

appropriate locations within or at the boundary of the mixing zones and outside of the mixing zones; otherwise the criteria apply throughout the water body including at the end of any discharge pipe, conveyance, or other discharge point within the water body.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 147

[EPA-HQ-OW-2020-0595; FRL 10018-31-OW]

RIN 2040-ZA35

### State of Michigan Underground Injection Control (UIC) Class II Program; Primacy Approval

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) is taking direct final action to approve the State of Michigan's Underground Injection Control Class II (UIC) Program for primacy. EPA has determined that the State's program is consistent with the provisions of the Safe Drinking Water Act (SDWA) at Section 1425 to prevent underground injection activities that endanger underground sources of drinking water. EPA's approval allows Michigan to implement and enforce its state regulations for UIC Class II injection wells located within the State. Michigan's authority excludes the regulation of injection well Classes I, III, IV, V, and VI, and all wells in Indian country, as required by rule under the SDWA.

**DATES:** This rule is effective on June 17, 2021 without further notice, unless EPA receives adverse comment by April 19, 2021. If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. For judicial review purposes, this final rule is promulgated as of June 17, 2021. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of June 17, 2021.

**ADDRESSES:** Submit your comments to the public docket for this rule, identified by Docket No. EPA-HQ-OW-2020-0595, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. All submissions received must include

the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Kyle Carey, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564-2322; fax number: (202) 564-3754; email address: [carey.kyle@epa.gov](mailto:carey.kyle@epa.gov), or Anna Miller, UIC Section, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886-7060; email address: [miller.anna@epa.gov](mailto:miller.anna@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplementary information is organized as follows:

- I. Public Participation
- II. Direct Final Rule
- III. Entities Affected by This Action
- IV. Legal Authorities
- V. Michigan's Application
  - A. Public Participation Activities Conducted by the State of Michigan
  - B. Notice of Completion and Public Participation Activities Conducted by EPA
- VI. Incorporation by Reference
- VII. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 12563: Improving Regulation and Controlling Regulatory Costs
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act (CRA)

## I. Public Participation

Submit your written comments, identified by Docket ID No. EPA-HQ-OW-2020-0595, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Contact EPA if you want to submit CBI; see **FOR INFORMATION CONTACT** section of this document. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

## II. Direct Final Rule

EPA published this rule without a prior proposed rule. The Agency views this action as noncontroversial and anticipates no adverse comment. However, in the "Proposed Rules" section of the **Federal Register**, EPA is publishing a separate document that serves as the proposed rule if the Agency receives adverse comment on this direct final rule. The Agency will not institute a second comment period on this action. Any parties interested in

commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register**, informing the public that this direct final rule will not take effect. The

Agency will then consider and address all public comments in any subsequent final rule based on the proposed rule.

**III. Entities Affected by this Action**

**REGULATED ENTITIES**

Category	Examples of potentially regulated entities	North American Industry Classification System
Industry .....	Private owners and operators of Class II injection wells located within the state (Enhanced Recovery, Produced Fluid Disposal and Hydrocarbon Storage).	211111 & 213111.

This table is intended to be a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**IV. Legal Authorities**

EPA approves Michigan’s UIC Program primacy application for Class II injection wells located within the State, as required by rule under the SDWA, to prevent underground injection activities that endanger underground sources of drinking water. Accordingly, the Agency codifies Michigan’s program in the Code of Federal Regulations (CFR) at 40 CFR part 147, under the authority of the SDWA, Section 1425, 42 U.S.C. 300h-4. Michigan applied to EPA under Section 1425 of the SDWA for primacy for all Class II injection wells within the State except those in Indian country.

The Agency’s approval is based on a legal and technical review of Michigan’s primacy application. The review included an evaluation of Michigan’s requirements for permitting, compliance evaluation, and enforcement and of the programmatic structures and legal authority needed to ensure the protection of underground sources of drinking water (USDWs) in coordination with EPA. Through this process the Agency determined that the State’s program is effective. EPA will continue to oversee Michigan’s administration of the SDWA Class II UIC program. As part of EPA’s oversight responsibility, EPA will require Michigan to submit semi-annual reports of non-compliance and annual UIC performance reports pursuant to 40 CFR 144.8. The Memorandum of Agreement between EPA and Michigan, signed by the EPA Region 5 Regional Administrator on October 13, 2020, makes available to EPA any information obtained or used

by Michigan’s Class II UIC program, without restriction. The Agency continues to administer the UIC program for Class I, III, VI, V, and VI, injection wells in the State and for all wells in Indian country.

**V. Michigan’s Application**

*A. Public Participation Activities Conducted by the State of Michigan*

The State published a notification in the *Michigan Register* announcing their UIC Class II regulations and requesting comment on February 15, 2018. Public comment was accepted through March 16, 2018, and a public hearing on the State’s regulations and its intent to apply for primacy was held on February 28, 2018. Both oral and written comments received for the hearing were generally supportive of the State pursuing primacy for the UIC Class II injection well program.

*B. Notice of Completion and Public Participation Activities Conducted by EPA*

On April 15, 2020, the Agency published a notification of Michigan’s complete application in the **Federal Register** (80 FR 69629) and posted a similar announcement on the EPA Region 5 website. The document established a public comment period of 60 days and a public hearing on May 27, 2020. The May 27, 2020 public hearing was held virtually due to restrictions on meetings imposed by the State of Michigan related to COVID-19 and to protect public health. EPA had also directly contacted federally recognized tribes in the State of Michigan to provide a separate opportunity for consultation on the Michigan Class II UIC primacy application. A tribal consultation call was held on April 14, 2020.

EPA received a total of 40 public comments in the electronic docket, by paper mail, and during the virtual hearing. Thirty-seven of the comments contained general expressions of

support for Michigan’s application. One letter submitted was from a tribal government, offering comments and requesting specific information; these comments and request were addressed through the tribal consultation process. One electronic docket statement was determined to be out of scope of this action as it expressed a general desire for Michigan to adopt a clean energy statute. One speaker at the virtual hearing asked several questions about Michigan’s program. The speaker did not make a comment or statement about the application.

Through a March 9, 2020 written letter, EPA invited interested tribes to consult regarding the Agency’s review of the State’s request for program approval, in accordance with *EPA Policy for Consultation and Coordination with Indian Tribes* (May 4, 2011). EPA held a telephone conference with interested tribes on April 14, 2020. Additionally, EPA received written comments from two tribes. EPA communicated the concerns raised in these comments via email to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on July 23, 2020. In response, EGLE sent a letter dated August 6, 2020, in which the Department committed to consult and coordinate with tribes regarding permit applications for wells adjacent to Indian country (defined in accordance with 18 U.S.C. 1151) and within the ceded territory where tribes hold off-reservation treaty rights. Detailed documents covering the comments submitted to EPA through the public comment process and the tribal consultation, as well as the Agency’s responses and steps taken can be viewed in the docket.

**VI. Incorporation by Reference**

In this action, EPA is approving Michigan’s Class II UIC program; whereby the State will assume primacy for regulating Class II injection wells in the State, except within Indian country.

Michigan's statutes and supporting documentation are publicly available in EPA's Docket No. EPA-HQ-OW-2020-0595. This action amends 40 CFR part 147 and incorporates by reference EPA-approved state statutes and regulations. EPA will continue to administer the UIC program for all other well classes in Michigan and all well classes within Indian country.

The provisions of Michigan's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of UIC Class II wells are incorporated by reference into 40 CFR 147.1150 by this rule. Any provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, will be enforceable by EPA pursuant to the SDWA Section 1423 and 40 CFR 147.1(e).

In order to better serve the public, EPA is reformatting the codification of "EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells." Instead of codifying the Michigan statutes and regulations as separate paragraphs, EPA is now incorporating by reference a compilation that contains EPA-approved Michigan statutes and regulations for Class II wells. This compilation is incorporated by reference into 40 CFR 147.1150 and is available at <https://www.regulations.gov> in the docket for this rule. EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and in hard copy at the EPA Region 5 office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). A complete list of the Michigan statutes and regulations contained in the compilation, titled "EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells," dated November 24, 2020, is codified as Table 1 to paragraph (a) in that section.

## VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review.

This action is exempt from review by the Office of Management and Budget (OMB) because OMB has determined

that the approval of primacy for the UIC program is not a significant regulatory action.

### B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. EPA determined that there is no need for an Information Collection Request under the PRA because this direct final rule does not impose any new Federal reporting or recordkeeping requirements. Reporting or recordkeeping requirements will be based on Michigan's UIC Regulations, and Michigan is not subject to the PRA. However, OMB has previously approved the information collection activities contained in the existing UIC regulations and for Section 1425 states under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040-0042.

### C. Regulatory Flexibility Act (RFA)

The Agency certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action would not impose any new requirements on small entities. It simply approves and codifies Michigan's Class II UIC program, which meets the same effectiveness standard under SDWA Section 1425 for regulating a Class II UIC well program. EPA has therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. EPA's approval of Michigan's primacy application will not constitute a Federal mandate because there is no requirement that a state establish UIC regulatory programs and because the program is a state, rather than a Federal program.

### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 as explained in Section V.B. Thus, Executive Order 13175 does not apply to this action.

### G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in Section 2-202 of the Executive order. This action is not subject to Executive Order 13045 because it approves a state program.

### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

### I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish either a new environmental health or a new safety standard. This action is providing Michigan with primacy under the SDWA for the Class II UIC program, pursuant to which Michigan will be implementing and enforcing a state regulatory program that is as effective as the existing federal program.

### K. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the

Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 147**

Environmental protection, Incorporation by reference, Indian lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

**Jane Nishida,**

*Acting Administrator.*

For the reasons set out in the preamble, EPA amends 40 CFR part 147 as follows:

**PART 147—STATE, TRIBAL, AND EPA-ADMINISTERED UNDERGROUND INJECTION CONTROL PROGRAMS**

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 42 U.S.C. 300f *et seq.*; and 42 U.S.C. 6901 *et seq.*

**Subpart X—Michigan**

■ 2. Add § 147.1150 to read as follows:

**§ 147.1150 State-administered program—Class II wells.**

The UIC program for Class II injection wells in the State of Michigan, except

for those in Indian country, is the program administered by the Michigan Department of Environment, Great Lakes, and Energy, approved by EPA pursuant to Section 1425 of the SDWA. Notification of this approval was published in the **Federal Register** on March 19, 2021; the effective date of this program is June 17, 2021. Table 1 to paragraph (a) of this section is the table of contents of the Michigan State statutes and regulations incorporated as follows by reference. This program consists of the following elements, as submitted to EPA in the State’s program application.

(a) *Incorporation by reference.* The requirements set forth in the State’s statutes and regulations approved by EPA for inclusion in “EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells,” dated November 24, 2020, and listed in Table 1 to this paragraph (a), are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Michigan. This incorporation by reference was approved by the Director of the Federal Register in accordance

with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Michigan regulations and statutes that are incorporated by reference may be inspected at the Michigan Department of Environment, Great Lakes, and Energy, Oil, Gas, and Minerals Division, Constitution Hall, 525 West Allegan, Street, Lansing, Michigan 48909, (517) 284–6823; the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–2147; the U.S. Environmental Protection Agency, Water Docket, EPA Docket Center (EPA/DC), EPA WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004. If you wish to obtain materials from the EPA Headquarters Library, please call the Water Docket at (202) 566–2426 or from the EPA Regional Office, please call (312) 353–2147. You may also inspect the materials at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

**TABLE 1 TO PARAGRAPH (a)—EPA-APPROVED STATE OF MICHIGAN SDWA SECTION 1425 UNDERGROUND INJECTION CONTROL PROGRAM STATUTES AND REGULATIONS FOR WELL CLASS II**

State citation	Title/subject	State effective date	EPA approval date
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 615 (Supervisor of Wells), Michigan Compiled Laws (MCL) Sections 324.61501–324.61527.	Supervisor of Wells .....	Effective September 10, 2004.	March 19, 2021 [Insert FR citation of the final rule].
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 13 (Permits), MCL Sections 324.1301–324.1317.	Permits .....	Effective March 29, 2019 ..	March 19, 2021 [Insert FR citation of the final rule].
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 616 (Orphan Well Fund), MCL Sections 324.61601–324.61607.	Orphan Well Fund .....	Effective May 24, 1995 .....	March 19, 2021 [Insert FR citation of the final rule].
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 17 (Michigan Environmental Protection Act), MCL Sections 324.1701 –324.1706.	Michigan Environmental Protection Act.	Effective March 30, 1995 ..	March 19, 2021 [Insert FR citation of the final rule].
Administrative Procedures Act, Act 306 of 1969, MCL Sections 24.201–24.328.	Administrative Procedures Act.	Effective June 29, 2018 ....	March 19, 2021 [Insert FR citation of the final rule].
Revised Judicature Act of 1961, Act 236 of 1961, MCL Section 600.631.	Revised Judicature Act .....	Effective April 1, 1974 .....	March 19, 2021 [Insert FR citation of the final rule].
Michigan Department of Environmental Quality Part 615 (Oil and Gas Operations) Administrative Rules, Michigan Administrative Code (MAC) as follows: R 324.101 to 324.199, R 324.201 to 324.208, R 324.210 to 324.216, R 324.401 to 324.422, R 324.501 to 324.504, R 324.507, R 324.508, R 324.510, R 324.511, R 324.701 to 324.705, R 324.801 to 324.808, R 324.810 to 324.816, R 324.901 to 324.904, R 324.1001 to 324.1013, R 324.1015, R 324.1101 to 324.1130, R 324.1201 to 324.1212, R 324.1301, and R 324.1401 to 324.1406.	Oil and Gas Operations (administrative rules).	Effective 2019 .....	March 19, 2021 [Insert FR citation of the final rule].
Michigan Department of Licensing and Regulatory Affairs (Contested Case Procedures for Department of Environmental Quality) Administrative Rules, MAC, R 324.73 and R 324.74.	General Provisions (administrative rules).	Effective 2003 .....	March 19, 2021 [Insert FR citation of the final rule].

TABLE 1 TO PARAGRAPH (a)—EPA-APPROVED STATE OF MICHIGAN SDWA SECTION 1425 UNDERGROUND INJECTION CONTROL PROGRAM STATUTES AND REGULATIONS FOR WELL CLASS II—Continued

State citation	Title/subject	State effective date	EPA approval date
Michigan Department of Licensing and Regulatory Affairs (Contested Case Procedures for Department of Environmental Quality) Administrative Rules, MAC, R 324.81.	Declaratory Rulings ..... (administrative rules) .....	Effective 2003 .....	March 19, 2021 [Insert FR citation of the final rule].

(b) *Memorandum of Agreement (MOA)*. The MOA between EPA Region 5 and the State of Michigan Department of Environment, Great Lakes, and Energy signed by EPA Regional Administrator on October 13, 2020.

(c) *Statements of legal authority*. “Underground Injection Control Program, Attorney General’s Statement,” signed by the Chief of the Environment, Natural Resources, and Agriculture Division of the Michigan Department of Attorney General on September 1, 2020.

(d) *Program description*. The program description submitted as part of Michigan’s application, and any other materials submitted as part of this application or as a supplement thereto.

■ 3. Amend § 147.1151 by revising the section heading and the first sentence of paragraph (a) to read as follows:

**§ 147.1151 EPA-administered program—Class I, III, IV, V, and VI wells and Indian country.**

(a) \* \* \* The UIC program for Class I, III, IV, V and VI wells and all wells in Indian country in the State of Michigan is administered by the EPA.

\* \* \* \* \*

■ 4. Revise §§ 147.1153, 147.1154, and 147.1155 to read as follows:

**§ 147.1153 Existing Class II disposal wells authorized by rule in Indian country.**

The owner or operator shall limit injection pressure to the lesser of:

(a) A value which will not exceed the operating requirements of § 144.28(f)(3)(i) or (ii) of this chapter as applicable; or

(b) A value for well head pressure calculated by using the following formula:  $P_m = (0.800 - 0.433 S_g)d$ , where:  $p_m$  = injection pressure at the well head in pounds per square inch,  $s_g$  = specific gravity of injected fluid (unitless), and  $d$  = injection depth in feet.

**§ 147.1154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule in Indian country.**

(a) *Maximum injection pressure*. (1) To meet the operating requirements of § 144.28(f)(3)(ii)(A) and (B) of this chapter, the owner or operator:

(i) Shall use an injection pressure no greater than the pressure established by the Regional Administrator for the field or formation in which the well is located. The Regional Administrator shall establish such a maximum pressure after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of part 124, subpart A, of this chapter, and will inform owners and operators in writing of the applicable maximum pressure; or

(ii) May inject at pressures greater than those specified in paragraph (a)(1)(i) of this section for the field or formation in which he is operating provided he submits a request in writing to the Regional Administrator, and demonstrates to the satisfaction of the Regional Administrator that such injection pressure will not violate the requirement of § 144.28(f)(3)(ii)(A) and (B) of this chapter. The Regional Administrator may grant such a request after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of part 124, subpart A, of this chapter.

(2) Prior to such time as the Regional Administrator establishes field rules for maximum injection pressure based on data provided pursuant to paragraph (a)(2)(ii) of this section the owner or operator shall:

(i) Limit injection pressure to a value which will not exceed the operating requirements of § 144.28(f)(3)(ii) of this chapter; and

(ii) Submit data acceptable to the Regional Administrator which defines the fracture pressure of the formation in which injection is taking place. A single test may be submitted on behalf of two or more operators conducting operations in the same formation, if the Regional Administrator approves such submission. The data shall be submitted to the Regional Administrator within one (1) year following June 17, 2021, the effective date of this program.

(b) *Casing and cementing*. Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage may not be in compliance with the requirements of §§ 144.28(e) and 146.22 of this chapter, the owner or

operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may specify other requirements in addition to or in lieu of the requirements set forth in paragraphs (b)(1) through (3) of this section, as needed to protect USDWs.

**§ 147.1155 Requirements for all EPA-administered wells.**

(a) *Area of review*. Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review for Class II wells shall be a fixed radius as described in § 146.6(b) of this chapter.

(b) *Tubing and packer*. The owner or operator of an injection well injecting salt water for disposal shall inject through tubing and packer. The owner of an existing well must comply with this paragraph (b) within one (1) year of June 17, 2021, the effective date of this program.

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