

## Environmental Protection Agency

## § 144.3

part of the program description. All Class II to Class VI aquifer exemption expansions previously issued by EPA must be incorporated into the Class VI program descriptions pursuant to requirements at §145.23(f)(9).

(1) *Specific inclusions.* The following wells are included among those types of injection activities which are covered by the UIC regulations. (This list is not intended to be exclusive but is for clarification only.)

(i) Any injection well located on a drilling platform inside the State's territorial waters.

(ii) Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids.

(iii) Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

(iv) Any septic tank, cesspool, or other well used by a multiple dwelling, community, or Regional system for the injection of wastes.

(2) *Specific exclusions.* The following are not covered by these regulations:

(i) Injection wells located on a drilling platform or other site that is beyond the State's territorial waters.

(ii) Individual or single family residential waste disposal systems such as domestic cesspools or septic systems.

(iii) Non-residential cesspools, septic systems or similar waste disposal systems if such systems (A) Are used solely for the disposal of sanitary waste, and (B) have the capacity to serve fewer than 20 persons a day.

(iv) Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.

(v) Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.

(3) The prohibition applicable to Class IV wells under §144.13 does not apply to injections of hazardous wastes into aquifers or portions thereof which

have been exempted pursuant to §146.04.

(h) *Interim Status under RCRA for Class I Hazardous Waste Injection Wells.* The minimum national standards which define acceptable injection of hazardous waste during the period of interim status under RCRA are set out in the applicable provisions of this part, parts 146 and 147, and §265.430 of this chapter. The issuance of a UIC permit does not automatically terminate RCRA interim status. A Class I well's interim status does, however, automatically terminate upon issuance to that well of a RCRA permit, or upon the well's receiving a RCRA permit-by-rule under §270.60(b) of this chapter. Thus, until a Class I well injecting hazardous waste receives a RCRA permit or RCRA permit-by-rule, the well's interim status requirements are the applicable requirements imposed pursuant to this part and parts 146, 147, and 265 of this chapter, including any requirements imposed in the UIC permit.

[48 FR 14189, Apr. 1, 1983, as amended at 49 FR 20181, May 11, 1984; 52 FR 20676, June 2, 1987; 52 FR 45797, Dec. 1, 1987; 53 FR 28147, July 26, 1988; 64 FR 68565, Dec. 7, 1999; 67 FR 39592, June 7, 2002; 75 FR 77286, Dec. 10, 2010]

### § 144.2 Promulgation of Class II programs for Indian lands.

Notwithstanding the requirements of this part or parts 124 and 146 of this chapter, the Administrator may promulgate an alternate UIC Program for Class II wells on any Indian reservation or Indian lands. In promulgating such a program the Administrator shall consider the following factors:

(a) The interest and preferences of the tribal government having responsibility for the given reservation or Indian lands;

(b) The consistency between the alternate program and any program in effect in an adjoining jurisdiction; and

(c) Such other factors as are necessary and appropriate to carry out the Safe Drinking Water Act.

### § 144.3 Definitions.

Terms not defined in this section have the meaning given by the appropriate Act. When a defined term appears in a definition, the defined term

is sometimes placed within quotation marks as an aid to readers.

*Administrator* means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

*Application* means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in approved States, including any approved modifications or revisions.

*Appropriate Act and regulations* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA); or Safe Drinking Water Act (SDWA), whichever is applicable; and applicable regulations promulgated under those statutes.

*Approved State Program* means a UIC program administered by the State or Indian Tribe that has been approved by EPA according to SDWA sections 1422 and/or 1425.

*Aquifer* means a geological “formation,” group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

*Area of review* means the area surrounding an injection well described according to the criteria set forth in §146.06 or in the case of an area permit, the project area plus a circumscribing area the width of which is either  $\frac{1}{4}$  of a mile or a number calculated according to the criteria set forth in §146.06.

*Cesspool* means a “drywell” that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

*Contaminant* means any physical, chemical, biological, or radiological substance or matter in water.

*Director* means the Regional Administrator, the State director or the Tribal director as the context requires, or an authorized representative. When there is no approved State or Tribal program, and there is an EPA administered program, “Director” means the Regional Administrator. When there is an approved State or Tribal program, “Director” normally means the State or Tribal director. In some circumstances, however, EPA retains the

authority to take certain actions even when there is an approved State or Tribal program. In such cases, the term “Director” means the Regional Administrator and not the State or Tribal director.

*Draft permit* means a document prepared under §124.6 indicating the Director’s tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a “permit.” A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in §124.5 are types of “draft permits.” A denial of a request for modification, revocation and reissuance, or termination, as discussed in §124.5 is not a “draft permit.”

*Drilling mud* means a heavy suspension used in drilling an “injection well,” introduced down the drill pipe and through the drill bit.

*Drywell* means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

*Eligible Indian Tribe* is a Tribe that meets the statutory requirements established at 42 U.S.C. 300j-11(b)(1).

*Emergency permit* means a UIC “permit” issued in accordance with §144.34.

*Environmental Protection Agency* (“EPA”) means the United States Environmental Protection Agency.

*EPA* means the United States “Environmental Protection Agency.”

*Exempted aquifer* means an “aquifer” or its portion that meets the criteria in the definition of “underground source of drinking water” but which has been exempted according to the procedures in §144.7.

*Existing injection well* means an “injection well” other than a “new injection well.”

*Facility or activity* means any UIC “injection well,” or an other facility or activity that is subject to regulation under the UIC program.

*Fluid* means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

*Formation* means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is prevallyingly, but not

necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

*Formation fluid* means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as "drilling mud."

*Generator* means any person, by site location, whose act or process produces hazardous waste identified or listed in 40 CFR part 261.

*Geologic sequestration* means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.

*Ground water* means water below the land surface in a zone of saturation.

*Hazardous waste* means a hazardous waste as defined in 40 CFR 261.3.

*Hazardous waste management facility* ("HWM facility") means all contiguous land, and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

*HWM facility* means "Hazardous Waste Management facility"

*Improved sinkhole* means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

*Indian lands* means "Indian country" as defined in 18 U.S.C. 1151. That section defines Indian country as:

(a) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

(b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(c) All Indian allotments, the Indian titles to which have not been extin-

guished, including rights-of-way running through the same.

*Indian Tribe* means any Indian Tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over a defined area.

*Injection well* means a "well" into which "fluids" are being injected.

*Injection zone* means a geological "formation" group of formations, or part of a formation receiving fluids through a "well."

*Interstate Agency* means an agency of two or more States established by or under an agreement or compact approved by the Congress, or any other agency of two or more States or Indian Tribes having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the "appropriate Act and regulations."

*Major facility* means any UIC "facility or activity" classified as such by the Regional Administrator, or, in the case of approved State programs, the Regional Administrator in conjunction with the State Director.

*Manifest* means the shipping document originated and signed by the "generator" which contains the information required by subpart B of 40 CFR part 262.

*New injection wells* means an "injection well" which began injection after a UIC program for the State applicable to the well is approved or prescribed.

*Owner or operator* means the owner or operator of any "facility or activity" subject to regulation under the UIC program.

*Permit* means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of this part, parts 145, 146 and 124. "Permit" includes an area permit (§144.33) and an emergency permit (§144.34). Permit does not include UIC authorization by rule (§144.21), or any permit which has not yet been the subject of final agency action, such as a "draft permit."

*Person* means an individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee thereof.

*Plugging* means the act or process of stopping the flow of water, oil or gas

into or out of a formation through a borehole or well penetrating that formation.

*Point of injection* means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box—the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

*Project* means a group of wells in a single operation.

*Radioactive Waste* means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR part 20, appendix B, table II, column 2.

*RCRA* means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, Pub. L. 96-510, 42 U.S.C. 6901 *et seq.*).

*Regional Administrator* means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

*Sanitary waste* means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

*Schedule of compliance* means a schedule of remedial measures included in a “permit,” including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance

with the “appropriate Act and regulations.”

*SDWA* means the Safe Drinking Water Act (Pub. L. 93-523, as amended; 42 U.S.C. 300f *et seq.*).

*Septic system* means a “well” that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

*Site* means the land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity.

*State* means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or an Indian Tribe treated as a State.

*State Director* means the chief administrative officer of any State, interstate, or Tribal agency operating an “approved program,” or the delegated representative of the State director. If the responsibility is divided among two or more States, interstate, or Tribal agencies, “State Director” means the chief administrative officer of the State, interstate, or Tribal agency authorized to perform the particular procedure or function to which reference is made.

*State/EPA agreement* means an agreement between the Regional Administrator and the State which coordinates EPA and State activities, responsibilities and programs.

*Stratum* (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

*Subsurface fluid distribution system* means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

*Total dissolved solids* means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR part 136.

*Transferee* means the owner or operator receiving ownership and/or operational control of the well.

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*Transferor* means the owner or operator transferring ownership and/or operational control of the well.

*UIC* means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including an “approved State program.”

*Underground injection* means a “well injection.”

*Underground source of drinking water (USDW)* means an aquifer or its portion:

(a)(1) Which supplies any public water system; or

(2) Which contains a sufficient quantity of ground water to supply a public water system; and

(i) Currently supplies drinking water for human consumption; or

(ii) Contains fewer than 10,000 mg/l total dissolved solids; and

(b) Which is not an exempted aquifer.

*USDW* means “underground source of drinking water.”

*Well* means: A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

*Well injection* means the subsurface emplacement of fluids through a well.

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### § 144.4 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

(a) *The Wild and Scenic Rivers Act*, 16 U.S.C. 1273 *et seq.* Section 7 of the Act prohibits the Regional Administrator from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(b) *The National Historic Preservation Act of 1966*, 16 U.S.C. 470 *et seq.* Section 106 of the Act and implementing regulations (36 CFR part 800) require the Regional Administrator, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(c) *The Endangered Species Act*, 16 U.S.C. 1531 *et seq.* Section 7 of the Act and implementing regulations (50 CFR part 402) require the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(d) *The Coastal Zone Management Act*, 16 U.S.C. 1451 *et seq.* Section 307(c) of the Act and implementing regulations (15 CFR part 930) prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce overrides the States nonconcurrency).

(e) *The Fish and Wildlife Coordination Act*, 16 U.S.C. 661 *et seq.*, requires the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife resources to conserve these resources.

(f) *Executive orders*. [Reserved]

(Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*))

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