**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. 25244, effective November 19, 2018)