§ 146.73 Financial responsibility for post-closure care.

The owner or operator shall demonstrate and maintain financial responsibility for post-closure by using a plan for post-closure care that meets the requirements of paragraph (b) of this section and is acceptable to the Director. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

1. The owner or operator shall submit the plan as a part of the permit application and, upon approval by the Director, such plan shall be a condition of any permit issued.

2. The owner or operator shall submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the closure report required under §146.71(c).

3. The plan shall assure financial responsibility as required in §146.73.

4. The plan shall include the following information:
   (i) The pressure in the injection zone before injection began;
   (ii) The anticipated pressure in the injection zone at the time of closure;
   (iii) The predicted time until pressure in the injection zone decays to the point that the well’s cone of influence no longer intersects the base of the lowermost USDW;
   (iv) Predicted position of the waste front at closure;
   (v) The status of any cleanups required under §146.64; and
   (vi) The estimated cost of proposed post-closure care.

5. At the request of the owner or operator, or on his own initiative, the Director may modify the post-closure plan after submission of the closure report following the procedures in §124.5.

(b) The owner or operator shall:

1. Continue and complete any clean-up action required under §146.64, if applicable;

2. Submit a survey plat to the local zoning authority designated by the Director. The plat shall indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat shall be submitted to the Regional Administrator of the appropriate EPA Regional Office.

3. Provide appropriate notification and information to such State and local authorities as have cognizance over drilling activities to enable such State and local authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the well’s confining or injection zone.

4. Retain, for a period of three years following well closure, records reflecting the nature, composition and volume of all injected fluids. The Director shall require the owner or operator to deliver the records to the Director at the conclusion of the retention period, and the records shall thereafter be retained at a location designated by the Director for that purpose.

(c) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, must record a notation on the deed to the facility property or on some other instrument which is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:

1. The fact that land has been used to manage hazardous waste;

2. The name of the State agency or local authority with which the plat was filed, as well as the address of the Regional Environmental Protection Agency Office to which it was submitted;

3. The type and volume of waste injected, the injection interval or intervals into which it was injected, and the period over which injection occurred.

§ 146.73 Financial responsibility for post-closure care.

The owner or operator shall demonstrate and maintain financial responsibility for post-closure by using a
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trust fund, surety bond, letter of credit, financial test, insurance or corporate guarantee that meets the specifications for the mechanisms and instruments revised as appropriate to cover closure and post-closure care in 40 CFR part 144, subpart F. The amount of the funds available shall be no less than the amount identified in §146.72(a)(4)(vi). The obligation to maintain financial responsibility for post-closure care survives the termination of a permit or the cessation of injection. The requirement to maintain financial responsibility is enforceable regardless of whether the requirement is a condition of the permit.

Subpart H—Criteria and Standards Applicable to Class VI Wells

Source: 75 FR 77291, Dec. 10, 2010, unless otherwise noted.

§146.81 Applicability.

(a) This subpart establishes criteria and standards for underground injection control programs to regulate any Class VI carbon dioxide geologic sequestration injection wells.

(b) This subpart applies to any wells used to inject carbon dioxide specifically for the purpose of geologic sequestration, i.e., the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations.

(c) This subpart also applies to owners or operators of permit- or rule-authorized Class I, Class II, or Class V experimental carbon dioxide injection projects who seek to apply for a Class VI geologic sequestration permit for their well or wells. Owners or operators seeking to convert existing Class I, Class II, or Class V experimental wells to Class VI geologic sequestration wells must demonstrate to the Director that the wells were engineered and constructed to meet the requirements at §146.86(a) and ensure protection of USDWs, in lieu of requirements at §§146.86(b) and 146.87(a). By December 10, 2011, owners or operators of either Class I wells previously permitted for the purpose of geologic sequestration or Class V experimental technology wells no longer being used for experimental purposes that will continue injection of carbon dioxide for the purpose of GS must apply for a Class VI permit. A converted well must still meet all other requirements under part 146.

(d) Definitions. The following definitions apply to this subpart. To the extent that these definitions conflict with those in §144.3 or §146.3 of this chapter these definitions govern for Class VI wells:

Area of review means the region surrounding the geologic sequestration project where USDWs may be endangered by the injection activity. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and displaced fluids, and is based on available site characterization, monitoring, and operational data as set forth in §146.84.

Carbon dioxide plume means the extent underground, in three dimensions, of an injected carbon dioxide stream.

Carbon dioxide stream means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This subpart does not apply to any carbon dioxide stream that meets the definition of a hazardous waste under 40 CFR part 261.

Confined zone means a geologic formation, group of formations, or part of a formation stratigraphically overlying the injection zone(s) that acts as barrier to fluid movement. For Class VI wells operating under an injection depth waiver, confined zone means a geologic formation, group of formations, or part of a formation stratigraphically overlying and underlying the injection zone(s).

Corrective action means the use of Director-approved methods to ensure that wells within the area of review do not serve as conduits for the movement of fluids into underground sources of drinking water (USDW).

Geologic sequestration means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This