Environmental Protection Agency

§ 144.7 Identification of underground sources of drinking water and exempted aquifers.

(a) The Director may identify (by narrative description, illustrations, maps, or other means) and shall protect as underground sources of drinking water, all aquifers and parts of aquifers which meet the definition of "underground source of drinking water" in §144.3, except to the extent there is an applicable aquifer exemption under paragraph (b) of this section or an expansion to the areal extent of an existing Class II enhanced oil recovery aquifer exemption for the exclusive purpose of Class VI injection shall be final until approved by the Administrator as a revision to the applicable Federal UIC program in accordance with §145.32 of this chapter.

(3) Subsequent to program approval or promulgation, the Director may, after notice and opportunity for a public hearing, identify additional exempted aquifers. For approved State programs exemption of aquifers identified (i) under §146.04(b) shall be treated as a program revision under §145.32; (ii) under §146.04(c) shall become final if the State Director submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days. Any disapproval by the Administrator shall state the reasons and shall constitute final Agency action for purposes of judicial review.

(c)(1) For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption for the exclusive purpose of oil recovery or enhanced oil recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration shall be final until approved by the Administrator as part of a UIC program. No designation of an expansion to the areal extent of a Class II enhanced oil recovery or enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration shall be final until approved by the Administrator as a revision to the applicable Federal UIC program under part 147 or as a substantial revision of an approved State UIC program in accordance with §145.32 of this chapter.

(2) No designation of an exempted aquifer submitted as part of a UIC program shall be final until approved by the Administrator.
applicant of historical production having occurred in the project area or field.

(ii) For Class II wells not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.

(d) Expansion to the areal extent of existing Class II aquifer exemptions for Class VI wells. Owners or operators of Class II enhanced oil recovery or enhanced gas recovery wells may request that the Director approve an expansion to the areal extent of an aquifer exemption already in place for a Class II enhanced oil recovery or enhanced gas recovery well for the exclusive purpose of Class VI injection for geologic sequestration. Such requests must be treated as a revision to the applicable Federal UIC program under part 147 or as a substantial program revision to an approved State UIC program under § 145.32 of this chapter and will not be final until approved by EPA.

(1) The owner or operator of a Class II enhanced oil recovery or enhanced gas recovery well that requests an expansion of the areal extent of an existing aquifer exemption for the purpose of Class VI injection for geologic sequestration must define (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that are requested to be designated as exempted using the criteria in § 146.4 of this chapter.

(2) In evaluating a request to expand the areal extent of an aquifer exemption of a Class II enhanced oil recovery or enhanced gas recovery well for the purpose of Class VI injection, the Director must determine that the request meets the criteria for exemptions in § 146.4. In making the determination, the Director shall consider:

(i) Current and potential future use of the USDWs to be exempted as drinking water resources;

(ii) The predicted extent of the injected carbon dioxide plume, and any mobilized fluids that may result in degradation of water quality, over the lifetime of the GS project, as informed by computational modeling performed pursuant to § 146.84(c)(1), in order to ensure that the proposed injection operation will not at any time endanger USDWs including non-exempted portions of the injection formation;

(iii) Whether the areal extent of the expanded aquifer exemption is of sufficient size to account for any possible revisions to the computational model during reevaluation of the area of review, pursuant to § 146.84(e); and

(iv) Any information submitted to support a waiver request made by the owner or operator under §146.95, if appropriate.


§ 144.8 Noncompliance and program reporting by the Director.

The Director shall prepare quarterly and annual reports as detailed below. When the State is the permit-issuing authority, the State Director shall submit any reports required under this section to the Regional Administrator. When EPA is the permit-issuing authority, the Regional Administrator shall submit any report required under this section to EPA Headquarters.

(a) Quarterly reports. The Director shall submit quarterly narrative reports for major facilities as follows:

(1) Format. The report shall use the following format:

(i) Provide an alphabetized list of permittees. When two or more permittees have the same name, the lowest permit number shall be entered first.

(ii) For each entry on the list, include the following information in the following order:

(A) Name, location, and permit number of the noncomplying permittee.

(B) A brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more of the kinds set forth in paragraph (a)(2) of this section. When a permittee has noncompliance of more than one kind, combine the information into a single entry for each such permittee.