

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 738  
HAZARDOUS WASTE INJECTION RESTRICTIONS

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

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

September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1407, effective December 20, 2006; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018.

## SUBPART A: GENERAL

### **Section 738.101 Purpose, Scope, and Applicability**

- a) This Part identifies hazardous wastes that are restricted from disposal into Class I injection wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.
- b) The requirements of this Part apply to owners or operators of Class I hazardous waste injection wells used to inject hazardous waste.
- c) Wastes otherwise prohibited from injection may continue to be injected under any of the following circumstances:
  - 1) If USEPA has granted an extension from the effective date of a prohibition, as described in Section 738.104;
  - 2) If the Board has granted an adjusted standard in response to a petition filed under Section 738.120; or
  - 3) If the waste is generated by a conditionally exempt small quantity generator, as defined in 35 Ill. Adm. Code 720.110.
- d) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited from injection under this Part or 35 Ill. Adm. Code 728 is not prohibited from injection if the following is true of the waste:
  - 1) It is disposed into a non-hazardous or hazardous waste injection well, as defined under 35 Ill. Adm. Code 730.106(a); and
  - 2) It does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.

BOARD NOTE: Derived from 40 CFR 148.1 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.102 Definitions**

“Injection interval” means that part of the injection zone in which the well is screened or in which the waste is otherwise directly emplaced.

“Transmissive fault or fracture” is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

“USEPA hazardous waste number” means the number assigned by USEPA pursuant to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

BOARD NOTE: Derived from 40 CFR 148.2 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.103 Dilution Prohibited as a Substitute for Treatment**

The provisions of 35 Ill. Adm. Code 728.103 apply to owners or operators of Class I hazardous waste injection wells.

BOARD NOTE: Derived from 40 CFR 148.3 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.104 Case-by-Case Extensions of an Effective Date**

The owner or operator of a Class I hazardous waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B pursuant to 40 CFR 268.5. Any extension that is granted by USEPA will be deemed an extension of the effective date of the derivative Board rule.

BOARD NOTE: Derived from 40 CFR 148.4 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.105 Waste Analysis**

The generator of hazardous waste that is disposed of into a Class I injection well must comply with the applicable requirements of 35 Ill. Adm. Code 728.107(a) and (b). The owner or operator of a Class I hazardous waste injection well must comply with the applicable requirements of 35 Ill. Adm. Code 728.107(c).

BOARD NOTE: Derived from 40 CFR 148.5 (2005).

(Source: Amended at 30 Ill. Reg. 4053, effective February 23, 2006)

### **Section 738.106 Electronic Reporting**

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1407, effective December 20, 2006)

#### **SUBPART B: PROHIBITIONS ON INJECTION**

### **Section 738.110 Waste-Specific Prohibitions: Solvent Wastes**

- a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F001, F002, F003, F004, and F005.
- b) The requirements of subsection (a) do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728;
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or
  - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.10 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.111 Waste-Specific Prohibitions: Dioxin-Containing Wastes**

- a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F020, F021, F022, F023, F026, F027, and F028.
- b) The requirements of subsection (a) do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728;
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or

- 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.11 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

**Section 738.112 Waste-Specific Prohibitions: California List Wastes**

- a) The hazardous wastes listed in 35 Ill. Adm. Code 728.132 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.
- b) The following hazardous wastes are prohibited from underground injection:
  - 1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l;
  - 2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals or compounds of metals at a concentration greater than or equal to that specified in this subsection (b)(2):
    - A) Arsenic or compounds (as As) 500 mg/l;
    - B) Cadmium or compounds (as Cd) 100 mg/l;
    - C) Chromium (VI) or compounds (as Cr VI) 500 mg/l;
    - D) Lead or compounds (as Pb) 500 mg/l;
    - E) Mercury or compounds (as Hg) 20 mg/l;
    - F) Nickel or compounds (as Ni) 134 mg/l;
    - G) Selenium or compounds (as Se) 100 mg/l; and
    - H) Thallium or compounds (as Tl) 130 mg/l;
  - 3) Liquid hazardous waste having a pH less than or equal to two (2.0); and
  - 4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1,000 mg/kg.
- c) The requirements of subsections (a) and (b) do not apply under any of the following circumstances:

- 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
- 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.12 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

**Section 738.114 Waste-Specific Prohibitions: First Third Wastes**

a) Prohibitions

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F006 (wastewaters and nonwastewaters), F008, F009, F019.
- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K001, K004, K008, K015 (wastewaters and nonwastewaters), K016 (at concentrations greater than or equal to one percent), K017, K018, K019, K020, K021 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K022 (wastewaters and nonwastewaters), K024, K030, K031, K035, K036 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K037, K044, K045, K046 (wastewaters and nonwastewaters), K047, K048, K049, K050, K051, K052, K060 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K061 (wastewaters and nonwastewaters), K062, K069 (calcium sulfate nonwastewaters; all wastewaters; and noncalcium sulfate nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K071, K073, K083, K084, K085, K086, K087, K099, K101 (all wastewaters and nonwastewaters), K102 (all wastewaters and nonwastewaters), K103, K104, and K106.
- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P001, P004, P005, P010, P011, P012, P015, P016, P018, P020, P030, P036, P037, P039, P041, P048, P050, P058, P059, P063, P068,

P069, P070, P071, P081, P082, P084, P087, P089, P092, P094, P097, P102, P105, P108, P110, P115, P120, P122, P123, U007, U009, U010, U012, U016, U018, U019, U022, U029, U031, U036, U037, U041, U043, U044, U046, U050, U051, U053, U061, U063, U064, U066, U067, U074, U077, U078, U086, U089, U103, U105, U108, U115, U122, U124, U129, U130, U133, U134, U137, U151, U154, U155, U157, U158, U159, U171, U177, U180, U185, U188, U192, U200, U209, U210, U211, U219, U220, U221, U223, U226, U227, U228, U237, U238, U248, and U249.

- b) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K016 (at concentrations less than one percent).
- c) Prohibitions
  - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F007.
  - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (nonwastewaters) and K013 (nonwastewaters).
- d) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (wastewaters), K013 (wastewaters), and K014.
- e) The requirements of subsections (a) through (d) do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728;
  - 2) If the Board has granted an adjusted standard in response to a petition by USEPA as referenced in Subpart C; or
  - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.14 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.115 Waste-Specific Prohibitions: Second Third Wastes**

- a) Prohibitions

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F010 and F024.
  - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K009 (nonwastewaters), K010, K025 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K027, K028, K029 (wastewaters and nonwastewaters), K038, K039, K040, K041, K042, K043, K095 (wastewaters and nonwastewaters), K096 (wastewaters and nonwastewaters), K097, K098, K105, K113, K114, K115, and K116.
  - 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P002, P003, P007, P008, P014, P026, P027, P029, P040, P043, P044, P049, P054, P057, P060, P062, P066, P067, P072, P074, P085, P098, P104, P106, P107, P111, P112, P113, P114, U002, U003, U005, U008, U011, U014, U015, U020, U021, U023, U025, U026, U028, U032, U035, U047, U049, U057, U058, U059, U060, U062, U070, U073, U080, U083, U092, U093, U094, U095, U097, U098, U099, U101, U106, U107, U109, U110, U111, U114, U116, U119, U127, U128, U131, U135, U138, U140, U142, U143, U144, U146, U147, U149, U150, U161, U162, U163, U164, U165, U168, U169, U170, U172, U173, U174, U176, U178, U179, U189, U193, U196, U203, U205, U206, U208, U213, U214, U215, U216, U217, U218, U235, U239, and U244.
- b) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection pursuant to the treatment standards specified in 35 Ill. Adm. Code 728.141 and 728.143 applicable to F011 and F012 wastewaters and nonwastewaters: F011 (nonwastewaters) and F012 (nonwastewaters).
  - c) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K009 (wastewaters).
  - d) The requirements of subsections (a) through (c) do not apply under any of the following circumstances:
    - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728;
    - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or



- 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.15 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.116 Waste-Specific Prohibitions: Third Third Wastes**

#### a) Prohibitions

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F025 and F039 (nonwastewaters).
- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K002, K003, K005 (wastewaters and nonwastewaters), K006, K007 (wastewaters and nonwastewaters), K023, K026, K032, K033, K034, K093, K094, and K100.
- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P006, P009, P013, P017, P021, P022, P023, P024, P028, P031, P033, P034, P038, P042, P045, P046, P047, P051, P056, P064, P065, P073, P075, P076, P077, P078, P088, P093, P095, P096, P099, P101, P103, P109, P116, P118, P119, P121, U001, U004, U006, U017, U024, U027, U030, U033, U034, U038, U039, U042, U045, U048, U052, U055, U056, U068, U069, U071, U072, U075, U076, U079, U081, U082, U084, U085, U087, U088, U090, U091, U096, U102, U112, U113, U117, U118, U120, U121, U123, U125, U126, U132, U136, U141, U145, U148, U152, U153, U156, U160, U166, U167, U181, U182, U183, U184, U186, U187, U190, U191, U194, U197, U201, U202, U204, U207, U222, U225, U234, U236, U240, U243, U246, and U247.
- 4) The wastes specified in 35 Ill. Adm. Code 721.121 or 721.124 by characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D001, D004, D005, D006, D008, D009 (wastewaters), D010, D011, D012, D013, D014, D015, D016, and D017.

- b) Mixed radioactive and hazardous wastes in 35 Ill. Adm. Code 728.110, 728.111, and 728.112, which are mixed radioactive and hazardous wastes, are prohibited from underground injection.

#### c) Prohibitions

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F039 (wastewaters).
  - 2) The wastes specified in 35 Ill. Adm. Code 721.122, 721.123, or 721.124 as hazardous based on a characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D002 (wastewaters and nonwastewaters), D003 (wastewaters and nonwastewaters), D007 (wastewaters and nonwastewaters), and D009 (nonwastewaters).
- d) The requirements of subsections (a) through (c) do not apply under any of the following circumstances:
- 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728;
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or
  - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.16 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

#### **Section 738.117 Waste-Specific Prohibitions: Newly-Listed Wastes**

- a) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: F037, F038, K107, K108, K109, K110, K111, K112, K117, K118, K123, K124, K125, K126, K131, K136, U328, U353, and U359.
- b) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151.
- c) This subsection (c) corresponds with 40 CFR 148.17(c), removed and marked “reserved” by USEPA at 61 Fed. Reg. 15662 (April 8, 1996). This statement maintains structural consistency with USEPA rules.
- d) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K117, K118, K131, and K132.
- e) The requirements of subsections (a) through (d) do not apply under any of the following circumstances:

- 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728;
- 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.17 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.118 Waste-Specific Prohibitions: Newly-Listed and Identified Wastes**

- a) All newly identified D004 through D011 wastes and characteristic mineral processing wastes, except those identified in subsection (b), are prohibited from underground injection.
- b) Characteristic hazardous wastes from titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004 through D011 or mixed with newly identified characteristic mineral processing wastes, are prohibited from underground injection.
- c) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 are prohibited from underground injection.
- d) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 that are mixed with radioactive wastes are prohibited from underground injection.
- e) The wastes specified in 35 Ill. Adm. Code 721.132 as having the following USEPA hazardous waste numbers are prohibited from underground injection: K156, K157, K158, K159, K160, K161, P127, P128, P185, P188, P189, P190, P191, P192, P194, P196, P197, P198, P199, P201, P202, P203, P204, P205, U271, U277, U278, U279, U280, U364, U365, U366, U367, U372, U373, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U387, U389, U390, U391, U392, U393, U394, U395, U396, U400, U401, U402, U403, U404, U407, U409, U410, and U411.
- f) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K088 are prohibited from underground injection.
- g) The wastes specified in 35 Ill. Adm. Code 721 as having the following USEPA hazardous waste numbers and Mixed TC/Radioactive wastes are prohibited from underground injection: D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, and D043.

- h) This subsection (h) corresponds with 40 CFR 148.18(h), which USEPA has removed and marked “reserved”. This statement maintains structural consistency with the federal regulations.
- i) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K169 through K172 are prohibited from underground injection.
- j) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K174 and K175 are prohibited from underground injection.
- k) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K176, K177, and K178 are prohibited from underground injection.
- l) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K181 are prohibited from underground injection.
- m) The requirements of subsections (a) through (l) do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728;
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C; or
  - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.18 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

#### SUBPART C: PETITION STANDARDS AND PROCEDURES

##### **Section 738.120 Petitions to Allow Injection of a Prohibited Waste**

- a) Any person seeking an exemption from a prohibition under Subpart B for the injection of a restricted hazardous waste into an injection well or wells must submit a petition for an adjusted standard to the Board, pursuant to Subpart D of 35 Ill. Adm. Code 104, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing of the following:
  - 1) The hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream are such that reliable predictions can be made with regard to each of the following:

- A) Fluid movement conditions are such that the injected fluids will not migrate within 10,000 years in either of the following ways:
    - i) Vertically upward out of the injection zone; or
    - ii) Laterally within the injection zone to a point of discharge or interface with an underground source of drinking water (USDW), as defined in 35 Ill. Adm. Code 730; or
  - B) Before the injected fluids migrate out of the injection zone or to a point of discharge or interface with a USDW, the fluid will no longer be hazardous because of attenuation, transformation, or immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions, or other means; and
- 2) For each well, the petition has fulfilled the following requirements:
- A) It has demonstrated that the injection well's area of review complies with the substantive requirements of 35 Ill. Adm. Code 730.163;
  - B) It has located, identified, and ascertained the condition of all wells within the injection well's area of review (as specified in 35 Ill. Adm. Code 730.163) that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Board that meets the substantive requirements of 35 Ill. Adm. Code 730.164;
  - C) It has provided a corrective action plan that meets the substantive requirements of 35 Ill. Adm. Code 730.164, the implementation of which will become a condition of any adjusted standard granted; and
  - D) It has provided the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the Board may require the owner or operator to perform the tests again and submit the results of the new tests.

BOARD NOTE: The requirements of subsection (a)(2) need not be incorporated in a permit at the time the Board grants an adjusted standard.

- b) A demonstration under subsection (a)(1)(A) must identify the strata within the injection zone which will confine fluid movement above the injection interval, and it must include a showing that this strata is free of known transmissive faults of fractures and that there is a confining zone above the injection zone.

- c) A demonstration under subsection (a)(1)(B) must identify the strata within the injection zone where waste transformation will be accomplished, and it must include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.
- d) A demonstration may include either of the following features, which will become a condition of the adjusted standard:
  - 1) Treatment methods that the owner or operator will use to reduce the toxicity or mobility of the wastes; or
  - 2) A monitoring plan that the owner or operator will use to enhance confidence in one or more aspects of the demonstration.
- e) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition for reissuance of the adjusted standard to include an additional restricted waste or wastes or to modify any conditions imposed on that adjusted standard by the Board. The Board will reissue the adjusted standard if the petitioner complies with subsections (a), (b), and (c).
- f) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition to modify that adjusted standard to include an additional (hazardous) waste or wastes. The Board will grant the modification if it determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that the additional waste or wastes will not interfere with the containment capability of the injection zone.

BOARD NOTE: Derived from 40 CFR 148.20 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.121 Required Information to Support Petitions**

- a) Information submitted in support of a Section 738.120 petition must meet the following requirements:
  - 1) All data from waste analyses and any new testing performed by the petitioner must be approved by the Board and must provide data that are accurate, reproducible, and performed in accordance with quality assurance standards;
  - 2) The following must be true with regard to estimation and monitoring techniques and the identification of applicable existing USEPA-certified test protocols:
    - A) All estimation and monitoring techniques must be approved by the Board; and

- B) The petition must identify all applicable USEPA-certified test protocols in existence at the time the estimation and monitoring was performed;
  - 3) Predictive models must have been verified and validated, must be appropriate for the specific site, waste streams, and injection conditions of the operation, and they must be calibrated for existing sites where sufficient data are available;
  - 4) A quality assurance and quality control plan addressing all aspects of the demonstration must be provided to and approved by the Board;
  - 5) Reasonably conservative values must be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements; and
  - 6) An analysis must be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner must conduct a sensitivity analysis to determine the effect that significant uncertainty may contribute to the demonstration. The demonstration must then be based on conservative assumptions identified in the analysis.
- b) Any petitioner under Section 738.120(a)(1)(A) must provide sufficient site-specific information to support the demonstration, such as the following:
- 1) The thickness, porosity, permeability and extent of the various strata in the injection zone;
  - 2) The thickness, porosity, permeability, extent and continuity of the confining zone;
  - 3) The hydraulic gradient in the injection zone;
  - 4) The hydrostatic pressure in the injection zone; and
  - 5) The geochemical conditions of the site.
- c) In addition to the information in subsection (b), any petitioner under Section 738.120(a)(1)(B) must provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner must provide the information necessary to support the demonstration, such as the following:
- 1) A description of the chemical processes or other means that will lead to waste transformation; and
  - 2) Results of laboratory experiments verifying the waste transformation.

BOARD NOTE: Derived from 40 CFR 148.21 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

**Section 738.122 Submission, Review, and Approval or Denial of Petitions**

- a) Any petition submitted to the Board, pursuant to Section 738.120(a), must include the following:
  - 1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
  - 2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;
  - 3) Such additional information as the Board requires to support the petition pursuant to Section 738.120 and Section 738.121; and
  - 4) This statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.
- c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).
- d) Upon request by any petitioner who obtains an adjusted standard for a well pursuant to this Subpart C, the Agency must initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed 10 years.
- e) Each adjusted standard granted pursuant to this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: “This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise.”



BOARD NOTE: Derived from 40 CFR 148.22 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.123 Review of Adjusted Standards**

- a) Agency Review
  - 1) When considering whether to reissue a permit for the operation of a Class I hazardous waste injection well, the Agency must review any adjusted standard granted by the Board pursuant to this Subpart C.
  - 2) If the Agency determines that new information shows that the basis for granting the adjusted standard may no longer be valid, the Agency must request in writing that the permittee submit a petition to the Board to modify the adjusted standard.
  - 3) All petitions requested by the Agency pursuant to subsection (a)(2) must be filed pursuant to Section 738.120(f). Such a petition may seek reaffirmation of the adjusted standard without modification.
  - 4) Permittee's Failure to file a Petition, Agency Petitions Petitions for Reconsideration, and Board Reconsideration of Adjusted Standards
    - A) If the permittee fails to file a petition requested by the Agency under subsection (a)(2), the Agency may petition the Board for reconsideration of any adjusted standard granted under this Part at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.
    - B) Board Review
      - i) The Board may conduct a plenary review of the substance of any adjusted standard on reconsideration to the same extent that it would review a new petition for an adjusted standard.
      - ii) The Board may treat a motion for reconsideration of an adjusted standard as a new petition under Section 738.120 and require that the full requirements of that Section and of Subpart D of 35 Ill. Adm. Code 104 apply to the proceeding, with the Agency acting as the petitioner.
- b) Whenever the Board determines that the basis for approval of a petition may no longer be valid, the Board will require a new demonstration in accordance with Section 738.120.

BOARD NOTE: Derived from 40 CFR 148.23 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)

### **Section 738.124 Termination of Approved Petition**

- a) Termination Through an Enforcement Action
  - 1) An enforcement action against an owner or operator having an adjusted standard and limitation on Agency petitions for reconsideration of an adjusted standard:
    - A) Any person may file an enforcement action against an owner or operator of an underground injection well pursuant to Section 33 of the Environmental Protection Act for any violation of the Act or Board rules, notwithstanding the existence of any adjusted standard.
    - B) The Agency may petition the Board for reconsideration of any adjusted standard at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.
  - 2) In any action under subsection (a)(1), if the Board finds a violation of the Act or Board regulations, the Board may terminate any adjusted standard granted under Section 738.120 for any of the following causes:
    - A) Noncompliance by the owner or operator with any condition of the adjusted standard;
    - B) The owner or operator's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or
    - C) A determination that new information shows that the basis for approval of the petition is no longer valid.
- b) In any action under subsection (a)(1), the Board will terminate an adjusted standard granted under Section 738.120 for the following causes:
  - 1) The petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the Board's decision on the petition;
  - 2) A determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the adjusted standard, except that the Board, may at its discretion decide not to terminate where both of the following conditions are fulfilled:

- A) The migration resulted from a mechanical failure of the well that can be promptly corrected through a repair to the injection well itself or from an undetected well or conduit that can be plugged promptly; and
- B) The requirements of 35 Ill. Adm. Code 730.167 are satisfied.

BOARD NOTE: Derived from 40 CFR 148.24 (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective November 19, 2018)