

ILLINOIS POLLUTION CONTROL BOARD
June 20, 1986

IN THE MATTER OF:)
)
UIC UPDATE, USEPA REGULATIONS) R85-23
(THROUGH 6/30/85))

FINAL ORDER. ADOPTED RULES.

ORDER OF THE BOARD (by J. Anderson):

On February 6, 1986, the Board proposed to amend the UIC (Underground Injection Control) regulations of 35 Ill. Adm. Code 702 and 704. The Board also proposed to amend 35 Ill. Adm. Code 703 to correct an error in the RCRA hazardous waste permit regulations which affected the UIC program. The proposed rules appeared on March 14, 1986 at 10 Ill. Reg. 4371.

Because the proposal is identical in substance to United States Environmental Protection Agency regulations adopted through June 30, 1985, pursuant to Sections 13(c) and 22.4(a) of the Environmental Protection Act (Act), neither Title VI of the Act nor Section 5 of the Administrative Procedure Act applies to this rulemaking. However, the Board has utilized the Illinois Register to provide notice to the public, and has allowed 45 days for receipt of public comment. Such notice and comment is required for Part 703 by the RCRA procedural rules of 35 Ill. Adm. Code 102, as amended in R84-10 on December 20, 1984.

The Board has received public comment, and has modified the rules in response to such comment, as is detailed in the accompanying Opinion. The complete text of the Sections affected is as follows.

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

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RCRA AND UIC PERMIT PROGRAMS

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AUTHORITY: Implementing Section 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).

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-19 at at 7 Ill. Reg. 14352, effective as noted in 35 Ill. Adm. Code 700.106; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. effective

SUBPART C: PERMIT CONDITIONS

Section 702.144 Duty to Mitigate

- a) For RCRA permits in ~~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: See 40 CFR 144.51(d) and 270.30(d).)

(Source: Amended at 10 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. ~~The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.~~
- 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: See 40 CFR 144.51(j) and 270.30(j).)

(Source: Amended at 10 Ill. Reg.
effective)

Section 702.152 Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c) Transfers. This permit is not transferable to any person except after notice to the Agency. The Agency may require modification of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Sections 702.182 and 702.183, in some cases modification is mandatory.)
- d) Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.
- e) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date specified in Section 702.162.
- f) Twenty-four hour reporting as required in 35 Ill. Adm. Code 703.245 or 704.181(d).
 - 1) The permittee shall report any noncompliance which may endanger health or the environment. Any

information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

- A) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.
 - B) Any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, which could threaten the environment or human health outside the facility.
- 2) The description of the occurrence and its cause shall include:
- A) Name, address and telephone number of the owner or operator.
 - B) Name, address and telephone number of the facility.
 - C) Date, time and type of incident.
 - D) Name and quantity of material(s) involved.
 - E) The extent of injuries, if any.
 - F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable, and
 - G) Estimated quantity and disposition of recovered material that resulted from the incident.
- 3) 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 it is expected to continue, and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraph subsections (d), (e) and (f) at the time monitoring reports are submitted. The reports shall contain the information listed referenced in paragraph subsection (f).

- h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Agency, it shall promptly submit such facts or information.

(Board Note: See 40 CFR 144.51(1) and 270.30(1).)

(Source: Amended at 10 Ill. Reg.
effective)

Section 702.160 Establishing Permit Conditions

- a) In addition to conditions required in permits for both programs (~~Sees~~ 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 ~~See~~ Section 702.150 (monitoring and records), 702.161 (duration of permits), ~~See~~ Section 702.162 (schedules of compliance) Section 702.163 (alternate schedules of compliance) and Section ~~See~~ 702.164 (Recording and Reporting).

b)

- 1) In addition to conditions required in all permits for a particular program (35 Ill. Adm. Code 703.241 et seq. for RCRA and 35 Ill. Adm. Code 704.181 et seq. 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.
- 2) An applicable requirement is a statutory or regulatory requirement which 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 takes effect prior to the modification of a permit, to the extent allowed in 35 Ill. Adm. Code 705.201.
- 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).

- 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: See 40 CFR ~~122.87~~ 144.51, 144.52 and 270.32)

(Source: Amended at 10 Ill. Reg.
effective)

SUBPART D: ISSUED PERMITS

Section 702.182 Transfer

- a) Transfer by modification. Except as provided in paragraph subsection (b), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (under ~~Sec-Section~~ 702.183 through 702.185) or a minor modification made (under ~~Sec-Section~~ 702.187(d)), to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act. The new owner or operator to whom the permit is transferred shall comply with all the terms and conditions specified in such permit.
- b) Automatic transfers. As an alternative to transfers under paragraph subsection (a), any UIC permit for a well not injecting hazardous waste may be automatically transferred to a new permittee if:
- 1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date in paragraph subsection (b)(2);
 - 2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them and the notice demonstrates that the financial responsibility requirements of 35 Ill. Adm. Code 704.189 will be met by the new permittee and that the new permittee agrees to comply with all the terms and conditions specified in the permit to be transferred under paragraph subsection (b); and
 - 3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to

modify or reissued the permit. A modification under this ~~subparagraph~~subsection may also be a minor modification under Sec. 702.187. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in ~~paragraph~~subsection (b)(2).

(Board Note: See 40 CFR ~~122-14-~~ 144.38 and 270.40.)

(Source: Amended at 10 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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AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111^{1/2}, pars. 1022.4 and 1027).

SOURCE: Adopted in R82-19 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, 1984; amended in R85-23 at 10 Ill. Reg. effective

SUBPART F: PERMIT CONDITIONS

Section 703.245 Release or Discharge Report Twenty-four Hour
Reporting

- a) The following shall be included as information which must be reported The permittee shall report any non-compliance which may endanger health or the environment orally within 24 hours under 35 Ill. Adm. Code 702-152(f) 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 A) Name, address and telephone number of the owner or operator;
- 2 B) Name, address and telephone number of the facility;
- 3 C) Date, time and type of incident;
- 4 D) Name and quantity of material(s) involved;
- 5 E) The extent of injuries, if any;
- 6 F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
- 7 G) Estimated quantity and disposition of recovered material that resulted from the incident;

cb) 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 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 Note: See 40 CFR ~~122-28(d)~~ 270.30(k)(6).)

(Source: Amended at 10 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. 1981, ch. 111 1/2, pars. 1013, 1022.4 and 1027).

SOURCE: Adopted in R81-32, at 47 PCB 95, at 6 Ill. Reg. 12479, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-19, at 7 Ill. Reg. 14402, effective as noted in 35 Ill. Adm. Code 700.106; 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. , effective

SUBPART B: PROHIBITIONS

Section 704.124 Elimination Prohibition of Certain Class IV Wells

- a) In addition to the requirement of Subpart F: The following are prohibited, except as provided in subsection (c):
- 1) The construction of any Class IV well for the injection of hazardous waste directly into an underground source of drinking water is prohibited;
 - 2) The injection of hazardous waste directly into an underground source of drinking water through a Class IV well that was not in operation prior to the effective date of this Part is prohibited; The operation or maintenance of any Class IV well.
 - 3) Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a Class IV well injecting hazardous waste directly into a USBW is prohibited;
 - 4) The operation of any Class IV well injecting hazardous waste directly into a USBW is prohibited;
 - 5) The effective date of Section 704.124(a)(4) is 6 months after the date of approval by USEPA of the Illinois UIC program;
- b) The prohibition applicable to Class IV wells does not apply to injections of hazardous wastes into aquifers or portions thereof which have been exempted pursuant to 35 Ill. Adm. Code 730.104.
- b) Class IV wells must comply with the requirements of Section 704.203, and with the requirements of Section 704.145 regarding closure of Class IV wells.
- c) Wells used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was drawn are not prohibited by this Section if such injection is approved by the Agency pursuant to provisions in the Act for preventive or corrective action, or by the USEPA pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601-9657, or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6987.

d) Clarification. The following wells are not prohibited by this Section:

- 1) Wells used to inject hazardous waste into aquifers or portions thereof that have been exempted pursuant to 35 Ill. Adm. Code 730.104 if the exempted aquifer into which waste is injected underlies the lowermost formation containing a USDW. Such wells are Class I wells as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to Class I wells.

- 2) Wells used to inject hazardous waste where no USDW exists within one quarter mile of the well bore in any underground formation, provided that the Agency determines that such injection is into a formation sufficiently isolated to ensure that injected fluids do not migrate from the injection zone. Such wells are Class I wells as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to Class I wells.

(Board Note: See 40 CFR 144.13. 122-36-)

(Source: Amended at 10 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 for up to five years after approval of the U-I-C program. All such wells must be issued permits within the five year period.

- b) Class III wells in existing fields or projects. Notwithstanding the prohibition in Section 704.121, this 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: See 40 CFR ~~122-37(a)(1)~~ 144.21 and 144.21(b).)

(Source: Amended at 10 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 Section 704.161(b)(1); or
- b) If a permit application has not been filed in a timely manner as specified in Section 704.161(b)(1); or
- c) If the person authorized by rule under Section 704.141 or ~~704-142~~ fails to comply with Section 704.144 or 704.148; or
- d) ~~If the person authorized by rule under Section 704-142 fails to comply with Section 704-203; or~~
- e) ~~Two years after the date of approval by USEPA (United States Environmental Protection Agency) of the Illinois UIC program February 2, 1986, unless, at that time, there is a pending UIC permit application for the injection previously authorized by rule. Authorization by rule may continue during the pendency of the UIC permit application, except that any such authorization shall expire five years after the date of approval by USEPA of the Illinois UIC program- on February 2, 1989.~~

(Board Note: See 40 CFR ~~122-37(a)(1)(i)~~ 144.21(a).)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.144 Conditions Requirements

One year after the date of approval by USEPA of the Illinois UIC program, any Any person authorized by rule under Section 704.141 shall comply with the following rules applicable to permittees, except the terms "permit" and "permittee" shall be read to include rules and those persons authorized by rule; applicable requirements of Section 704.148 and 35 Ill. Adm. Code 730.

- a) ~~Section 704-181(a) - (exemption from rule where authorized by temporary permits); and~~
- b) ~~Section 704-181(b) - (retention of records); and~~
- c) ~~Section 704-181(d) - (reporting within 24 hours); and~~
- d) ~~Section 704-181(e) - (180 days notice of abandonment); and~~

- e) ~~Section 704.188 and 35 Ill. Adm. Code 730.110 (plugging and abandonment); and~~
- f) ~~Operating, monitoring, and reporting requirements (except mechanical integrity) under 35 Ill. Adm. Code 730.113 (Class I) and 35 Ill. Adm. Code 730.133 (Class III); and~~
- g) ~~Section 704.189 - (financial responsibility); and~~
- h) ~~Section 704.203 - (requirement for wells injecting hazardous waste) applicable to Class I wells injecting hazardous waste only.~~

(Board Note: See 40 CFR ~~122.37(a)(1)(iii)~~ 144.21(c).)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.145 Existing Class IV Wells into USDW

- a) Injection into existing Class IV wells as defined in Section 704.106(d)(1) is not authorized for a period not to exceed six months after approval of the UIC program. The owner or operator of any such well must comply with Sections 704.124 and 704.203.
- b) Injection into existing Class IV wells as defined in Sections ~~704.106(d)(2) and (d)(3)~~ are authorized until six months after approval of the UIC program. The owner or operator of any such wells must comply with Section ~~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, the owner and operator of any Class IV well shall submit 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: See 40 CFR ~~122.37(a)(3)~~ 144.23.)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.147 Requiring a Permit

- a) The Agency may require any Class I, III, IV or V injection well authorized by a rule 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: Any underground injection which 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 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 authorized by a rule to apply for an individual or area UIC permit under this paragraph subsection only if the owner or operator has been notified in writing that a permit application is required. The injection activities are no longer authorized by rule upon the effective date of a permit or a permit denial, or upon the failure of the owner or operator to submit an application in a timely manner as specified in the notice. The notice shall include a brief statement of the reasons for this decision; an application form; a statement setting a time for the owner or operator to file the application; and a statement that, upon the effective date of the UIC permit, the rule no longer applies to the activities regulated under the UIC programs, 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 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: See 40 CFR ~~122-37(b)~~ 144.25.)

(Source: Amended at 10 Ill. Reg.
effective)

Section 704.148 Inventory Requirements

All injection wells authorized by rule 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 fails to submit inventory information to the Agency within the time specified in paragraph subsection (e) (d).

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: 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) shall provide the information listed in subsection (b)(2).

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) 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.

b) ~~Notice:~~ Upon approval of the UIC program in Illinois, the Agency shall notify owners or operators of injection wells of their duty to submit inventory information. The method of notification selected by the Agency must assure that the owners or operators will be made aware of the inventory requirement.

c) Deadlines. Owners or operators of injection wells must submit inventory information no later than one year after the authorization by rule. The information need not be submitted if a complete application is submitted within this time. Inventory information from any facility with interim status under RCRA 35 Ill. Adm. Code 703 is not required.

(Board Note: Wells which were in existence as of February 1, 1984, were required to submit inventory information by February 1, 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: See 40 CFR ~~122-37(e)~~ 144.26.)

(Source: Amended at 10 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.

2) Such information requirements may include, but are not limited to:

A) Performance of groundwater monitoring and the periodic submission of reports of such monitoring.

B) An analysis of injected fluids, including periodic submission of such analyses; and

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

3) 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.

(Board Note: See 40 CFR 144.27.)

(Source: Added at 10 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 III well authorized by rule, 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, 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 may endanger health or the environment, including:
 - 1) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW; or

 - 2) Any noncompliance or malfunction of the injection system which may cause fluid migration into or between USDW's.

 - 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)

- 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 (j) (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 he:
 - 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 (ii) shall notify the Agency prior to resuming operation of the well.

d) Financial responsibility.

- 1) The owner or operator of a Class I or III well is required to 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.
- 2) 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.
- 3) The owner or operator of a well injecting hazardous waste shall comply with the financial responsibility requirements of Subpart F.

e) 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) 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.
- 3) 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 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 will initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water.

f) 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 (1985) or in Appendix III of 40 CFR 261 (1985), or with other methods which 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) 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. The owner or operator may request confidentiality pursuant to Section 7 and 7.1 of the Act, and 35 Ill. Adm. Code 120. If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations which shall not be exceeded. 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;

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 (g)(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) For Class III wells;

A) Quarterly reporting on all monitoring, as required in subsections (g)(2)(A), (B) and (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) 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) Notice of abandonment. The owner or operator shall notify the Agency at least 45 days before conversion or abandonment of the well.
- j) 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.
- k) Change of ownership. The owner or operator shall notify the Agency of a transfer of ownership of the well within 30 days of such transfer.

- 1) Requirements of 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: See 40 CFR 144.28.)

(Source: Added at 10 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 authorized by rule as provided in Subpart E (authorization by rule), all underground injections into Class I or III wells are prohibited unless authorized by permit. Those Persons currently authorized by rule under Subpart E must still apply for a permit as specified in paragraph subsection (b) unless the authorization was for a Class V well under Section 704.146. Rules authorizing well injections for which permit applications have been submitted shall lapse for a particular 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.
- 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, within 180 days after the date of approval by USEPA of the Illinois UIC program by August 1, 1984; or
 - C) Except as otherwise provided in paragraph subsections (b)(1)(A) and (b)(1)(B), within two years after the date of approval by USEPA

of the Illinois UIC program by February 1, 1986.

- 2) For new injection wells, except new wells in projects authorized under ~~Sec-~~ Section 704.141 or covered by an existing area permit under ~~Sec-~~ Section 704.162(c), a reasonable time before construction is expected to begin.
- 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) In addition to the materials required by 35 Ill. Adm. Code 702.123, 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.

(Board Note: See 40 CFR ~~122-38~~ 144.31(a), (c), (g) and (e)(9)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.163 Emergency Permits

- a) Coverage. Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, the Agency may temporarily permit a specific underground injection **which has not otherwise been authorized by rule or permit** if an imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted.
- b) Requirements for issuance.
 - 1) Any temporary permit under paragraph subsection (a) shall be for no longer term than required to prevent the hazard.
 - 2) Notice of any temporary permit under this paragraph subsection shall be published in accordance with 35 Ill. Adm. Code 705.163 within 10 days of the issuance of the permit.

- 3) The temporary permit under this section may be either oral or written. If oral, it must be followed within 5 calendar days by a written temporary emergency permit.
- 4) The Agency shall condition the temporary permit in any manner it determines is necessary to ensure that the injection will not result in the movement of fluids into an underground source of drinking water.

(Board Note: See 40 CFR ~~122-40~~ 144.34.)

(Source: Amended at 10 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: See 40 CFR 144.32(a)(i).)

(Source: Added at 10 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: See 40 CFR 144.51(a).)

- 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. The Agency may require the The owner or operator to deliver shall continue to retain the

records after the three year retention period unless the owner or operator delivers the records to the Agency at the conclusion of the retention period, or obtains written approval from the Agency to discard the records.

(Board Note: See 40 CFR 144.51(j)(2)(ii).)

- 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)
 - 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 paragraph 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: See 40 CFR 144.51(m).)

- d) ~~The following shall be included as information which must be reported within 24 hours under 35 Ill. Adm. Code 702.152(f):~~

- 1) Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment, including:
 - A)1) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW.
 - B)2) Any noncompliance with a permit condition or malfunction of the injection system which 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: See 40 CFR 144.51(1)(6).)

- 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: See 40 CFR ~~122.41~~ 144.51(n).)

- f) 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: See 40 CFR 144.51(o).)

- 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: See 40 CFR 144.51(p).)

(Source: Amended at 10 Ill. Reg.
effective)

Section 704.187 Monitoring and Reporting

UIC permits shall require by condition monitoring and reporting requirements as set forth in 35 Ill. Adm. Code 730. The permittee shall be required to identify types of tests and

methods used to generate the monitoring data. Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited and described in Table I of 40 CFR 136.3 (1985) or in Appendix III of 40 CFR 261 (1985) or, in certain circumstances, by other methods which have been approved by the Agency.

(Board Note: See 40 CFR ~~122-42(e)~~ 144.52(a)(5).)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.188 Plugging and Abandonment

Any Class I or III permit shall include, and any Class V permit may include, conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another. Any applicant for a UIC permit shall be required to submit a plan for plugging and abandonment. Where the plan meets the requirements of this paragraph, 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, the Agency shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this Section, or deny the application. For purposes of this Section, temporary intermittent cessation of injection operations is not abandonment. a requirement that, after a cessation of operations of two years the owner or operator shall plug and abandon the well in accordance with the plan unless he:

- a) Provides notice to the Agency; and
- b) Describes actions or procedures satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the Agency.

(Board Note: See 40 CFR ~~122-42(f)~~ 144.52(a)(6).)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.189 Financial Responsibility

- a) The permit for any well which does not inject hazardous waste shall require the permittee to maintain financial responsibility and resources to close, plug and abandon

the underground injection wells operation in a manner prescribed by the Agency. 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) A corporate surety such as an insurance or bonding company; or
- 2) b) Individual sureties, such as officers or stockholders of a corporation requesting a permit; or
- 3) c) Any other lawful security, including real estate, personal property, marketable securities or certificates of deposit.

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

(Board Note: See 40 CFR ~~122.42(g)~~ 144.52(a)(7).)

(Source: Amended at 10 Ill. Reg.
effective)

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE WELLS

Section 704.201 Applicability

The regulations in this section Part apply to all generators of hazardous waste, and to the owners or operators of all hazardous waste management facilities, using any class of well to inject hazardous wastes accompanied by a manifest. (See also ~~Sec-~~ Section 704.124.)

(Board Note: See 40 CFR ~~122.45(a)~~ 144.14(a).)

(Source: Amended at 10 Ill. Reg.
effective)

Section 704.202 Authorization

The owner or operator of any well that is used to inject hazardous wastes accompanied by a manifest or delivery document ~~shall~~ was required to apply for authorization to inject, as specified in Sec. Section 704.161(b)(1)(B), within 6 months after the date of approval by USEPA of the Illinois HIC program by August 2, 1984.

(Board Note: See 40 CFR ~~122.45(b)~~ 144.14(b).)

(Source: Amended at 10 Ill. Reg. effective)

Section 704.203 Requirements

In addition to requiring compliance with the applicable requirements of this Part, ~~35 Ill. Adm. Code 703 and Subparts B through F of and 35 Ill. Adm. Code 730,~~ the owner or operator of ~~any well that is used to inject hazardous wastes and which is authorized by rule under Section 704.142, or the owner or operator of any well that is used to inject hazardous wastes accompanied by a manifest or delivery document,~~ 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.) RCRA (Pub. L. 94-580).
- b) Identification number. The owner or operator shall comply with the requirements of 35 Ill. Adm. Code 724.111 and 40 CFR 264.11 (1985).
- 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 (1985).
- d) Manifest discrepancies. The owner or operator shall comply with 35 Ill. Adm. Code 724.172 and 40 CFR 264.72 (1985).
- 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) (1985).
- f) Annual report. The owner or operator shall comply with 35 Ill. Adm. Code 724.175 and 40 CFR 264.75 (1985).
- g) Unmanifested waste report. The owner or operator shall comply with 35 Ill. Adm. Code 724.176 and 40 CFR 264.76 (1985).

- 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 (1985).
- 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 ~~Sec-~~ Section 704.188 and 40 CFR 264.88-

(Board Note: See 40 CFR ~~222.45(e)~~ 144.14(c).)

(Source: Amended at 10 Ill. Reg. effective)

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

Section 704.210 Applicability

The requirements of Sections 704.212, 704.213 and 704.240 apply to owners and operators of all existing and new Class I Hazardous waste injection wells, except as provided otherwise in this Subpart.

(Board Note: See 40 CFR 144.60.)

(Source: Added at 10 Ill. Reg. effective)

Section 704.211 Definitions

- a) "Plugging and abandonment plan" or "plan" means the plan for plugging and abandonment prepared in accordance with the requirements of Sections 704.150 and 704.181(f).
- b) "Current plugging and abandonment cost estimate" or "current cost estimate" means the most recent of the estimates prepared in accordance with Sections 704.212(a), (b) and (c).
- c) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the injection well owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
- d) The following terms are used in the specifications for the financial test for plugging and abandonment. The definitions are intended to represent the common

meanings of the terms as they are generally used by the business community.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(Board Note: See 40 CFR 144.61.)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.212 Cost Estimate for Plugging and Abandonment

- a) The owner or operator must prepare a written estimate, in current dollars, of the cost of plugging the injection well in accordance with the plugging and abandonment plan as specified in Section 704.150 and 704.181(f). The cost estimate must equal the cost of

plugging and abandonment at the point in the facility's operating life when the extent and manner of its operation would making plugging and abandonment the most expensive, as indicated by its plan.

- b) The owner or operator must adjust the cost estimate for inflation within 30 days after each anniversary of the date on which the first cost estimate was prepared. The adjustment must be made as specified in subsections (b)(1) and (2), using an inflation factor derived from the annual Oil and Gas Field Equipment Cost Index. The inflation factor is the result of dividing the latest published annual Index by the Index for the previous years.
 - 1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.
 - 2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.
- c) The owner or operator must review the cost estimate whenever a change in the plan increases the cost of plugging and abandonment. The revised cost estimate must be adjusted for inflation as specified in subsection (b).
- d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest cost estimate prepared in accordance with subsections (a) and (c) and, when this estimate has been adjusted in accordance with subsection (b), the latest adjusted cost estimate.

(Board Note: See 40 CFR 144.62.)

(Source: Added at 10 Ill. Reg.
effective)

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 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: See 40 CFR 144.63.)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.214 Trust Fund

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

date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = (\text{PE} - \text{CV})/\text{Y}$$

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

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

$$\text{Next payment} = (\text{PE} - \text{CV})/\text{Y}$$

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

- d) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (c).
- e) If the owner or operator establishes a trust fund after having used one or more alternate financial assurance mechanisms, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this Section.
- f) After the pay-in period is completed, whenever the current cost estimate changes the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, or

obtain other financial assurance to cover the difference.

- g) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate.
- h) If an owner or operator substitutes other financial assurance for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate covered by the trust fund.
- i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (g) or (h), the Agency will instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
- j) After beginning final plugging and abandonment, an owner and operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency will determine whether the plugging and abandonment expenditures are in accordance with the plan or otherwise justified, and if so, will instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the value of the trust fund, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222 that the owner or operator is no longer required to maintain financial assurance.
- k) The Agency will agree to termination of the trust when:
 - 1) An owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

(Board Note: See 40 CFR 144.63(a).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.215 Surety Bond Guaranteeing Payment

- a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency with the application for a permit or for approval to operate under rule. The bond must be effective before the initial injection of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.
- b) The wording of the surety bond must be as specified in Section 704.240.
- c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in Section 704.214, except that:
 - 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - 2) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.
- d) The bond must guarantee that the owner or operator will:
 - 1) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of plugging and abandonment of the injection well; or
 - 2) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin plugging and abandonment is issued by the

Board or a U.S. district court or other court of competent jurisdiction; or

- 3) Provide alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
- e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- f) The penal sum of the bond must be in amount at least equal to the current cost estimate, except as provided in Section 704.220.
- g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent based on receipt of evidence of alternate financial assurance.

(Board Note: See 40 CFR 144.63(b).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.216 Surety Bond Guaranteeing Performance

- a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency with the permit application or for approval to operate under rule. The

bond must be effective before injection of hazardous waste is started. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

perform plugging and abandonment in accordance with the plan and other permit requirements when required to do so, under terms of the bond the surety will perform plugging and abandonment as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

- f) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
- g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency will provide such written content when:
 - 1) An owner or operator substitute alternate financial assurance or;
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.
- j) The surety will not be liable for deficiencies in the performance of plugging and abandonment by the owner or operator after the Agency releases the owner or operator in accordance with Section 704.222.

(Board Note: See 40 CFR 144.63(c).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.217 Letter of Credit

- a) An owner or operator may satisfy the financial assurance requirement by obtaining an irrevocable standby letter

of credit which conforms to the requirements of this Section and submitting the letter to the Agency. An owner or operator of an injection well must submit the letter of credit to the Agency during submission of the permit application or for approval to operate under rule. The letter of credit must be effective before initial injection of hazardous waste. The issuing institution must be entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

- b) The wording of the letter of credit but be as specified in Section 704.240.
- c) An owner or operator who uses a letter of credit to satisfy the financial assurance requirement must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in Section 704.214, except that:
 - 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
 - 2) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.
- d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution and date, and providing the following information: the EPA Identification Number, name and address of the facility, and the amount of funds assured for plugging and abandonment of the well by the letter of credit.

- e) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.
- f) The letter of credit must be issued in an amount at least equal to the current cost estimate, except as provided in Section 704.220.
- g) Whenever the current cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the letter of credit to be increased so that it at least equals the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the amount of the letter of credit may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) Following a determination that the owner or operator has failed to perform final plugging and abandonment in accordance with the plan and other permit requirements when required to do so, the Agency may draw on the letter of credit.
- i) If the owner or operator does not establish alternate financial assurance and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency will draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance and obtain written approval of such assurance from the Agency.
- j) The Agency will return the letter of credit to the issuing institution for termination when:

- 1) An owner or operator substitutes alternate financial assurance or;
- 2) The Agency releases the owner or operator in accordance with Section 704.222.

(Board Note: See 40 CFR 144.63(d).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.218 Plugging and Abandonment Insurance

- a) An owner or operator may satisfy the financial assurance requirement by obtaining insurance which conforms to the requirements of this Section and submitting a certificate of such insurance to the Agency. An owner or operator of a new injection well must submit the certificate of insurance to the Agency with the permit application or for approval operate under rule. The insurance must be effective before injection starts. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.
- b) The wording of the certificate of insurance must be as specified in Section 704.240.
- c) The policy must be issued for a face amount at least equal to the current cost estimate, except as provided in Section 704.220. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
- d) The policy must guarantee that funds will be available whenever final plugging and abandonment occurs. The policy must also guarantee that once plugging and abandonment begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.
- e) After beginning plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency will determine whether the plugging and abandonment expenditures are in accordance with the plan

or otherwise justified, and if so, will instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the face amount of the policy, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222, that the owner or operator is no longer required to maintain financial assurance for plugging and abandonment of the injection well.

- f) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator as specified in subsection (j). Failure to pay the premium, without substitution of alternate financial assurance, will constitute a significant violation of these regulations, warranting such remedy as the Agency deems necessary. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination or failure to renew due to non-payment of the premium, rather than upon the date of expiration.
- g) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
- h) The policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination or failure to renew may not occur, however, during 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return of receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:
 - 1) The Agency deems the injection well abandoned;
 - 2) The permit is terminated or revoked or a new permit is denied; or

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

(Board Note: See 40 CFR 144.63(e).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.219 Financial Test and Corporate Guarantee

- a) An owner or operator may satisfy the financial assurance requirement by demonstrating that the owner or operator passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either subsection (a)(1) or (a)(2):
 - 1) The owner or operator must have:
 - A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a

ratio of current assets to current liabilities greater than 1.5; and

B) Net working capital and tangible net worth each at least six times the sum of the current cost estimate; and

C) Tangible net worth of at least \$10 million; and

D) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimate.

2) The owner or operator must have:

A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's and

B) Tangible net worth at least six times the sum of the current cost estimate; and

C) Tangible net worth of at least \$10 million; and

D) Assets located in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimates.

b) The phrase "current cost estimate" as used in subsection (a) refers to the cost estimate required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer as specified in Section 704.240.

c) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Agency:

1) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 704.240; and

2) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

- 3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:
- A) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - B) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
- d) An owner or operator of a new injection well must submit the items specified in subsection (c) to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c).
- e) After the initial submission of items specified in subsection (c), the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c).
- f) If the owner or operator no longer meets the requirements of subsection (a), the owner or operator must send notice to the Agency intent to establish alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.
- g) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a), require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c). If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (a), the owner or operator must provide alternate financial assurance within 30 days after notification of such a finding.
- h) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or

operator's financial statements [see subsection (c)(2)]. An adverse opinion or disclaimer of opinion will be cause for disallowance. The Agency will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance within 30 days after notification of the disallowance.

i) The owner or operator is no longer required to submit the items specified in subsection (c) when:

- 1) An owner or operator substitutes alternate financial assurance; or
- 2) The Agency releases the owner or operator in accordance with Section 704.222.

j) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee". The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (a) through (h) and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be as specified in Section 704.240. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (c). The terms of the corporate guarantee must provide that:

- 1) If the owner or operator fails to perform plugging and abandonment of the injection well covered by the corporate guarantee in accordance with the plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Section 704.214 in the name of the owner or operator.
- 2) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the Agency, as evidenced by the return receipts. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency as evidenced by the return receipts.
- 3) If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the

guarantor will provide such alternative financial assurance in the name of the owner or operator.

(Board Note: See 40 CFR 144.63(f).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.220 Multiple Financial Mechanisms

An owner or operator may satisfy the financial assurance requirement by establishing more than one financial mechanism per injection well. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letter of credit and insurance. The mechanisms must be as specified in Sections 704.214, 704.215, 704.217 and 704.218, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, the owner or operator may use that trust fund as the standby trust fund for the other mechanisms. A single standby trust may be established for two or more mechanisms. The Agency may invoke any or all of the mechanisms to provide for plugging and abandonment of the injection well

(Board Note: See 40 CFR 144.63(g).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.221 Financial Mechanism for Multiple Facilities

An owner or operator may use a financial assurance mechanism specified in Sections 704.213 or 704.220 to meet the financial assurance requirement for more than one injection well. Evidence of financial assurance submitted to the Agency must include a list showing, for each injection well, the EPA Identification Number, name, address and the amount of funds for plugging and abandonment assured by the mechanisms. The operator shall provide sufficient financial assurance to the Agency to plug and abandon all of the wells the operator has in Illinois. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism has been established and maintained for each injection well. In directing funds available through the mechanism for plugging and abandonment of any of the injection wells covered by the mechanism, the Agency may direct only the amount of funds designated for that injection well, unless the owner or operator agrees to use additional funds available under the mechanism.

(Board Note: See 40 CFR 144.63(h).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.222 Release of the Owner or Operator

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that plugging and abandonment has been accomplished in accordance with the plan, the Agency will notify the owner or operator in writing that the owner or operator is no longer required by this Subpart to maintain financial assurance for plugging and abandonment of the injection well, unless the Agency has reason to believe that plugging and abandonment has not been in accordance with the plan.

(Board Note: See 40 CFR 144.63(i).)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.230 Incapacity

- a) An owner or operator shall notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under 11 U.S.C. (Bankruptcy), naming the owner or operator as debtor, within 10 business days after the commencement of the proceeding. A guarantor of a corporate guarantee as specified in Section 704.219 must make such a notification if the guarantor is named as debtor, as required under the terms of guarantee in Section 704.240.
- b) An owner or operator who fulfills the requirements of Section 704.213 by obtaining a letter of credit, surety bond or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance within 60 days after such an event.

(Board Note: See 40 CFR 144.64.)

(Source: Added at 10 Ill. Reg.
effective)

Section 704.240 Wording of the Instruments

The Board incorporates by reference 40 CFR 144.70 (1985). This incorporation includes no future amendments or editions. The Agency will promulgate standardized forms based on 40 CFR 144.70 with such changes in wording as are necessary under Illinois law. Any owner or operator required to establish financial assurance under this Subpart shall do so only upon the standardized forms promulgated by the Agency. The Agency may reject any financial assurance document which is not submitted on such standardized forms.

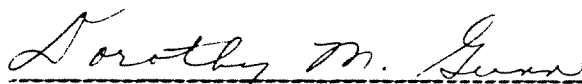
(Board Note: See 40 CFR 144.70.)

(Source: Added at 10 Ill. Reg.
effective)

The Board hereby amends 35 Ill. Adm. Code 702, 703 and 704 as indicated above. This Order is supported by an Opinion adopted this same day.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 20th day of June, 1986, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board