**Section 704.262 Causes for Modification**

a) The following are causes for modification of a permit. For a Class I hazardous waste injection well or a Class III or Class IV injection well, any of the following may be cause for reissuance of the permit, as well as for permit modification. For all other injection wells, the following may be cause for reissuance of the permit, as well as for permit modification, when the permittee requests or agrees:

1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance that justify the application of permit conditions that are different or absent in the existing permit.

2) Information. Permits other than for a Class III injection well may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For an area permit, this cause must include any information indicating that cumulative effects on the environment are unacceptable.

3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. A permit other than for a Class I hazardous waste injection well or a Class III or Class VI injection well may be modified during their terms for this cause only as follows:

A) The Agency may modify the permit when standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.

B) The permittee may request modification when all of the following occur:

i) The permit condition requested to be modified was based on a provision of 35 Ill. Adm. Code 730;

ii) The Board has revised, withdrawn, or modified that provision on which the permit condition was based; and

iii) The permittee requests modification in accordance with 35 Ill. Adm. Code 705.128 within 90 days after the effective date of the changed statute or amended standards or regulations on which the request is based.

C) For judicial decisions, a court of competent jurisdiction has remanded and stayed Board promulgated regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based or if a request is filed by the permittee in accordance with 35 Ill. Adm. Code 705.128 within 90 days after judicial remand.

4) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

5) Basis for modification of Class VI permits. Additionally, for Class VI injection wells, whenever the Agency determines that permit changes are necessary based on any of the following:

A) A reevaluation of the area of review undertaken pursuant to Section 730.184(e)(1);

B) Any amendments to the testing and monitoring plan made pursuant to Section 730.190(j);

C) Any amendments to the injection well plugging plan made pursuant to Section 730.192(c);

D) Any amendments to the post-injection site care and site closure plan made pursuant to Section 730.193(a)(3);

E) Any amendments to the emergency and remedial response plan made pursuant to Section 730.194(d); or

F) A review of monitoring or testing results conducted in accordance with permit requirements.

b) The following are causes to modify or, alternatively, to reissue a permit:

1) The Agency has received notification (as required in the permit, see 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (35 Ill. Adm. Code 702.182(b)), but it must not be reissued after the effective date of the transfer, except upon the request of the new permittee.

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

BOARD NOTE: Derived from 40 CFR 144.39 (2011).

(Source: Amended at 36 Ill. Reg. 1613, effective January 20, 2012)