

[FR Doc. 2011-23261 Filed 9-14-11; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0426; FRL-9463-6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Permits by Rule and Regulations for Control of Air Pollution by Permits for New Construction or Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On July 25, 2011, EPA published a direct final rule approving portions of three revisions to the Texas State Implementation Plan (SIP) submitted on August 31, 1993; July 22, 1998; and October 5, 2010. The revisions amend existing sections and create new sections in Title 30 of the Texas Administrative Code (TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification. The August 31, 1993, revision creates two new sections at 30 TAC 116.174 and 116.175 for the use of emission reductions as offsets in new source review permitting. The July 22, 1998, revision creates 30 TAC 116.116(f) allowing for the use of Discrete Emission Reduction Credits (DERC) to exceed emission limits in permits (permit allowables) and amends 30 TAC 116.174 to update internal citations to other Texas regulations. The October 5, 2010, revision amends 30 TAC 116.116(f) to update internal citations to other Texas regulations. The direct final action was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if we received relevant, adverse comments by August 24, 2011, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received timely adverse comments on the direct final rule. Therefore, EPA is withdrawing the direct final approval. EPA will address

all relevant, adverse comments submitted by August 24, 2011, in a subsequent final action based on the parallel proposal also published on July 25, 2011. As stated in the parallel proposal, EPA will not institute a second comment period on this action.

DATES: The direct final rule published on July 25, 2011 (76 FR 44271), is withdrawn as of September 15, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Erica Le Doux (6PD-R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD-R), Suite 1200, Dallas, TX 75202-2733. The telephone number is (214) 665-7265. Ms. Le Doux can also be reached via electronic mail at ledoux.eric@epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 6, 2011.

Al Armendariz,

Regional Administrator, EPA Region 6.

Accordingly, the amendments to 40 CFR 52.2270 published in the **Federal Register** on July 25, 2011 (76 FR 44271), which were to become effective on September 23, 2011, are withdrawn.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124, 144, 145, 146, and 147

[EPA-HQ-OW-2008-0390; FRL-9465-1]

Announcement of Federal Underground Injection Control (UIC) Class VI Program for Carbon Dioxide (CO₂) Geologic Sequestration (GS) Wells

AGENCY: Environmental Protection Agency (EPA).

ACTION: Establishment of Class VI Program.

SUMMARY: EPA is announcing the establishment of a Federal Underground Injection Control (UIC) Class VI Program for Carbon Dioxide (CO₂) Geologic Sequestration (GS) Wells under which EPA will directly implement the Class VI Program nationally as of September 7, 2011. States and potential owners or operators of CO₂ GS wells must submit all permit applications to the appropriate EPA Region in order for a Class VI permit to be issued pursuant to the Federal Requirements under the Class VI rule finalized on December 10, 2010. Direct Federal implementation of the final Class VI requirements is in effect until such time as a State-submitted primary enforcement responsibility (primacy) application is approved by EPA.

DATES: The national Class VI Program is effective as of September 7, 2011.

FOR FURTHER INFORMATION CONTACT: Lisa McWhirter, Underground Injection Control Program, Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC-4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 564-2317; *fax number:* (202) 564-3756; *e-mail address:* mcwhirter.lisa@epa.gov. For general information and to access information on the final Class VI rule, visit the Underground Injection Control Geologic Sequestration Web site at http://water.epa.gov/type/groundwater/uic/wells_sequestration.cfm.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to all State and Tribal governments and owners or operators of injection wells that will be used to inject CO₂ into the subsurface for the purposes of GS. Entities include, but are not limited to, the following:

Category	Examples of entities that this action applies to
States and Tribal Governments	States and Tribal governments.
Private	Owners or Operators of CO ₂ injection wells used for Class VI GS.
Private	Owners or Operators of existing CO ₂ injection wells transitioning from Class I, II, or Class V injection activities to Class VI GS.

This table is not intended to be an exhaustive list; rather it provides a

guide for readers regarding entities that this action applies to. This action could

also apply to other types of entities not listed in the table. To determine

whether this action applies to your facility or authority, you should carefully examine the applicability criteria found at 40 CFR part 146 in the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How can I get copies of this document and other related information?

1. *Docket.* EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2008-0390. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

II. Background Information

On December 10, 2010, EPA finalized minimum Federal requirements under the Safe Drinking Water Act (SDWA) for underground injection of CO₂ for the purpose of GS (75 FR 77230) (Class VI Final Rule). Under the authority of the SDWA, EPA established a new class of well, Class VI, for underground injection of CO₂ for the purpose of GS. The Agency set minimum technical criteria for the permitting, geologic site characterization, area of review (AoR) and corrective action, financial responsibility, well construction, operation, mechanical integrity testing (MIT), monitoring, well plugging, post-injection site care (PISC), and site closure of Class VI wells for the purposes of protecting underground sources of drinking water (USDWs).

Under 40 CFR 145.21(h) in the Code of Federal Regulations (CFR), EPA provided States 270 days, from December 10, 2010, to submit a complete primary enforcement responsibility (primacy) application for implementation of the Class VI Program that met the requirements of 40 CFR 145.22 or 145.32 (75 FR 77242). While the Agency has worked with States interested in applying for Class VI Program primacy, as of September 6,

2011, EPA has not received or approved any complete primacy applications.

III. Class VI Program Implementation

In the preamble to the Class VI Final Rule (75 FR 77242), EPA clarified that, in light of national priorities for promoting climate change mitigation strategies and Administration priorities for developing and deploying CCS projects in the next few years as highlighted in the "Report of the Interagency Task Force on Carbon Capture and Storage" (August 2010), it is important to have enforceable Class VI regulations in place nationwide as soon as possible. As a result, in the Class VI Final Rule, EPA provided that the Federal rule would become effective in every State that had not submitted a primacy application within the 270-day transition period provided by SDWA. The Agency committed to publishing, in the **Federal Register**, a list of States where the Federal Class VI requirements have become applicable beginning September 7, 2011 (75 FR 77242). Because the Agency did not receive any complete primacy applications for Class VI Program implementation by September 6, 2011, no States have received Class VI primacy and the Federal requirements have become effective nationwide. In situations where States have not been granted authority to administer UIC Program regulations, EPA is responsible for implementing the Program in accordance with the provisions at 40 CFR 145.21(h) and 147.1(d). EPA describes this process in the preamble to the Class VI Final Rule at 75 FR 77242. In summary, on September 7, 2011, the Class VI permit requirements became effective throughout the United States, and EPA now implements and enforces the Federal Class VI requirements nationally, in all States, Tribes, and Territories even in States, Tribes, or Territories that have primacy to administer the UIC Program for other UIC well classes.

As a result, beginning September 7:

- The "transitional period" during which States were able to use existing UIC authorities (*e.g.*, Class I or Class V) to permit GS projects has ended (75 FR 77243). All current and future GS projects must now be evaluated by the appropriate EPA Regional office (the Class VI permitting authority).

- A State may no longer issue Class I permits for CO₂ injection for GS for purposes of complying with SDWA.

- Until a State receives primacy for the Class VI Program, a State may not issue Class VI UIC permits (75 FR 77243) under SDWA. All permit applications for GS projects must be

directed to the appropriate EPA Region in order for a Class VI permit to be issued (75 FR 77243). EPA encourages owners or operators to contact EPA Regions regarding existing and future GS projects. EPA Regions will work with States that are considering applying for Class VI primacy, where possible, to ensure that Class VI permits are designed in a way that will be compatible with the final State Program requirements. EPA expects the majority, if not all, of the wells injecting CO₂ for GS to obtain Class VI permits. The Agency anticipates that few, if any Class V experimental technology well permits will be issued under SDWA for future GS projects. (75 FR 77245-46) EPA will determine, based on evaluation of project-specific information, whether a project needs to be permitted as a Class V experimental technology well because the Class VI requirements would be technologically inappropriate or would not adequately address the environmental risks of the project. In such cases, EPA will coordinate with the appropriate Class V permitting authority which may, in some cases, be the State.

- As provided in 40 CFR 146.81(c), owners or operators of either Class I wells previously permitted for the purpose of GS or Class V experimental technology wells no longer being used for experimental purposes that will continue injection of CO₂ for the purpose of GS must apply to the appropriate EPA Region for a Class VI permit by December 10, 2011.

- A State may, at any time in the future, apply for Class VI Program primacy following establishment of a Federal Class VI UIC Program. If a State receives Class VI Program primacy approval in the future, EPA will publish a subsequent **Federal Register** notice that codifies the State Class VI Program in 40 CFR part 147; at that point, the State, rather than EPA, will implement the Class VI Program. For additional information about applying for Class VI Program primacy under SDWA Section 1422, see requirements at 40 CFR part 145 and the final rule and preamble (75 FR 77230-77303; December 10, 2010).

Dated: September 9, 2011.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

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