

Sunshine Act Meetings

Federal Register

Vol. 53, No. 206

Tuesday, October 25, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 20, 1988.

TIME AND DATE: 10:00 a.m., Thursday, October 27, 1988.

PLACE: Room 600, 1730 K Street, N.W., Washington, DC.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Helen Mining Company, Docket Nos. PENN 86-94-R, PENN 86-181. (Issues include consideration of whether a violation occurred as the result of the operator's unwarrantable failure.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR § 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen (202) 653-5629, (202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88-24770 Filed 10-21-88; 3:46 pm]

BILLING CODE 6735-01-M

UNITED STATES INSTITUTE OF PEACE

DATE: Thursday, and Friday, October 27, and 28, 1988.

TIME: 9:15 a.m. to 5:00 p.m.

PLACE: The United States Institute of Peace, 1550 M Street, NW., ground floor (conference room).

STATUS: Open session—9:15 a.m. to 12:30 p.m. (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. (98-525).

AGENDA: (TENTATIVE).

Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Consideration of the minutes of the Twenty-sixth meeting. Consideration of grants application matters.

CONTACT: Ms. Olympia Diniak. Telephone (202) 457-1700.

Dated October 20, 1988.

Bernice J. Carney,

Administrative Officer, The United States Institute of Peace.

[FR Doc. 88-24608 Filed 10-21-88; 3:18 pm]

BILLING CODE 3155-01-M

Federal Register

**Tuesday
October 25, 1988**

Part II

Environmental Protection Agency

40 CFR Part 147

**Washington Department of Ecology;
Underground Injection Control Program
for Indian Lands; Notice of Denial**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

(FRL-3464-6)

Washington Department of Ecology; Underground Injection Control Program for Indian Lands

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial.

SUMMARY: The State of Washington has applied to EPA to administer a Safe Drinking Water Act (SDWA) Underground Injection Control (UIC) program covering all classes of injection wells on Indian lands. EPA has determined that the State's demonstration of jurisdiction is insufficient for EPA to approve the State of Washington's application to regulate UIC activities on Indian lands.

DATES: This notice shall become effective on November 25, 1988. In accordance with 40 CFR 23.7, this notice will be considered final action for purposes of judicial review at 1:00 p.m. Eastern Time on November 8, 1988.

FOR FURTHER INFORMATION CONTACT: Harold Scott, Environmental Protection Agency (WD-132), Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Phone (206) 442-1846 or FTS 399-1846.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

The UIC program seeks to protect as "underground sources of drinking water" (USDWs) aquifers capable of yielding a significant amount of water containing less than 10,000 mg/l of total dissolved solids. The SDWA, 42 U.S.C. 300f *et seq.*, authorizes EPA to regulate underground injection control activity on all lands in the United States, including Indian lands. The 1986 amendments to the SDWA sets forth the role of Tribes and EPA in implementing the UIC program on Indian lands. Section 1451 (added by the 1986 amendments) authorizes EPA to "treat Indian Tribes as States" if they meet certain statutory criteria. Tribes which satisfy the criteria for treatment as a State may then obtain primary enforcement authority over the UIC and Public Water Systems programs. EPA has already proposed regulations for treating Tribes as states under the SDWA programs (52 FR 28112; 52 FR 46712).

The 1986 amendments also added section 1422(e) to the Act, which directs EPA to promulgate a Federal UIC program for Indian lands where the

Tribe has not yet assumed the program under section 1451 and where no other applicable program is in place. On May 11, 1987, EPA proposed direct implementation programs for Indian lands in all states where no program was in place, in compliance with section 1422(e) of the SDWA (52 FR 17684).

II. Washington's Application

The State of Washington submitted an application under section 1422 of the SDWA for the approval of an Underground Injection Control (UIC) program governing all classes of injection wells. On March 21, 1984 (49 FR 10555), EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the State's application. On April 23, 1984, the Confederated Tribes of the Colville Reservation requested that the public comment period be extended. On May 25, 1984 (49 FR 22110), EPA issued a public notice to extend the public comment period to obtain additional information to assist the Agency in approving or disapproving Washington's assertion of authority over injection well activities on Indian lands. Three public hearings were held: two at Moses Lake, Washington on July 11-12, 1984, and one at Seattle, Washington, on July 13, 1984. Oral and written comments were made by several Indian Tribes. No comments were received from the State of Washington. On August 23, 1984, EPA delegated the UIC program to the Washington Department of Ecology except for Indian lands. (49 FR 31875). In the same *Federal Register* notice EPA stated that it would make a decision regarding Indian lands after further review.

On May 11, 1987, EPA proposed a Federal UIC program for Indian lands in the State of Washington (52 FR 17684). In the same notice EPA stated that it would make a final decision in the near future on the State of Washington's application to administer a UIC program on Indian lands. Washington did not submit any comments on EPA's May 11, 1987 *Federal Register* notice. Elsewhere in today's *Federal Register*, EPA is finalizing the May 11, 1987 proposal, including promulgation of a UIC Direct Implementation program for Indian lands in the State of Washington.

III. Today's Decision

Under 40 CFR 145.24(b), the burden is placed on the state to demonstrate jurisdiction over Indian lands. This section provides that "[w]hen a State seeks authority over activities on Indian lands, the statement shall contain an appropriate analysis of the State's

authority." In the preamble to the rule including this section, EPA stated:

Because states will lack jurisdiction in most instances to control activities on Indian lands * * * EPA will assume that a state lacks authority unless the state affirmatively asserts authority and supports its assertion with an analysis from the State Attorney General.

45 FR 33378 (1980).

EPA has reviewed the statement submitted by the State of Washington in support of the application of the Department of Ecology for delegation of the Underground Injection Control program under the Safe Drinking Water Act. After evaluation, EPA has concluded that the demonstration of jurisdiction in the Attorney General's statement is insufficient for EPA to formally authorize the State of Washington to regulate UIC activities on Indian lands.

A. Authorization To Regulate on Indian Lands Under the SDWA

The State asserts jurisdiction under the SDWA contending that section 1422 of the SDWA implicitly authorizes a state to regulate activities on Indian lands. The State argues that once EPA approves a state's program under the SDWA, that program applies to all persons conducting regulated activities within a state, including Indian lands. This is the same basis that the State of Washington provided to obtain jurisdiction over Indian lands as part of its application for interim authorization under the Resource Conservation and Recovery Act (RCRA). In the RCRA proceeding, EPA concluded that the State's submittal failed to meet the requirements of 40 CFR 271.7(b). EPA thus did not authorize Washington to administer the RCRA program on Indian lands (48 FR 34954 (1983)).

The State filed a petition for review of the RCRA decision in the United States Court of Appeals for the Ninth Circuit. See *Washington Department of Ecology v. EPA*, 752 F.2d 1465 (9th Cir. 1985). The court upheld EPA's decision that the State's demonstration of jurisdiction on Indian lands was insufficient under the EPA regulation. *Id.* The court noted that RCRA failed to delineate the implementation of hazardous waste regulations on Indian lands. The court, citing the Supreme Court decision in *Chevron v. NRDC*, 467 U.S. 837 (1984), noted that where a statute is silent, Congress has implicitly delegated policy-making authority to the Agency. The court then held that EPA's regulation interpreting RCRA not to grant the State jurisdiction over Indian lands was reasonable.

The requirements of 40 CFR 145.24 for SDWA primacy are identical to those required under RCRA. Thus, EPA must determine whether the language of the SDWA authorizes the State of Washington to regulate on Indian lands. EPA has concluded that the SDWA does not, by itself, constitute authorization for the State to regulate on Indian lands.

The argument that the SDWA authorizes state regulation on Indian lands is weaker than the same argument under RCRA. As discussed earlier, the 1986 amendments to the SDWA set forth the role of Tribes and the EPA in implementing the UIC program on Indian lands. The 1986 amendments reflect Congressional intent to promote tribal regulation of UIC activities on Indian lands with Federal approval. Thus, EPA disagrees with Washington's assertion that Federal approval of a state UIC program empowers the state to regulate UIC activities on a reservation. There is no explicit language in the SDWA to support that interpretation. Furthermore, such an interpretation would negate the apparent Congressional intent of the 1986 amendments.

B. Authorization To Regulate on Indian Lands Under State Law

1. Legal Structure

Washington asserts another basis for claiming jurisdiction over UIC activities on Indian lands. The State indicates that its laws are applicable throughout the geographic borders of the State, including Indian lands, even absent explicit authorization under the SDWA.

The Supreme Court in *White Mountain Apache Tribe v. Bracker* discussed the principles that determine whether a state civil regulatory statute is applicable within a reservation. 448 U.S. 136, 144-145 (1980). The Court concluded that the imposition of state motor carrier license and fuel taxes on two non-Indian corporations engaged in logging on Indian lands was preempted by a Federal program for regulating reservation timber.

In pertinent part, the Court stated that:

[There are] two independent but related barriers to the assertion of state regulatory authority over tribal reservations and members. First, the exercise of such authority may be preempted by Federal law. Second, it may unlawfully infringe 'on the right of reservation Indians to make their own laws and to be ruled by them.' The two barriers are independent because either, standing alone, can be a sufficient basis for holding state law inapplicable to activity undertaken on the reservation or by tribal members * * * The tradition of Indian sovereignty over the reservation and tribal

members must inform the determination whether the exercise of state authority has been preempted by operation of federal law. As we have repeatedly recognized, this tradition is reflected and encouraged in a number of Congressional enactments demonstrating a firm federal policy of promoting tribal self-sufficiency and economic development. Ambiguities in federal law have been construed generously in order to comport with these traditional notions of sovereignty and with the federal policy of encouraging tribal independence. 448 U.S. at 142-144 (citations omitted).

The principles of tribal sovereignty and self-determination were affirmed by the Supreme Court in 1987. The Court found that those principles outweighed competing interests asserted by the State of California and by non-Indians. In *California v. Cabazon Band of Mission Indians*, 107 S.Ct. 1083 (1987), the Court recognized tribal authority to regulate activities on reservation lands in holding that California and Riverside County could not assert jurisdiction over bingo and gambling activities conducted by Indians on Indian land, even though the primary customers for the activities were non-Indians. The Court found that neither Pub. L. 83-280 nor the Organized Crime Control Act of 1970 (OCCA) authorized the State or county to impose gambling laws or ordinances on the reservation.

The State of Washington has the burden of showing that its authority under state law to regulate UIC activities is not preempted by Federal law, and that state regulation will not infringe tribal self-government. As the Supreme Court clearly stated in *Cabazon*,

"[S]tate jurisdiction is pre-empted * * * if it interferes or is incompatible with federal and tribal interests reflected in federal laws unless the State interests at stake are sufficient to justify the assertion of state authority." The inquiry is to proceed in light of traditional notions of Indian self-government, including its "overriding goal" of encouraging tribal self-sufficiency and economic development.

Cabazon, 107 S.Ct. at 1092 (quoting *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 333-35 (1983)). Furthermore, tribal interests are accorded more weight when non-Indian conduct "threatens or has some direct effect on political integrity, the economic security, or the health or welfare of the tribe." *Montana v. United States*, 450 U.S. 544, 566 (1981).

2. Interest Analysis

The remainder of this notice applies these principles through an examination of the interests of the Federal, tribal, and state governments in the regulation of UIC activities on Indian lands.

a. *Federal and Tribal interest.* The United States Environmental Protection Agency supports a policy of tribal self-government in cooperation with the Federal government. In June, 1981, the Administrator of EPA directed the EPA Office of Federal Activities to assemble a study enabling EPA better to apply its environmental programs to Indian tribes and reservations. In July 1983, EPA released its study of *Administration of Environmental Programs on Indian Lands* ("EPA Indian Lands Study").

The EPA Indian Lands Study culminated in the release of an EPA Indian Policy and Implementation guidance in November 1984. The EPA Policy stated that the two principal EPA directives were to implement the Federal law on Indian reservations in a manner responsible to the particular legal and political status of tribes and to "ensure the close involvement of Tribal Governments in making decisions and managing programs for reservations (unless the State has an express grant of jurisdiction from Congress sufficient to support delegation to the State Government)." EPA Indian Policy, page 2.

EPA has carried out the policy of self-determination in administering the various environmental statutes. For example, EPA promulgated regulations under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") authorizing tribes to develop their own programs for certification of pesticide applicators at a time when the statute provided only that "states" could submit certification plans. See 40 CFR 171.10. Similarly, EPA delegated to Indian tribes the authority to classify their reservations under the Prevention of Significant Deterioration ("PSD") standards of the Clean Air Act, even though the Act did not specifically authorize such delegation. 40 CFR 52.21(g)(4). Congress subsequently amended both statutes expressly to permit tribal participation as set forth in the regulation.

The Federal interest in tribal management of environmental statutes is especially strong under the Safe Drinking Water Act, in light of the 1986 amendments (as discussed above). In authorizing EPA to treat qualifying Tribes as states for purposes of primary enforcement responsibility, Congress expressed a clear preference for tribal regulation of UIC activities on Indian lands.

The tribal governments support EPA's position regarding protection of the reservation environments. In EPA's public hearings on the State's assertion of UIC regulatory jurisdiction over

Indian lands, numerous Tribes requested that EPA deny the State's application. The comments by Alan Moomaw, on behalf of the Confederated Tribes of the Colville Reservation, typify the comments submitted by Tribes on the State of Washington's application.

All lands within the Reservation regardless of ownership are to be regulated by EPA under Federal law. The need for unitary management of water sources on Indian reservations is without question, as the dangers posed by UIC activities to underground aquifers as well as to surface waters demand the imposition of a single comprehensive management scheme by EPA. This conclusion is grounded in the knowledge that actions taken on one parcel of land, no matter whether owned by an Indian or a non-Indian, can have an important environmental consequence on adjacent parcels on the reservation.

(Testimony by Alan Moomaw, Environmental Coordinator, Confederated Tribes of the Colville Reservation, July 11, 1984, at EPA Public Hearing on the State of Washington's application to regulate UIC activities on Indian lands.)

b. *State interest.* In its application for primary enforcement and supporting Attorney General's statement, the State of Washington failed to specify in any factual detail its interest in regulating

UIC activities on Indian lands. The State merely cited general case law without any analysis or particularized inquiry into the reasons for asserting state jurisdiction over the UIC program. The State did not outline the impacts UIC activities on Indian lands might have off the Indian lands. (*Cf., Rice v. Rehner*, 463 U.S. 713 (1983)). Nor has the State shown why its interests would outweigh the strong Federal interest discussed above.

3. Conclusion

In conclusion, the State of Washington may not regulate UIC activities on Indian lands in lieu of the Federal government. As described above, a State must meet both prongs of a two-prong test to enforce its laws within Indian lands. Under the preemption test, a court examines the Federal, tribal, and state interests involved and determines whether state jurisdiction would interfere with Federal and tribal interests reflected in Federal law. Under the infringement test, a court examines whether the state action infringes on tribal self-government.

On balance, the Washington UIC primacy submission fails to satisfy the two-prong test, and thus, the State has failed to adequately demonstrate its jurisdiction. The Agency must deny the

States's application to regulate injection activities on Indian lands.

IV. Supplementary Note

On May 11, 1987 (52 FR 17684), EPA proposed a Federal UIC program on Indian lands in the state of Washington. EPA proposed to bring the relatively few injection wells on these Indian lands under the standards for construction, operation, monitoring, reporting, and plugging contained in the generic Federal UIC program, as appropriate. At this time EPA is asking the tribal governments in the State of Washington to assist EPA in conducting an inventory of injection wells. Representatives are asked to contact Harold Scott at the above address and phone number.

List of Subjects in 40 CFR Part 147

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: September 29, 1988.

Lee M. Thomas,
Administrator.

[FR Doc. 88-24120 Filed 10-24-88; 8:45 am]

BILLING CODE 6560-50-M

Environmental Protection Agency

Tuesday
October 25, 1988

Part III

Environmental Protection Agency

40 CFR Part 147

Underground Injection Control Programs
on Indian Lands; Final Rule

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 147**

[FRL 3311-1]

Underground Injection Control Programs on Indian Lands**AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today extending the Federal Underground Injection Control (UIC) program to most Indian lands not currently regulated under the authority of the Safe Drinking Water Act (SDWA) as mandated by the SDWA Amendments of 1986. EPA will bring the relatively few injection wells on these Indian lands under the standards for construction, operation, and plugging contained in the generic Federal program. Elsewhere in today's Federal Register, EPA is establishing different programs for the lands of the Navajo, Ute Mountain Ute and other Tribes in New Mexico and Oklahoma. Today's notice does not include procedures by which Indian Tribes may apply for primary enforcement responsibility. That issue will be addressed in a separate notice.

DATES: This rule will become effective on November 25, 1988. For the purposes of judicial review, this rule will be considered final agency action at 1:00 p.m. eastern time on November 8, 1988.

ADDRESSES: The supporting information for this proposal is available for inspection and copying in Room 1143 ET, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald M. Olson, Underground Injection Control Branch, State Programs Division, Office of Drinking Water, (202) 382-5558, at the above address.

SUPPLEMENTARY INFORMATION:**I. Introduction**

This rule makes the Federal "generic" Underground Injection Control (UIC) program which is codified at 40 CFR Parts 124, 144 and 146, applicable to the Indian lands in the 41 States and territories listed below. The Agency received very few comments on the proposed rule, and it is being promulgated almost precisely as it was proposed. (The Agency's responses to the comments are incorporated into this preamble.)

II. Background

The Safe Drinking Water Act (SDWA) authorizes and obligates EPA to regulate underground injection activity on all lands in the United States, including Indian lands. (EPA has adopted the definition of "Indian country" found at 18 U.S.C. 1151, and set forth in full at 40 CFR 144.3, for the purpose of defining "Indian lands" for the Direct Implementation Underground Injection Control (UIC) program.)

Section 1421 of the SDWA directs EPA to set minimum standards and criteria for approval of State-developed programs. States may develop their own programs regulating their injection wells. EPA reviews the State programs and approves them pursuant to section 1422 or section 1425 of the SDWA if they meet the standards of section 1421. This is called granting primary enforcement responsibility. If a State does not submit a program or if a submitted program does not meet statutory and regulatory standards, the EPA directly administers a program for the State under the regulations codified in 40 CFR Parts 124, 144 and 146. This is referred to as "direct implementation." At the moment there are 34 full and 6 partial programs for which a State has primary enforcement responsibility. EPA promulgated the Federal program for the direct implementation jurisdictions in May and November of 1984. (49 FR 20138 and 49 FR 45292)

III. Indian Programs in States With Primary Enforcement Responsibility

Because States generally could not or did not assert jurisdiction over the Indian lands within their boundaries, Indian lands were not included in the State-administered UIC programs. The Indian Tribes themselves could not administer a UIC program under the jurisdiction of the SDWA until the 1986 Amendments gave them the authority to do so. Only the Federal EPA had the authority to administer a UIC program for most Indian lands, but there was disagreement about what type of program should be established. EPA announced four possibilities and solicited comments on them:

1. The current Federal UIC minimum requirements;
2. Requirements patterned after the approved program in the State where the Indian lands are located, to the extent consistent with EPA's authority under the SDWA;
3. A combination of the first two; or
4. A different program containing requirements that respond to the concerns of the affected Tribal government.

These options were discussed in detail in Federal Register notices on September 2, 1983 (48 FR 40100) and May 11, 1984 (49 FR 20340). Many of the industry commenters indicated a preference for the second option, a program consistent with the surrounding State. However, a State's legislative authority for its UIC program is often broader than EPA's authority under the SDWA and therefore, many State provisions could not be adopted by EPA for inclusion in a program on Indian lands. A hybrid program combining aspects of the State and Federal program would not provide consistency. The permittee would have to contend with provisions different from the State program and EPA would have to administer provisions not found in the generic Federal program. On balance, EPA prefers to maintain consistency within the Federal programs unless specific deviations are necessitated by local conditions or Tribal concerns. Tailoring a program requires a great deal of work with the Tribe, State, and other affected parties. EPA is open to future proposals for such tailoring. However, given the mandate of the 1986 SDWA Amendments to promulgate UIC programs for all Indian lands within 270 days from the date the Amendments were enacted, EPA believes extending the generic Federal program is the appropriate course of action at this time for most Indian lands.

Most Tribes have not actively sought special programs for the regulation of their wells. However, the Navajo, Ute Mountain Ute, and some other Indian Tribes in New Mexico and Oklahoma did pursue special UIC programs. EPA has worked with those Tribes to develop programs based upon the Federal UIC program, but containing some modifications and additions. Tailored programs for these Indian Tribes are published elsewhere in today's Federal Register (and conforming amendments to descriptions of programs for their respective surrounding States are included in this rule). Modified programs may be developed for other Indian lands in the future at the request of the Tribe.

The 1986 SDWA Amendments allow Indian Tribes to apply for and assume primary enforcement responsibility once EPA has promulgated regulations governing that process. The status of primary enforcement authority will give Indian Tribes additional opportunity for control and modification of the UIC program on their lands. Today's action does not preclude Tribes from applying for primary enforcement responsibility.

EPA is today extending the Federal UIC requirements to Indian lands in the

following States which have primary enforcement responsibility for non-Indian lands:

Alabama	North Dakota
Arkansas	Ohio
Connecticut	Oregon
Delaware	Rhode Island
Florida	South Carolina
Georgia	Texas
Illinois	Utah
Louisiana	Vermont
Maine	Washington
Maryland	West Virginia
Massachusetts	Wyoming
Mississippi	Guam
Missouri	Commonwealth of the
New Hampshire	Northern Mariana
New Jersey	Islands
North Carolina	

These rules have been under development for several years, but they will take effect 30 days after publication in the *Federal Register*. There is no retroactive application. A commenter was concerned that mechanical integrity tests for all wells on these Indian lands would be scheduled immediately because he mistakenly assumed that these wells on Indian lands would be tested on the same schedule as the wells covered by the original Direct Implementation program. The five year period within which all wells in the DI program must have an initial mechanical integrity test ends in 1988. Although all dates will be calculated from the effective date of this rule, it may be that wells on these Indian lands will be scheduled for mechanical integrity tests in fewer than 5 years. The five year period was chosen for the administrative convenience of EPA, and that of owners and operators because there were so many wells covered by the generic regulations. It should not take five years to test the relatively few wells on these Indian lands.

IV. Indian Programs for Direct Implementation States

Most Indian lands in the States with EPA-administered programs were included in those programs and thus already have operating UIC programs. The Seneca Indian lands in the direct implementation State of New York were not covered by the UIC program administered by EPA because the Seneca Tribe had expressed interest in having special regulations developed. However, recent contacts with the Tribe indicate that special UIC regulations are not currently a priority of the Tribe. Therefore, the Federal UIC program is today promulgated for the Seneca lands.

In eleven other Direct Implementation jurisdictions, no UIC program was previously promulgated because there did not appear to be any wells on the Indian lands, and in some cases no Indian lands at all:

District of Columbia	Virginia
Hawaii	Puerto Rico
Indiana	Virgin Islands
Kentucky	American Samoa
Pennsylvania	Trust Territory of the
Tennessee	Pacific Islands

(Note the difference in treatment of these States in the May 11, 1984 and November 15, 1984 preambles and those for which EPA clearly intended to include Indian lands.)

In some of these States Indian lands are being created where none existed before. For example, P.L. 100-89, August 18, 1987, recognized three Tribes in Texas for the first time. Therefore, EPA is today establishing UIC programs for any Indian lands which now exist or may exist in the future in these States. Also, Indian Tribes are seeking to acquire lands in some of these States which may have the effect of converting some State-regulated wells to Federal regulatory control. In the interest of consistency and to provide for future contingencies, it is appropriate to enact the programs covering all present and potential Indian lands now.

V. Indian Land Program for the State of Washington

EPA is promulgating a Federally-administered generic program on Indian lands in the State of Washington, although the State of Washington asserted authority over Indian lands within the State as a part of its original application for primary enforcement authority. In a separate notice in today's *Federal Register*, EPA rejects the State's assertion. One Tribe in Washington, the Colville, requested and received a ban on all injection wells on the Colville Indian Reservation except for Class V wells. In their comments on the proposed rule, the Colville endorsed the language EPA used for the ban. The Tribe also strongly disputed the State's assertion of jurisdiction.

VI. Indian Land Program for the Wind River Reservation in the State of Wyoming

A. Mechanical Integrity Testing

Two commenters urged EPA to accept mechanical integrity tests (MITs) that were done on wells in the Wind River Reservation prior to the promulgation of this program. EPA has decided to accept well-documented MITs that meet EPA's standards as the initial MIT. Subsequent testing will be necessary before issuance of a permit, or within five years of the first test, whichever occurs first.

B. Aquifer Exemption

The SDWA protects all underground sources of drinking water, whether or not specifically designated as such. The

regulations define "underground source of drinking water" very broadly as: an aquifer which supplies or has sufficient capacity to supply a public water system; and either currently supplies drinking water for human consumption, or contains less than 10,000 mg/l TDS; and is not an exempted aquifer. Under existing regulations, EPA may exempt from the UIC program aquifers which have the capacity to supply public water systems and contain less than 10,000 mg/l TDS if they do not now and could not in the future serve as a source for a public water supply for one of the reasons recognized in the regulations (40 CFR 146.4). Owners and operators of injection wells may inject into an exempted aquifer.

Some two hundred Class II wells, mostly enhanced recovery wells, are currently injecting into aquifers with less than 10,000 TDS on the Wind River Reservation in Wyoming.

There are currently eight separate oil and gas fields where injection is practiced on the Wind River Indian Reservation. The formations receiving injections are: the Darwin Sandstone (part of the Amsden); the Tensleep; the Crow Mountain (part of the Chugwater Group); the Phosphoria (also known as the Park City); the Muddy; the Nugget Sandstone; and the Frontier. The Tensleep, Phosphoria, Nugget and Frontier are the major aquifers associated with injection activity, while the Darwin, Muddy, and Crow Mountain are relatively minor water-bearing zones. Available data indicates that all of these aquifers contain water with less than 10,000 milligrams per liter of total dissolved solids and therefore meet the definition of underground sources of drinking water (USDWs).

Most of the aquifers in question serve as the injection zone for enhanced recovery wells, and by their nature, are hydrocarbon producing zones. EPA's research confirmed that the formations are not now used as sources of drinking water, and because of their hydrocarbon content are not expected to be used for these purposes in the future. The one salt water disposal well is a converted oil producing well, and there is an active producing well less than one-quarter mile away. The zone is part of a hydrocarbon-producing formation, thus eligible for exemption both because of the commercial producibility of the oil and because the residual oil so contaminated the water in the aquifer that it is impractical to render it fit for human consumption.

As a result, portions of these aquifers qualify for exempted aquifer status. The exemptions are approved as part of this

program, allowing injection operations to continue without disruption. The boundaries of the exempted aquifers are described in § 147.2554. The only comment concerning this exemption supported it.

Exemptions are being made for the entire oil and gas fields affected. This will allow for construction of additional Class II injection wells within the exempted areas without the need for future exemptions (although other program requirements, including permitting, must be met). However, the exemptions are limited to the intended injection formations, and to Class II injection.

These exemptions will become effective at the same time as the program; 30 days after publication in the Federal Register.

VII. Office of Management and Budget Review Regulatory Impact Analysis

The Administrator has determined that this is not a major regulation under the terms of E.O. 12291 and does not require a regulatory impact analysis. This proposal would extend to a very small number of wells the Federal regulations already judged not to be major, even when applied to all injection wells in the country. This regulation was submitted to OMB for review as required by Executive Order 12291.

Regulatory Flexibility Analysis

The original proposal for the generic Federal program concluded that the Federal UIC program would not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 605(b)). The extension of those generic regulations to a very few owners and operators, of whom only some are "small entities", will not change the original assessment. Accordingly, I certify that this regulation will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 147

Indian lands, Underground injection.

Date: September 29, 1988.

Lee M. Thomas,
Administrator.

For the reasons set out in the preamble, Part 147 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—[AMENDED]

1. The authority citation for Part 147 is revised to read as follows:

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

2. 40 CFR Part 147, Subpart B—Alabama, is amended by revising the first sentence of § 147.50 introductory text to read as follows:

§ 147.50 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Alabama, except those on Indian lands, is the program administered by the State Oil and Gas Board of Alabama, approved by EPA pursuant to section 1425 of the SDWA.

3. Subpart B—Alabama is amended by revising the first sentence of the introductory text of § 147.51 to read as follows:

§ 147.51 State-administered program—Class I, III, IV, and V wells.

The UIC program for Class I, III, IV and V wells in the State of Alabama, except those on Indian lands, is the program administered by the Alabama Department of Environmental Management, approved by EPA pursuant to section 1422 of the SDWA.

4. Subpart B—Alabama is amended by adding a new § 147.60 to read as follows:

§ 147.60 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Alabama is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Alabama is November 25, 1988.

5. Subpart D—Arizona is amended by revising § 147.151 to read as follows:

§ 147.151 EPA-administered program.

(a) *Contents.* The UIC program that applies to all injection activities in Arizona, including those on Indian lands, is administered by EPA. The UIC program for Navajo lands consists of the requirements contained in Subpart HHH of this Part. The program for all injection activity except that on Navajo Indian land consists of the UIC program requirements of 40 CFR Parts 124, 144, 146, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program in Arizona, except for the lands of the Navajo Indians, is June 25, 1984. The effective date for the UIC program on the lands of the Navajo is November 25, 1988.

6. Subpart E—Arkansas is amended by revising the first sentence of § 147.200 introductory text to read as follows:

§ 147.200 State-administered program—Class I, III, IV, and V wells.

The UIC program for Class I, III, IV and V wells in the State of Arkansas, except those wells on Indian lands, is the program administered by the Arkansas Department of Pollution Control and Ecology approved by EPA pursuant to section 1422 of the SDWA.

7. Subpart E—Arkansas is amended by adding a new § 147.205 to read as follows:

§ 147.205 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Arkansas is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Arkansas is November 25, 1988.

8. Subpart H—Connecticut is amended by adding a new § 147.353 to read as follows:

§ 147.353 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Connecticut is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Connecticut is November 25, 1988.

9. Subpart I—Delaware is amended by adding a new § 147.403 to read as follows:

§ 147.403 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Delaware is administered by EPA. This program consists of the UIC program

requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Delaware is November 25, 1988.

10. Subpart J—District of Columbia is amended by revising § 147.451 to read as follows:

§ 147.451 EPA-administered program.

(a) *Contents.* The UIC program for the District of Columbia, including any Indian lands in the District, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in the District of Columbia is November 25, 1988. The effective date for the UIC program in the rest of the District is June 25, 1984.

11. Subpart K—Florida is amended by revising the first sentence of the introductory text for § 147.500 to read as follows:

§ 147.500 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV, and V wells in the State of Florida, except for those on Indian lands is administered by the Florida Department of Environmental Regulations, approved by EPA pursuant to section 1422 of the SDWA. * * *

12. Subpart K—Florida is amended by revising § 147.501 to read as follows:

§ 147.501 EPA-administered program—Class II wells and Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands and for Class II wells on non-Indian lands in the State of Florida is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and the additional requirements set forth in the remainder of this subpart. Injection well owners and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for Indian lands in Florida is November 25, 1988. The effective date for Class II wells on non-Indian lands is December 30, 1984.

13. Subpart L—Georgia is amended by adding a new § 147.553 to read as follows:

§ 147.553 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Georgia is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Georgia is November 25, 1988.

14. Subpart M—Hawaii is amended by revising § 147.601 to read as follows:

§ 147.601 EPA-administered program.

(a) *Contents.* The UIC program for the State of Hawaii, including all Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Hawaii is November 25, 1988. The effective date for the UIC program for all other lands in Hawaii is December 30, 1984.

15. Subpart O—Illinois is amended by revising the first sentence of the introductory text for § 147.700 to read as follows:

§ 147.700 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV and V wells in the State of Illinois, except those on Indian lands, is the program administered by the Illinois Environmental Protection Agency, approved by EPA pursuant to section 1422 of the SDWA. * * *

16. Subpart O—Illinois is amended by revising the first sentence of § 147.701 introductory text to read as follows:

§ 147.701 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Illinois, except those on Indian lands, is the program administered by the Illinois Environmental Protection Agency, approved by EPA pursuant to section 1425 of the SDWA. * * *

17. Subpart O—Illinois is amended by adding a new § 147.703 to read as follows:

§ 147.703 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for the State of Illinois on Indian lands in Illinois is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program for Indian lands is November 25, 1988.

18. Subpart P—Indiana is amended by revising § 147.751 to read as follows:

§ 147.751 EPA-administered program.

(a) *Contents.* The UIC program for the State of Indiana, including all Indian lands, is administered by EPA. The program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and the additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program on Indian lands is November 25, 1988. The effective date of the UIC program for the rest of Indiana is June 25, 1984.

19. Subpart S—Kentucky is amended by revising § 147.901 to read as follows:

§ 147.901 EPA-administered program.

(a) *Contents.* The UIC program for the Commonwealth of Kentucky, including all Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144 and 146 and the additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program on Indian lands is November 25, 1988. The effective date for the UIC program in the remainder of Kentucky is June 25, 1984.

20. Subpart T—Louisiana is amended by adding a new § 147.951 to read as follows:

§ 147.951 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Louisiana is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and any additional

requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for Indian lands in Louisiana is November 25, 1988.

21. Subpart U—Maine is amended by revising the first sentence of the introductory text of § 147.1000 to read as follows:

§ 147.1000 State-administered program.

The UIC program for all classes of wells in the State of Maine, except those on Indian lands, is the program administered by the Maine Department of Environmental Protection approved by EPA pursuant to section 1422 of the SDWA. * * *

22. Subpart U—Maine is amended by adding a new § 147.1001 to read as follows:

§ 147.1001 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Maine is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for Indian lands in Maine is November 25, 1988.

23. Subpart V—Maryland is amended by adding a new § 147.1053 as follows:

§ 147.1053 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Maryland is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Maryland is November 25, 1988.

24. Subpart W—Massachusetts is amended by revising the first sentence of the introductory text of § 147.1100 to read as follows:

§ 147.1100 State-administered program.

The UIC program for all classes of wells in the State of Massachusetts, except those on Indian lands, is the program administered by the Massachusetts Department of

Environmental Protection, approved by EPA pursuant to section 1422 of the SDWA. * * *

25. Subpart W—Massachusetts is amended by adding a new § 147.1101 to read as follows:

§ 147.1101 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Massachusetts is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Massachusetts is November 25, 1988.

26. Subpart Z—Mississippi is amended by revising the first sentence of § 147.1250 introductory text, to read as follows:

§ 147.1250 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV and V wells in the State of Mississippi, except those on Indian lands, is the program administered by the Mississippi Department of Natural Resources approved by EPA pursuant to section 1422 of the SDWA. * * *

27. Subpart Z—Mississippi is amended by revising § 147.1251 to read as follows:

§ 147.1251 EPA-administered program—Class II wells and Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands and for Class II wells on all lands in Mississippi is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for Class II wells in Mississippi is December 30, 1984. The effective date for the UIC program on Indian lands is November 25, 1988.

28. Subpart AA—Missouri is amended by revising the first sentence of the introductory text of § 147.1300 to read as follows:

§ 147.1300 State-administered program.

The UIC program for all classes of wells in the State of Missouri, except those on Indian lands, is administered

by the Missouri Department of Natural Resources, approved by EPA pursuant to section 1422 and 1425 of the SDWA. * * *

29. Subpart AA—Missouri is amended by adding a new § 147.1303 to read as follows:

§ 147.1303 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for the State of Missouri for all classes of wells on Indian lands is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for the UIC program for Indian lands is November 25, 1988.

30. Subpart DD—Nevada is amended by revising § 147.1451 and removing and reserving § 147.1452 as follows:

§ 147.1451 EPA administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Nevada is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective Dates.* The effective date of the UIC program for Indian lands in Nevada is June 25, 1984.

§ 147.1452 Aquifer exemptions. [Reserved]

31. Subpart EE—New Hampshire is amended by revising the first sentence of the introductory text of § 147.1500 to read as follows:

§ 147.1500 State-administered program.

The UIC program for all classes of wells in the State of New Hampshire, except those on Indian lands, is the program administered by the New Hampshire Water Supply and Pollution Control Commission, approved by EPA pursuant to section 1422 of the SDWA. * * *

32. Subpart EE—New Hampshire is amended by adding a new § 147.1501 to read as follows:

§ 147.1501 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in New

Hampshire is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in New Hampshire is November 25, 1988.

33. Subpart FF—New Jersey is amended by revising the first sentence of the introductory text of § 147.1550 to read as follows:

§ 147.1550 State-administered program.

The UIC program for all classes of wells in the State of New Jersey, except those on Indian lands, is the program administered by the New Jersey Department of Environmental Protection, approved by EPA pursuant to section 1422 of the SDWA. * * *

34. Subpart FF—New Jersey is amended by adding a new § 147.1551 to read as follows:

§ 147.1551 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in New Jersey is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in New Jersey is November 25, 1988.

35. Subpart GG—New Mexico is amended by revising the first sentence of the introductory text of § 147.1600 to read as follows:

§ 147.1600 State-administered program—Class II wells.

The UIC program for Class II wells in the State of New Mexico, except for those on Indian lands, is the program administered by the New Mexico Energy and Minerals Department, Oil Conservation Division, approved by EPA pursuant to section 1425 of the SDWA. * * *

36. Subpart GG—New Mexico is amended by revising the first sentence of the introductory text of § 147.1601 to read as follows:

§ 147.1601 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV and V injection wells in the State of

New Mexico, except for those on Indian lands, is the program administered by the New Mexico Water Quality Control Commission, the Environmental Improvement Division, and the Oil Conservation Division, approved by EPA pursuant to section 1422 of the SDWA. * * *

37. Subpart GG—New Mexico is amended by adding a new § 147.1603 to read as follows:

§ 147.1603 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in New Mexico is administered by EPA. The program consists of the requirements set forth at Subpart HHH of this part. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for the UIC program on Indian lands in New Mexico is November 25, 1988.

38. Subpart HH—New York is amended by revising § 147.1651 to read as follows:

§ 147.1651 EPA-administered program.

(a) *Contents.* The UIC program for the State of New York, including all Indian lands, is administered by EPA. The program consists of the UIC program requirements in 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for New York for all injection activities except those on lands of the Seneca Indian Tribe is June 25, 1989. The effective date for the UIC program for the lands of the Seneca Indian Tribe is November 25, 1988.

§ 107.1660 [Removed]

39. Subpart HH—New York is amended by removing § 147.1660.

40. Subpart II—North Carolina is amended by adding a new § 147.1703 to read as follows:

§ 147.1703 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in North Carolina is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in North Carolina is November 25, 1988.

41. Subpart JJ—North Dakota is amended by revising the first sentence of the introductory text of § 147.1750 as follows:

§ 147.1750 State-administered program—Class II wells.

The UIC program for Class II wells in the State of North Dakota, except those on Indian lands, is the program administered by the North Dakota Industrial Commission, approved by EPA pursuant to section 1425 of the SDWA. * * *

42. Subpart JJ—North Dakota is amended by adding text to § 147.1752 to read as follows:

§ 147.1752 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in North Dakota is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in North Dakota is November 25, 1988.

43. Subpart KK—Ohio is amended by revising the first sentence of the introductory text of § 147.1800 to read as follows:

§ 147.1800 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Ohio, except for those on Indian lands, is the program administered by the Ohio Department of Natural Resources, approved by EPA pursuant to section 1425 of the SDWA. * * *

44. Subpart KK—Ohio is amended by adding a new § 147.1805 to read as follows:

§ 147.1805 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Ohio is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Ohio is November 25, 1988.

45. Subpart LL—Oklahoma is amended by revising the first sentence of the introductory text of § 147.1850 as follows:

§ 147.1850 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV, and V wells in the State of Oklahoma, except those on Indian lands, is the program administered by the Oklahoma State Department of Health, approved by EPA pursuant to SDWA section 1422. * * *

46. Subpart LL—Oklahoma is amended by revising the first sentence of the introductory text of § 147.1851 to read as follows:

§ 147.1851 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Oklahoma, including the lands of the Five Civilized Tribes, but not including those on other Indian lands, is the program administered by the Oklahoma Corporation Commission approved by EPA pursuant to SDWA section 1425. * * *

47. Subpart LL—Oklahoma is amended by revising § 147.1852 to read as follows:

§ 147.1852 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all wells on Indian lands in Oklahoma, except Class II wells on the lands of the Five Civilized Tribes, is administered by EPA. The UIC program for Class II wells on the Osage Mineral Reserve consists of the requirements set forth in Subpart GGG of this part. The UIC program for all other wells on Indian lands consists of the requirements set forth in Subpart III of this part. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for UIC program for Class II wells on the Osage Mineral Reserve is December 30, 1984. The effective date for the UIC program for all other wells on Indian lands is November 25, 1988.

48. Subpart MM—Oregon is amended by revising the section heading and the first sentence of the introductory text of § 147.1900 to read as follows:

§ 147.1900 State-administered program.

The UIC program for all classes of wells in Oregon, except those on Indian lands, is administered by the Oregon Department of Environmental Quality,

approved by EPA pursuant to section 1422 of the SDWA. * * *

49. Subpart MM—Oregon is amended by adding a new § 147.1901 to read as follows:

§ 147.1901 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Oregon is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Oregon is November 25, 1988.

50. Subpart NN—Pennsylvania is amended by revising § 147.1951 to read as follows:

§ 147.1951 EPA-administered program.

(a) *Contents.* The UIC program for the State of Pennsylvania, including all Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and the additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program on Indian lands is November 25, 1988. The effective date for the UIC program for the rest of Pennsylvania is June 25, 1984.

51. Subpart OO—Rhode Island is amended by revising the first sentence of the introductory text of § 147.2000 to read as follows:

§ 147.2000 State-administered program.

The UIC program for all classes of wells in Rhode Island, except those on Indian lands, is the program administered by the Rhode Island Department of Environmental Management, approved by EPA pursuant to section 1422 of the SDWA. * * *

52. Subpart OO—Rhode Island is amended by adding a new § 147.2001 to read as follows:

§ 147.2001 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Rhode Island is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional

requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Rhode Island is November 25, 1988.

53. Subpart PP—South Carolina is amended by revising the section heading and the first sentence of the introductory text of § 147.2050 to read as follows:

§ 147.2050 State-administered program.

The UIC program for all classes of wells in the State of South Carolina, except for those on Indian lands, is the program administered by the South Carolina Department of Health and Environmental Control, approved by EPA pursuant to section 1422 of the SDWA. * * *

54. Subpart PP—South Carolina is amended by adding a new § 147.2051 to read as follows:

§ 147.2051 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in South Carolina is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in South Carolina is November 25, 1988.

55. Subpart RR—Tennessee is amended by revising § 147.2151 to read as follows:

§ 147.2151 EPA-administered program.

(a) *Contents.* The UIC program for the State of Tennessee, including all Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146 and the additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* Effective date for the UIC program on Indian lands is November 25, 1988. The effective date for the UIC program for the rest of Tennessee is June 25, 1984.

56. Subpart SS—Texas is amended by revising the first sentence of § 147.2200 introductory text to read as follows:

§ 147.2200 State-administered program—Class I, III, IV, and V wells.

Requirements for Class I, III, IV, and V wells. The UIC program for Class I, III, IV, and V wells in the State of Texas, except for those wells on Indian lands, is the State-administered program approved by EPA pursuant to section 1422 of the SDWA. * * *

57. Subpart SS—Texas is amended by revising the first sentence of § 147.2201 introductory text to read as follows:

§ 147.2201 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Texas, except for those wells on Indian lands, is the program administered by the Railroad Commission of Texas, approved by EPA pursuant to section 1425 of the SDWA. * * *

58. Subpart SS—Texas is amended by adding a new § 147.2205 to read as follows:

§ 147.2205 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Texas is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for the Indian lands program for the State of Texas is November 25, 1988.

59. Subpart TT—Utah is amended by revising the first sentence of § 147.2250 introductory text to read as follows:

§ 147.2250 State-administered program—Class I, III, IV, and V wells.

The UIC program for Class I, III, IV, and V wells in the State of Utah, except those on Indian lands, are administered by the Utah Department of Health, Division of Environmental Health, approved by EPA pursuant to section 1422 of the SDWA. * * *

60. Subpart TT—Utah is amended by revising the first sentence of the introductory text of § 147.2251 to read as follows:

§ 147.2251 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Utah, except those on Indian lands, is the program administered by the Utah Department of Natural Resources, Division of Oil, Gas, and

Mining, approved by EPA pursuant to section 1425 of the SDWA. * * *

61. Subpart TT—Utah is amended by adding a new § 147.2253 to read as follows:

§ 147.2253 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in Utah is administered by EPA. The program for wells on the lands of the Navajo and Ute Mountain Ute consists of the requirements set forth at Subpart HHH of this part. The program for all other wells on Indian lands consists of the UIC program requirements of 30 CFR Parts 124, 144, 146, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for this program for all other Indian lands in Utah (as well as for the program of the Navajo and Ute Mountain Ute) is November 25, 1988.

62. Subpart UU—Vermont is amended by revising the section heading and the first sentence of the introductory text for § 147.2300 to read as follows:

§ 147.2300 State-administered program.

The UIC program for all classes of wells for the State of Vermont, except for those on Indian lands, is the program administered by the Vermont Department of Water Resources and Environmental Engineering approved by EPA pursuant to section 1422 of the SDWA. * * *

63. Subpart UU—Vermont is amended by adding a new § 147.2303 to read as follows:

§ 147.2303 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for Indian lands in Vermont is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands in Vermont is November 25, 1988.

64. Subpart VV—Virginia is amended by revising § 147.2351 to read as follows:

§ 147.2351 EPA-administered program.

(a) *Contents.* The UIC program for the State of Virginia, including all Indian lands, is administered by EPA. This program consists of the UIC program

requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program on Indian lands is November 25, 1988. The effective date for the UIC program for the remainder of Virginia is June 25, 1988.

65. Subpart WW—Washington is amended by adding a new § 147.2403 as follows:

§ 147.2403 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in the State of Washington is administered by EPA. This program, for all Indian lands except those of the Colville Tribe, consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for the UIC program for Indian lands in Washington is November 25, 1988.

66. Subpart WW is amended by adding a new § 147.2404 to read as follows:

§ 147.2404 EPA-administered program—Colville Reservation.

(a) The UIC program for the Colville Indian Reservation consists of a prohibition of all Class I, II, III and IV injection wells and of a program administered by EPA for Class V wells. This program consists of the UIC program requirements of 40 CFR Part 124, 144 and 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and EPA shall comply with these requirements. The prohibition on Class I-IV wells is effective November 25, 1988. No owner or operator shall construct, operate, maintain, convert, or conduct any other injection activity thereafter using Class I-IV wells.

(b) Owners and operators of Class I, II, III or IV wells in existence on the effective date of the program shall cease injection immediately. Within 60 days of the effective date of the program, the owner or operator shall submit a plan and schedule for plugging and abandoning the well for the Director's approval. The owner or operator shall plug and abandon the well according to the approved plan and schedule.

67. Subpart XX—West Virginia is amended by adding a new § 147.2453 as follows:

§ 147.2453 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for all classes of wells on Indian lands in West Virginia is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144 and 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and EPA shall comply with these requirements.

(b) *Effective date.* The effective date for the UIC program on Indian lands in West Virginia is November 25, 1988.

68. Subpart ZZ—Wyoming is amended by revising the first sentence of the introductory text of section § 147.2550 to read as follows:

§ 147.2550 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV and V wells in the State of Wyoming, except those on Indian lands is the program administered by the Wyoming Department of Environmental Quality

approved by EPA pursuant to section 1422 of the SDWA. * * *

69. Subpart ZZ—Wyoming is amended by revising the first sentence of the introductory text of § 147.2551 to read as follows:

§ 147.2551 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Wyoming, except those on Indian lands, is the program administered by the Wyoming Oil and Gas Conservation Commission, approved by EPA pursuant to section 1425 of the SDWA. * * *

70. Subpart ZZ—Wyoming is amended by adding a new § 147.2553 to read as follows:

§ 147.2553 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for Indian lands in Wyoming is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and

EPA shall comply with these requirements.

(b) *Effective date.* The effective date for the UIC program on Indian lands in Wyoming is November 25, 1988.

71. Subpart ZZ—Wyoming is amended by adding a new § 147.2554 to read as follows:

§ 147.2554 Aquifer Exemptions.

In accordance with § 144.7(b) and § 146.4 of this chapter, those portions of aquifers currently being used for injection in connection with Class II (oil and gas) injection operations on the Wind River Reservation, which are described below, are hereby exempted for the purpose of Class II injection activity. This exemption applies only to the aquifers tabulated below, and includes those portions of the aquifers defined on the surface by an outer boundary of those quarter-quarter sections dissected by a line drawn parallel to, but one-quarter mile outside, the field boundary, and is restricted to extend no further than one-quarter mile outside the Reservation boundary. Maps showing the exact boundaries of the field may be consulted at the EPA's Region 8 Office, and at the EPA Headquarters in Washington, DC.

AREAS TO BE EXEMPTED FOR THE PURPOSE OF CLASS II INJECTION ON THE WIND RIVER RESERVATION

Formation	Approximate depth	Location
Steamboat Butte Field		
Phosphoria	6,500–7,100	T3N, R1W—W/2 Sec. 4, Sec. 5, E/2 Sec. 6, NE/4 Sec. 8, W/2 Sec. 9, T4N, R1W—W/2 Sec. 29, E/2 Sec. 30, E/2 Sec. 31, Sec. 32.
Tensleep	6,900–7,500	T3N, R1W—W/2 Sec. 4, Sec. 5, E/2 Sec. 6, NE/4 Sec. 8, W/2 Sec. 9, T4N, R1W—W/2 Sec. 29, E/2 Sec. 30, E/2 Sec. 31, Sec. 32.
Winkelman Dome Field		
Tensleep	2,800–3,300	T2N, R1W—SW/4 Sec. 17, Sections 18, 19, 20, 29, NE/4 Sec. 30, T2N, R2W—E/2 Sec. 13, NE/4 Sec. 24.
Phosphoria	2,800–3,600	T2N, R1W—SW/4 Sec. 17, Sections 18, 19, 20, 29, NE/4 Sec. 30, T2N, R2W—E/2 Sec. 13, NE/4 Sec. 24.
Nugget	1,100–1,500	T2N, R1W—SW/4 Sec. 17, Sections 18, 19, 20, 29, NE/4 Sec. 30, T2N, R2W—E/2 Sec. 13, NE/4 Sec. 24.
Lander Field		
Phosphoria	1,100–3,800	T2S, R1E—Sections 12 and 13, E/2 Sec. 24, NE/4 Sec. 25, T2S, R2E—W/2 Sec. 18, W/2 Sec. 19, Sec. 30, T33N, R99W—Sec. 4.
NW Sheldon Field		
Crow Mountain and Cloverly	3,400–3,600	T6N, R3W—SE/4 Sec. 35, SW/4 Sec. 36, T5N, R3W—N/2 Sec. 1.
Circle Ridge Field		
Tensleep	1,500–1,800	T6N, R2W—Sec. 6, N/2 Sec. 7, T7N, R3W—SE/4 Sec. 36, T7N, R2W—SW/4 Sec. 31, T6N, R3W—E/2 Sec. 1.
Phosphoria	800–1,800	T7N, R3W—S/2 Sec. 36, T6N, R3W—NE/4 Sec. 1.
Amsden	700–1,200	T6N, R3W—Sec. 6.
Rolff Lake Field		
Crow Mountain	3,500–3,700	T6N, R3W—SW/4 Sec. 26, NW/4 Sec. 27.

72. Subpart AAA—Guam is amended by revising the first sentence of the introductory text of § 147.2600 to read as follows:

§ 147.2600 State-administered program.

The UIC program for all classes of wells in the territory of Guam, except those on Indian lands, is the program

administered by the Guam Environmental Protection Agency, approved by EPA pursuant to SDWA section 1422. * * *

73. Subpart AAA—Guam is amended by adding a new § 147.2601 to read as follows:

§ 147.2601 EPA-administered program—Indian lands.

(a) *Contents.* The UIC program for Indian lands in the territory of Guam is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with the requirements.

(b) *Effective date.* The effective date for the UIC program on Indian lands in the territory of Guam is November 25, 1988.

74. Subpart BBB—Puerto Rico is amended by revising § 147.2651 to read as follows:

§ 147.2651 EPA-administered program.

(a) *Contents.* The UIC program for Puerto Rico, including all Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with the requirements.

(b) *Effective dates.* The effective date of the UIC program for non-Indian lands in Puerto Rico is December 30, 1984. The effective date of the UIC program on Indian lands in Puerto Rico is November 25, 1988.

75. Subpart CCC—Virgin Islands is

amended by revising § 147.2701 to read as follows:

§ 147.2701 EPA-administered program.

(a) *Contents.* The UIC program for the Virgin Islands, including all Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with the requirements.

(b) *Effective dates.* The effective date of the UIC program for non-Indian lands in the Virgin Islands is December 30, 1984. The effective date for Indian lands in the Virgin Islands is November 25, 1988.

76. Subpart DDD—American Samoa is amended by revising § 147.2751 to read as follows:

§ 147.2751 EPA-administered program.

(a) *Contents.* The UIC program for American Samoa, including Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with the requirements.

(b) *Effective dates.* The effective date for the UIC program on non-Indian lands is June 25, 1984. The effective date of the UIC program on Indian lands is November 25, 1988.

77. Subpart EEE—Commonwealth of the Northern Mariana Islands is

amended by revising § 147.2801 to read as follows:

§ 147.2801 EPA-administered program.

(a) *Contents.* The UIC program for Indian lands in the Commonwealth of the Northern Mariana Islands is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with the requirements.

(b) *Effective date.* The effective date of the UIC program for Indian lands is November 25, 1988.

78. Subpart FFF—Trust Territory of the Pacific Islands is amended by revising § 147.2851 to read as follows:

§ 147.2851 EPA-administered program.

(a) *Contents.* The UIC program for the Trust Territory of the Pacific Islands, including Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, 146 and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with the requirements.

(b) *Effective dates.* The effective date of the UIC program for non-Indian lands of the Trust Territory of the Pacific Islands is June 25, 1984. The effective date for the Indian lands is November 25, 1988.

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