previous determination has been changed.

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.184. Derived from 40 CFR 144.39, ~~as amended at 53 Fed. Reg. 28147, July 26, 1988 (1993).~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.263 Well Siting

Suitability of the well location will not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance or unless required under the Environmental Protection Act. However, certain modifications may require site location suitability approval pursuant to Section 39.2 of the Environmental Protection Act.

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.185. Derived from 40 CFR 144.39(c) (198893).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

SUBCHAPTER b: PERMITS

PART 705  
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AUTHORITY: Implementing Sections 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (~~Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 1013, 1022.4 and 1027~~)[415 ILCS 5/13, 22.4 and 27].

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective as noted in 35 Ill. Adm. Code 700.106 May 17, 1982; amended in R82-19, at 7 Ill. Reg. 14352, effective as noted in 35 Ill. Adm. Code 700.106 May 17, 1982; amended in R84-9, at 9 Ill. Reg. 11894, effective July 24, 1985; amended in R89-2 at 14 Ill. Reg. 3082, effective February 20, 1990; amended in R94-5 at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

Section 705.101 Scope and Applicability

- a) ~~This Part 705~~ sets forth procedures ~~which~~ that the Illinois Environmental Protection Agency (Agency) must follow in issuing RCRA (Resource Conservation and Recovery Act) and UIC (Underground Injection Control) permits. ~~This Part 705~~ also specifies rules on effective dates of permits and stays of contested permit conditions.
- b) ~~This Part 705~~ provides for a public comment period and a hearing in some cases. The permit applicant and any other participants must raise issues during this proceeding to preserve issues for effective Board review, ~~(as required by Section 705.183)~~.
- c) Board review of permit issuance or denial is pursuant to 35 Ill. Adm. Code 105. Board review is restricted to the record which was

before the Agency when the permit was issued, ~~(as required by Sections 40(a) and 40(b) of the Environmental Protection Act).~~

- d) 35 Ill. Adm. Code 702, 703, and 704 contain rules on UIC and RCRA permit applications, permit conditions, and related matters.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.102 Definitions

The definitions in 35 Ill. Adm. Code 702 apply to this Part.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 124.2 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.103 Computation of Time

Any time period allowance schedule or requirement provided under this Part shall be computed in accordance with 35 Ill. Adm. Code 101.105.

BOARD NOTE: This Section corresponds with 40 CFR 124.20 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### SUBPART B: PERMIT APPLICATIONS

#### Section 705.121 Permit Application

- a) Any person who requires a permit under the RCRA (Resource Conservation and Recovery Act) or UIC (Underground Injection Control) program shall complete, sign, and submit to the Agency an application for each permit required under 35 Ill. Adm. Code 703.121 ~~and~~ 35 Ill. Adm. Code 704.101 through 704.105, as appropriate. Applications are not required for underground injections authorized by rule under ~~Subpart G of~~ 35 Ill. Adm. Code 704. Subpart C.
- b) The Agency shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit.
- c) Permit applications must comply with the signature and certification requirements of 35 Ill. Adm. Code 702.126.

~~(Board Note)~~ BOARD NOTE: See Derived from 40 CFR 124.3(a) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.122 Completeness

- a) The Agency shall review ~~for completeness~~ every application for a RCRA or UIC permit for completeness.
- b) Time limitations:
- 1) Each application for a permit submitted by a new HWM (hazardous waste management) facility or new UIC injection well shall be reviewed for completeness within 30 days of its receipt.

- 2) Each application for a permit by an existing HWM facility (both Parts A and B of the application) or existing injection well shall be reviewed for completeness within 60 days of receipt.
- c) Upon completing this review, the Agency shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Agency shall list the information necessary to make the application complete.
- d) When the application is for an existing HWM (Hazardous Waste Management) facility or an existing UIC injection well, the Agency shall also specify in the notice of deficiency a date for submitting the necessary information.
- e) The Agency shall, within the time limitations specified in ~~paragraph~~ subsection (b) above, notify the applicant whether additional information submitted in response to a notice of deficiency is deemed sufficient or insufficient to complete the application.
- f) After the application is deemed completed, the Agency may request additional information from an applicant only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.3(c) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.123 Incomplete Applications

If an applicant fails or refuses to correct deficiencies in ~~the~~ its permit application, the ~~permit~~ Agency may either ~~be denied~~ or issued the permit, on the basis of the information available to the Agency, after public notice has been given pursuant to Section 705.161(a)(1); if warranted, appropriate enforcement actions may be taken.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.3(d) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.124 Site Visit

In the event that the Agency decides, pursuant to Section 4(d) of the Act, that a site visit is necessary for any reason in conjunction with the processing of an application, the failure or refusal by the applicant to permit such an Agency site visit shall be deemed a failure or refusal to correct application deficiencies for purposes of Section 705.123.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.3(e) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.125 Effective Date

The effective date of ~~a~~ permit application is the date on which the Agency notifies the applicant that the application is complete, as provided in Section 705.122.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.3(f) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.126 Decision Schedule

For each permit application from a major new HWM facility or major new UIC injection well, the Agency shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Agency intends to:

- a) Prepare a draft permit pursuant to 705.Subpart C;
- b) Give public notice pursuant to 705.Subpart D;
- c) Complete the public comment period, including any public hearing pursuant to 705.Subpart E; and
- d) Issue a final permit pursuant to 705.Subpart F.

~~{Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.3(g) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.127 Consolidation of Permit Processing

Whenever a facility or activity requires more than one permit under more than one ~~p~~Part of the Board's rules and regulations, ~~processing of two or more applications for these permits the Agency may, in its discretion and consistent the individual requirements for each permit, be consolidated the processing of those permit applications~~ in accordance with Agency procedures.

BOARD NOTE: Derived from 40 CFR 124.4 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### SUBPART C: APPLICATION REVIEW

#### Section 705.141 Draft Permits

- a) Once an application for permit is complete, the Agency shall tentatively decide whether to prepare a draft permit or to deny the application.
- b) If the Agency tentatively decides to deny the permit application, it shall issue a notice of intent to deny. A notice of intent to deny shall be subject to all of the procedural requirements applicable to draft permits under ~~paragraph~~subsection (d) below. If the Agency's final decision ~~{made pursuant to Section 705.201}~~ is that the tentative decision to deny the permit application was incorrect, it shall withdraw the notice of intent to deny and proceed to prepare a draft permit under ~~paragraph~~subsection (c) below.
- c) If the Agency decides to prepare a draft permit, it shall prepare a draft permit that contains the following information:
  - 1) All conditions under 35 Ill. Adm. Code 702.140 through 702.152 and 35 Ill. Adm. Code 702.160;
  - 2) All compliance schedules under 35 Ill. Adm. Code 702.162 and 702.163;

3) All monitoring requirements under 35 Ill. Adm. Code 702.164;

4) ~~For~~ Program-specific permit conditions:

A) RCRA permits, standards for treatment, storage, and/or disposal and other permit conditions under 35 Ill. Adm. Code 703.241 ~~et seq.~~ Subpart F;

B) UIC permits, permit conditions under 35 Ill. Adm. Code 704.182 Subpart E.

d) All draft permits and notices of intent to deny prepared under this ~~§~~Section shall be accompanied by a statement of basis, ~~under~~ Section 705.142, or fact sheet, ~~under~~ Section 705.143, and shall be based on the administrative record ~~under~~ Section 705.144, publicly noticed ~~under~~ Section 705.181, and made available for public comment ~~under~~ Section 705.181. The Agency shall give notice of opportunity for a public hearing ~~under~~ Section 705.182, issue a final decision ~~under~~ Section 705.201, and respond to comments ~~under~~ Section 705.210. An appeal may be taken under Section 705.212.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.6 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.142 Statement of Basis

The Agency shall prepare a statement of basis for every draft permit or notice of intent to deny for which a fact sheet under Section 705.143 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, ~~on request,~~ to any other person who requests it.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.7 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.144 Administrative Record for Draft Permits or Notices of Intent to Deny

a) The provisions of a draft permit or notice of intent to deny the application shall be based on the administrative record, as defined in this §Section.

b) The administrative record shall consist of:

1) The application and any supporting data furnished by the applicant;

2) The draft permit or notice of intent to deny the application;

3) The statement of basis, ~~as provided in~~ Section 705.142, or fact sheet, ~~as provided in~~ Section 705.143;

4) All documents cited in the statement of basis or fact sheet; and

- 5) Other documents contained in the supporting file for the draft permit or notice of intent to deny; and
- 6) An index of all documents or items included in the record, by location in the record.
- c) Published material that is generally available, and which is included in the administrative record under ~~paragraph~~subsection (b) above, need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis or the fact sheet.
- d) This ~~section~~ applies to all draft permits or notices of intent to deny for which public notice ~~is~~was first given under 705. Subpart D after the effective date of these regulations March 3, 1984, for UIC permits, or January 31, 1986, for RCRA permits.

~~Board Note~~BOARD NOTE: See Derived from 40 CFR 124.9 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART D: PUBLIC NOTICE

##### Section 705.161 When Public Notice Must Be Given

- a) The Agency shall give public notice ~~that~~whenever any of the following actions have occurred:
  - 1) A permit application has been tentatively denied under Section 705.141(b);
  - 2) A draft permit has been prepared under Section 705.141(c); and
  - 3) A hearing has been scheduled under Section 705.182.
- b) No public notice is required when a request for permit modification is denied under Section 705.128(b). Written notice of ~~that~~any such denial shall be given to the requester and to the permittee.
- c) Public notices may describe more than one permit or permit action.

~~Board Note~~BOARD NOTE: See Derived from 40 CFR 124.10(a) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 705.162 Timing of Public Notice

- a) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under Section 705.161 shall allow:
  - 1) For UIC permits, at least 30 days for public comment;
  - 2) For RCRA permits, at least 45 days for public comment.
- b) Public notice of a public hearing shall be given:
  - 1) For UIC permits at least 30 days before the hearing;



- 2) For RCRA permits, at least 45 days before the hearing.
- c) Public notice of a hearing may be given at the same time as public notice of the draft permit, and the two notices may be combined.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.10(b) (1993).~~†~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.164 Contents of Public Notice

- a) All public notices issued under this Part shall contain the following minimum information:
- 1) ~~N~~The name and address of the Agency;
  - 2) ~~N~~The name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
  - 3) A brief description of the business conducted at the facility or the activity described in the permit application or the draft permit;
  - 4) ~~N~~The name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, a copy of the statement of basis or fact sheet, and a copy of the permit application; ~~and~~
  - 5) A brief description of the comment procedures required by Sections 705.181 and 705.182; ~~and~~ the time and place of any hearing that will be held, including a statement of the procedures to request a hearing (unless a hearing has already been scheduled); and the other procedures by which the public may participate in the final permit decision; ~~†~~
  - 6) The location of the administrative record required by Section 705.144, the time at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record; and
  - 7) Any additional information that the Agency considered necessary or proper.
- b) Public notices for hearings. In addition to the general public notice described in Section 705.164(a), the public notice of a hearing under Section 705.182 shall contain the following information:
- 1) Reference to the date of previous public notices relating to the permit; ~~†~~
  - 2) ~~D~~The date, time, and place of the hearing; and
  - 3) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.10(d) (1993).~~†~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.165 Distribution of Other Materials

In addition to the general public notice described in Section 705.164(a), all persons identified in Section 705.163(a) shall be mailed a copy of the fact sheet or statement of basis, the permit application (if any), and the draft permit (if any).

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.10(e) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: PUBLIC COMMENT

Section 705.181 Public Comments and Requests for Public Hearings

During the public comment period provided under 705.Subpart D, any interested person may submit written comments on the draft permit to the Agency, ~~written comments on the draft permit and any interested person may request a public hearing, if no hearing has already been scheduled.~~ A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. The Agency shall consider all comments shall be considered in making the final decision and shall ~~be answered,~~ as provided in Section 705.210.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.11 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.182 Public Hearings

a) When the Agency holds public hearings.

- 1) The Agency shall hold a public hearing whenever it finds, ~~on the basis of requests,~~ a significant degree of public interest in a draft permit ~~(s)~~ on the basis of requests.
- 2) The Agency also may hold a public hearing at its discretion, whenever such a hearing might clarify one or more issues involved in the permit decision.
- 3) For RCRA permits only:
  - A) The Agency shall hold a public hearing whenever it receives, ~~within 45 days of public notice under Section 705.162(a),~~ written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under Section 705.162(a);
  - B) Whenever possible, the Agency shall schedule the hearing at a location convenient to the ~~nearest~~ nearest population center nearest to the proposed facility.
- 4) Public notice of the hearing shall be given as specified in Section 705.162.

- b) Whenever a public hearing will be held, the Agency shall designate a hearing officer ~~for the hearing~~ who shall be responsible for its scheduling and orderly conduct. Conduct of the hearing shall be in accordance with Agency rules and procedures, and the hearing

shall be held in the county in which the HWM or UIC facility, or proposed HWM or UIC facility is located.

- c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set by the hearing officer upon the time allowed at hearing for oral statements, and the submission of statements in writing may be required. Written statements shall be accepted until the close of the public comment period. The public comment period under 705.Subpart D shall automatically be extended to a date not later than 30 days after the close of any public hearing under this section. The hearing officer may, upon request, extend the comment period by not more than 30 days if reasonably necessary to assure all parties sufficient opportunity to submit comments.
- d) A tape recording or written transcript of the hearing shall be made available to the public for inspection during regular business hours at the Agency's office in Springfield. Copies of such recording or transcription shall be made available on request, upon payment of reasonable costs of duplication pursuant to applicable Agency rules and procedures.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.12 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.183 Obligation to Raise Issues and Provide Information

All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the Agency's tentative decision to deny an application or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under 705.Subpart D. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of ~~state~~ or ~~federal~~ statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the Agency, as directed by the Agency.

~~Board Note~~ BOARD NOTE: See Derived from 40 CFR 124.13 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 705.184 Reopening of Public Comment Period

- a) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Agency may take one or more of the following actions:
- 1) Prepare a new draft permit, appropriately modified, under Section 705.141;
  - 2) Prepare a revised statement of basis, a fact sheet, or a revised fact sheet and reopen the comment period under ~~paragraph~~ subsection (a)(3) below;

- 3) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.
- b) In the alternative, the Agency may reverse its tentative decision to prepare a draft permit or issue a notice of intent to deny ~~{pursuant to Section 705.141(b) and/or 705.141(ec)}~~.
- c) In the alternative, the Agency may revise the draft permit in response to comments and issue a final permit pursuant to Section 705.201.
- d) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under 705.Subpart D shall define the scope of the reopening.
- e) Public notice of any of the above actions shall be issued under 705.Subpart D.

~~{Board Note}~~ BOARD NOTE: See Derived from 40 CFR 124.14 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART F: PERMIT ISSUANCE

##### Section 705.201 Final Permit Decision

- a) After the close of the public comment period under 705.Subpart D or Section 705.182, the Agency shall issue a final permit decision.
- b) A final permit decision shall consist of either:
- 1) A letter of denial that includes each of the following:
    - A) The sections of the appropriate Act ~~which~~that may be violated if the permit were granted;
    - B) The provisions of Board regulations ~~which~~that may be violated if the permit were granted;
    - C) The specific type of information, if any, ~~which~~that the Agency deems the applicant did not provide with its application; and
    - D) A statement of specific reasons why the Act and the regulations might not be met if the permit were granted;
  - 2) Or issuance of a permit.
- c) On the date of the final permit decision, the Agency shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing an Agency decision on a RCRA or UIC permit decision.
- d) A final permit shall become effective 35 days after the final permit decision made under paragraph subsection (a) above, unless:

- 1) A later effective date is specified in the permit; or
- 2) Review is requested under Section 705.212, in which case the effective date and conditions will be stayed as provided in Sections 705.202 through 705.205.

BOARD NOTE: This Section corresponds with and is partially derived from 40 CFR 124.15 (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.202 ~~Stays in General~~ upon Timely Application for Renewal

35 Ill. Adm. Code 702.125 provides for continuation of expiring RCRA and UIC permits where a timely application has been filed. ~~In such a case, the Board intends that, in such a case, unless it orders otherwise,~~ the old permit should expire at the same time the new permit becomes effective unless the Board orders otherwise.

BOARD NOTE: Derived in part from 40 CFR 124.16(a)(2) and (c)(2) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.203 ~~Stays for New Applications or upon Untimely Application for~~ Renewal

a) This ~~Section~~ applies to:

- 1) New HWM facilities and new injection wells ~~which~~that:
  - A) Have never had a RCRA or UIC permit; or
  - B) Had a RCRA or UIC permit ~~which~~that expired without a timely application for renewal; and
- 2) Existing HWM facilities and existing HWM injection wells ~~which~~that:
  - A) Have never had a RCRA or UIC permit and have failed to file a timely first application; or
  - B) Had a RCRA or UIC permit ~~which~~that expired without a timely application for renewal.

b) If an appeal to the Board is filed, the effective date of the permit and all conditions are stayed until the appeal is concluded, unless the Board orders otherwise. During the appeal, the applicant is without a permit unless the Board orders otherwise.

BOARD NOTE: Derived in part from 40 CFR 124.16(a)(1) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.204 ~~Stays for~~upon Reapplications and/or for Modifications

- a) This ~~Section~~ applies to new or existing HWM facilities and UIC wells ~~which~~that have a RCRA or UIC permit and which make a timely application for renewal or request for modification.
- b) If an appeal to the Board is filed, the effective date of the permit and all conditions are stayed until the appeal is concluded

or until the Board orders otherwise. During the appeal, the applicant must comply with the conditions of the expired permit, unless the Board orders otherwise (35 Ill. Adm. Code 702.125).

- c) The applicant must comply with the conditions of the existing permit during a modification proceeding under Section 705.128.

BOARD NOTE: Derived from 40 CFR 124.16(c)(1) (1993).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.205 ~~Stays~~ Following Interim Status

- a) This ~~section~~ applies to any facility ~~which~~that has RCRA interim status or permit by rule, or a UIC permit by rule, and ~~which~~that makes a timely application for its first RCRA or UIC permit.
- b) If an appeal to the Board is filed, the effective date of the permit and all conditions are stayed until the appeal is concluded, unless the Board orders otherwise. During the appeal, the applicant must comply with the rules applicable to facilities with RCRA interim status, or permit by rule (35 Ill. Adm. Code 703 Subpart C) or UIC permit by rule (35 Ill. Adm. Code 703, Subpart C ~~or 704, Subpart G~~).

BOARD NOTE: Derived from implication from 40 CFR 124.15(b) (1993); 144.31(a) (1993), as amended at 58 Fed. Reg. 63897 (Dec. 3, 1993); and 270.60 and 270.63(a) (1992).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.210 Agency Response to Comments

- a) At the time that any final permit decision is issued under Section 705.201, the Agency shall issue a response to comments. This response shall:
- 1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
  - 2) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period.
- b) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in Section 705.211. If new points are raised or new material supplied during the public comment period, the Agency may document its response to those matters by adding new materials to the administrative record.
- c) The response to ~~te~~ comments shall be available to the public in accordance with Agency rules and procedures for access to Agency documents.

~~(Board~~BOARD NOTE: SeeDerived in part from 40 CFR 124.17 (1993).~~)+~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.211 Administrative Record for Final Permits or Letters of Denial

- a) The Agency shall base final permit decisions under Section 705.201 on the administrative record defined in this ~~§~~Section.
- b) The administrative record for any final permit or letter of denial shall consist of the administrative record for the draft permit and:
  - 1) All comments received during the public comment period provided under 705.201, Subpart D (including any extension or reopening under Section 705.184);
  - 2) The tape or transcript of any hearing held under Section 705.182;
  - 3) Any written materials submitted at such a hearing;
  - 4) The response to comments required by Section 705.210 and any new material placed in the record under that section;
  - 5) Other documents contained in the supporting file for the permit; and
  - 6) The final permit or letter of denial.
- c) The additional documents required under ~~paragraph~~subsection (b) above should be added to the record as soon as possible after their receipt or publication by the Agency. The record shall be completed on the date which the final permit or letter of denial is issued.
- d) This ~~§~~Section applies to all final RCRA permits, UIC permits, and letters of denial, when the draft permit was subject to the administrative record requirements of Section 705.144.

~~Board~~NOTE: ~~See~~Derived from 40 CFR 124.18 (1993).~~†~~

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 705.212 Appeal of Agency Permit Determinations

- a) Within 35 days after a RCRA or UIC final permit decision notification has been issued under Section 705.201, the applicant may petition the Board to contest the final permit decision. If the applicant failed to file comments or failed to participate in the public hearing on the draft permit he or she may petition for administrative review only to the extent of the change from the draft to the final permit decision. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required in this part; in all other respects, the petition shall comport with the requirements for permit appeals generally, as set forth in 35 Ill. Adm. Code 105. Nothing in this paragraph is intended to restrict appeal rights under Section 40(b) of the Environmental Protection Act.
- b) Within 35 days after a final permit decision notification has been issued under Section 705.201 for a RCRA permit for a hazardous waste disposal site, any person who filed comments on that draft permit or participated in the public hearing may petition the Board to contest the issuance of the permit. Any person who failed to file comments or failed to participate in the public

hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required in this Part; in all other respects, the petition shall comport with the requirements for permit appeals generally, as set forth in 35 Ill. Adm. Code 105.

- c) Except as otherwise provided in this Part, the provisions of 35 Ill. Adm. Code 105 generally shall govern appeals of RCRA and UIC permits under this section; references in the procedural rules to the Agency permit application record shall mean, for purposes of this section, the administrative record for the final permit or letter of denial, as defined in Section 705.211.
- d) An appeal under ~~paragraphs~~ subsection (a) or (b) above is a prerequisite to the seeking of judicial review of the final agency action under the Administrative Review Act ~~Law (Ill. Rev. Stat. 1981, ch. 110, par. 264)~~ [735 ILCS 5/Art. III].

BOARD NOTE: This Section corresponds with 40 CFR 124.19 (1993).

(Source: Amended at 18 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

SUBPART A: GENERAL

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730.101	Applicability, Scope and Effective Date
730.102	Laws Authorizing Regulations
730.103	Definitions
730.104	Criteria for Exempted Aquifers
730.105	Classification of Injection Wells
730.106	Area of Review
730.107	Corrective Action
730.108	Mechanical Integrity
730.109	Criteria for Establishing Permitting Priorities
730.110	Plugging and Abandoning Class I and III Wells

SUBPART B: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS I NON-HAZARDOUS WELLS

Section	
730.111	Applicability
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TO CLASS II WELLS

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SUBPART D: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS III WELLS

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SUBPART F: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS V INJECTION WELLS

Section	
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SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO CLASS I  
HAZARDOUS WELLS

Section	
730.161	Applicability and Definitions
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730.164	Correction Action for Wells in the Area of Review
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730.166	Logging, Sampling, and Testing Prior to New Well Operation
730.167	Operating Requirements
730.168	Testing and Monitoring Requirements
730.169	Reporting Requirements
730.170	Information to be Evaluated by the Director
730.171	Closure
730.172	Post-Closure Care
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 (~~Ill. Rev. Stat. 1991 ch. 111, pars. 1013, 1022.4 and 1027~~ [415 ILCS 5/13, 5/22.4, and 5/27]).

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 127479, effective as noted in ~~35 Ill. Adm. Code 700.106~~ March 3, 1984; amended in R82-19, 53 PCB 131 at 7 Ill. Reg. 14426 effective as noted in ~~35 Ill. Adm. Code 700.106~~ 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. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

Section 730.106 Area of Review

The area of review for each injection well or each field, project, or area in Illinois shall be determined according to either ~~paragraph~~ subsection (a) or (b) below. The Agency may solicit input from the owners or operators of injection wells within Illinois as to which method is most appropriate for each geographic area or field.

- a) Zone of endangering influence.
  - 1) The zone of endangering influence shall be:
    - A) In the case of an application for a well permit under 35 Ill. Adm. Code 704.161, that area the radius of which is the lateral distance in which the pressures

in the injection zone may cause the migration of the injection ~~and~~/or formation fluid into an underground source of drinking water; or

- B) In the case of an application for an area permit under 35 Ill. Adm. Code 704.162, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection ~~and~~/or formation fluid into an underground source of drinking water.
- 2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified Theis equation illustrates one form ~~which that~~ the mathematical model may take.

$$r = \frac{(2.25 KHt)^{1/2}}{(S \cdot 10^x)^{1/2}}$$

$$r = \sqrt{\frac{2.25KHt}{S \times 10^x}}$$

where:

$$x = \frac{4 \pi K H (W - BG)}{2.3 Q}$$

$$x = \frac{4 \pi KH (h_w - h_{bo} \times S_b G_b)}{2.3 Q}$$

$r$  = Radius of endangering influence from injection well (length)

$Kk$  = Hydraulic conductivity of the injection zone (length/time)

$H$  = Thickness of the injection zone (length)

$t$  = Time of injection (time)

$S$  = Storage coefficient (dimensionless)

$Q$  = Injection rate (volume/time)

$h_{bo}$  = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost underground source of drinking water

$W_{h_w}$  = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water

$G_{s_g}$  = Specific gravity of fluid in the injection zone (dimensionless)

$P_{i\pi}$  = 3.142159 (dimensionless)

- 3) The above equation is based on the following assumptions:
- A) The injection zone is homogenous and isotropic;
  - B) The injection zone has infinite area extent;
  - C) The injection well penetrates the entire thickness of the injection zone;
  - D) The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and
  - E) The emplacement of fluid into the injection zone creates instantaneous increase in pressure.

b) Fixed Radius.

- 1) In the case of an application for a well permit under 35 Ill. Adm. Code 704.161 a fixed radius around the well of not less than 402 meters (1/4 mile) may be used.
- 2) In the case of an application for an area permit under 35 Ill. Adm. Code 704.162 a fixed width of not less than 402 meters (1/4 mile) for the circumscribing area may be used.
- 3) In determining the fixed radius, the following factors shall be taken into consideration: the chemistry of injected and formation fluids; the hydrogeology; the population and groundwater use and dependence; and historical practices in the area.

- c) If the area of review is determined by a mathematical model pursuant to ~~paragraph~~ subsection (a) above the permissible radius is the result of such calculation even if it is less than 402 meters (1/4 mile).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 730.108 Mechanical Integrity

- a) The applicant or permittee must demonstrate mechanical integrity when required by other Sections. An injection well has mechanical integrity if:
  - 1) There is no significant leak in the casing, tubing, or packer; and
  - 2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection bore.
- b) One of the following tests ~~may~~ must be used to demonstrate the absence of significant leaks under subsection (a)(1) above:

- 1) ~~Monitoring of annulus pressure~~ Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Agency, while maintaining an annulus pressure different from atmospheric pressure measured at the surface; or
  - 2) Pressure test with liquid or gas.
- c) One of the following methods may be used to determine the absence of significant fluid movement under subsection (a)(2) above:
- 1) The results of a temperature or noise log; or
  - 2) For Class III wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (c)(1) above, cementing records demonstrating the presence of adequate cement to prevent migration; or
  - 3) For Class III wells where the Agency elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by 35 Ill. Adm. Code 730.113(b) shall be designed to verify the absence of significant fluid movement.
- d) The Agency may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (b) and (c) above. To obtain approval, the owner or operator shall submit a written request to the Agency ~~which~~ that sets forth the proposed test and all technical data supporting its use. The Agency shall approve the request if the test will reliably demonstrate the mechanical integrity of wells for which its use is proposed.
- e) In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Agency, the owner or operator and the Agency shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, it shall include a description of the test and the method used. In making its evaluation, the Agency shall review monitoring and other test data submitted since the previous evaluation.
- f) The Agency may require additional or alternative tests if the results presented by the owner or operator under subsection (e) above are not satisfactory to the Agency to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO  
CLASS I NON-HAZARDOUS WELLS

Section 730.114 Information to be Considered by the Agency

This section sets forth the information ~~which~~ that must be considered by the Agency in authorizing Class I wells. For an existing or converted new Class I well the Agency may rely on the existing permit file for those items of information listed below which are current and accurate in the file. For a newly drilled Class I well, the Agency shall require the submission of all the information listed below. For both existing and new Class I wells certain maps, cross-sections, tabulations of wells within the area of review and other

data may be included in the application by reference provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

- a) Prior to the issuance of a permit for an existing Class I well to operate or the construction or conversion of a new Class I well the Agency shall consider the following:
- 1) Information required in 35 Ill. Adm. Code 702.120 through 702.124 and 35 Ill. Adm. Code 704.161(c);
  - 2) A map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
  - 3) A tabulation of data on all wells within the area of review ~~which~~that penetrate into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging ~~and/or~~ completion, and any additional information the Agency may require;
  - 4) Maps and cross sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in each underground source of drinking water ~~which~~that may be affected by the proposed injection;
  - 5) Maps and cross sections detailing the geologic structure of the local area;
  - 6) Generalized maps and cross sections illustrating the regional geologic setting;
  - 7) Proposed operating data;
    - A) Average and maximum daily rate and volume of the fluid to be injected;
    - B) Average and maximum injection pressure; and
    - C) Source and an analysis of the chemical, physical, radiological, and biological characteristics of injection fluids;
  - 8) Proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the receiving formation;
  - 9) Proposed stimulation program;
  - 10) Proposed injection procedure;

- 11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;
  - 12) Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any underground source of drinking water;
  - 13) Plans (including maps) for meeting the monitoring requirements in Section 730.113(b);
  - 14) For wells within the area of review ~~which~~that penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under 35 Ill. Adm. Code 704.193;
  - 15) Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and
  - 16) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189.
- b) Prior to granting approval for the operation of a Class I well the Agency shall consider the following information:
- 1) All available logging and testing program data on the well;
  - 2) A demonstration of mechanical integrity pursuant to Section 730.108;
  - 3) The anticipated maximum pressure and flow rate at ~~which~~that the permittee will operate;
  - 4) The results of the formation testing program;
  - 5) The actual injection procedure;
  - 6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and
  - 7) The status of corrective action on defective wells in the area of review.
- c) Prior to granting approval for the plugging and abandonment of a Class I well the Agency shall consider the following information:
- 1) The type and number of plugs to be used,
  - 2) The placement of each plug including the elevation of the top and bottom;
  - 3) The type and grade and quantity of cement to be used,
  - 4) The method for placement of the plugs; and
  - 5) The procedure to be used to meet the requirements of Section 730.110(c).

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS V INJECTION WELLS

Section 730.152 Inventory and Assessment (Repealed)

~~The owner or operator of any Class V well shall, within one year of the date of approval by USEPA of the Illinois UIG program for Class I, III, IV and V wells, notify the Agency of the existence of any well meeting the definitions of Class V under his control, and submit the inventory information required in 35 Ill. Adm. Code 704.143(a).~~

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)