

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.

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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
<i>Steamboat Butte Field</i>		
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.
<i>Winkelman Dome Field</i>		
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.
<i>Lander Field</i>		
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.
<i>NW Sheldon Field</i>		
Crow Mountain and Cloverly	3,400–3,600	T6N, R3W—SE/4 Sec. 35, SW/4 Sec. 36, T5N, R3W—N/2 Sec. 1.
<i>Circle Ridge Field</i>		
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.
<i>Rolff Lake Field</i>		
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.

[FR Doc. 88-24121 Filed 10-24-88; 8:45 am]
BILLING CODE 6560-50-M

REPORTS—Continued
From the University of Chicago

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federal register

**Tuesday
October 25, 1988**

Part IV

Environmental Protection Agency

40 CFR Part 147

**Underground Injection Control Programs
for Certain Indian Lands; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[FRL 3311-2]

Underground Injection Control Programs for Certain Indian Lands

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating Federally administered Underground Injection Control (UIC) programs for the Navajo Indian lands, Ute Mountain Ute Indian lands, and other Indian lands in New Mexico and Oklahoma as part of its mandate to regulate all underground injection activity in the United States. These programs are based on the Federal program, but contain some additions and modifications. Elsewhere in today's *Federal Register*, the Agency is promulgating Underground Injection Control programs for all other Indian lands not already covered by an applicable UIC program. Together these actions will regulate all injection wells on Indian lands in order to protect underground sources of drinking water. Today's notice does not contain procedures by which Indian Tribes may apply for primary enforcement responsibility. That issue will be addressed in a separate *Federal Register* 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 record is available for inspection in Room 1143ET in the Underground Injection Control Branch, State Programs Division, Office of Drinking Water (WH-550E) EPA, 401 M Street SW., Washington, DC 20460. (202) 382-5594.

FOR FURTHER INFORMATION CONTACT: Donald M. Olson, Underground Injection Control Branch, State Programs Division, Office of Drinking Water, EPA (WH-550E) 401 M Street SW., Washington, DC 20460. (202) 382-5558.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Drinking Water Act (SDWA) authorized 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, as the definition of "Indian lands" for the Direct Implementation UIC

program. It is set forth in full at 40 CFR 144.3). The 1986 Amendments to the SDWA specifically directed EPA to promulgate by March 1987 a Federal UIC program for all Indian lands not already covered by an applicable UIC program.

EPA has promulgated the "generic" Federal program contained in 40 CFR Parts 124, 144, and 146 for most Indian lands. All those not previously promulgated were promulgated today in a separate *Federal Register* notice. The "generic" Federal program is the same program that EPA administers on non-Indian lands in many States. A few Indian Tribes expressed interest in requirements that differ somewhat from the generic Federal requirements.

The SDWA and its regulations allow flexibility to respond to the unique conditions and needs of Indian Tribes, and EPA policy encourages such accommodation. The SDWA sets forth only very general criteria for establishing UIC programs. The SDWA directs the EPA to promulgate regulations establishing the minimum requirements for State UIC programs, and then to approve and promulgate individual programs for each State. The State programs must meet the requirements of EPA's regulations (except for State programs regulating Class II wells which are authorized under section 1425 of the SDWA), but need not be identical. Section 1421(b)(3) of the SDWA directs the Administrator to "permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State." Most of the State programs for States which have primary enforcement responsibility do differ from the Federal program. Although the State programs for the States in which EPA administers the programs basically consist of the Federal generic regulations, many of them contain variations.

Section 1451(a)(1), added by the 1986 SDWA Amendments, authorized the Administrator to treat Indian Tribes as States under the SDWA. This provision is distinct from the authorization to delegate to Indian Tribes primary enforcement responsibility and to provide grant and contract assistance. Section 1451 goes on to say that where treatment of Tribes as identical to States is inappropriate or infeasible the Administrator may use other means for achieving the purpose of the provision. EPA believes that allowing some variation in a Tribe's UIC program to accommodate its geological and historic differences, while maintaining a program no less stringent than the

generic program, would achieve the purpose of the 1986 Amendments.

The EPA Indian Policy, issued November 8, 1984, committed the Agency to deal with Indian Tribes on a government-to-government basis, to assist them in developing the capability to manage their own environmental programs and to give great weight to their concerns when designing programs for their lands. Application of this policy to the UIC program has been discussed in the preambles to several regulations and is partially codified at 40 CFR 144.2. (47 FR 17578, April 23, 1982; 48 FR 40100, September 2, 1983).

II. Development of This Rule

This rule has been under discussion for several years. In *Federal Register* notices on September 2, 1983 (48 FR 40100) and May 11, 1984 (49 FR 20340), EPA asked for comment on four options for UIC programs on Indian lands including: (1) Programs identical to the Federal generic rules, (2) programs similar to those in the State surrounding the Indian lands, (3) programs including a combination of Federal and State provisions, and (4) new programs reflecting the concerns of the Tribe. There was no agreement among the States, the industry, and the Indian Tribes about which was the best option. While most Indian Tribes appeared to be content with the Federal generic program, certain tribes had special concerns or provisions that they wanted incorporated into any UIC program on their lands. The Navajo, Ute Mountain Ute, and several of the Oklahoma Tribes pursued their preferences for tailored UIC program provisions during the next few years.

The passage of the 1986 Amendments to the SDWA accelerated the decision process. On May 11, 1987, EPA proposed to extend the Federal generic UIC program to most Indian lands. In a separate *Federal Register* notice on the same day, the Agency proposed somewhat different programs for the lands of the Navajo, the Ute Mountain Ute, other Tribes in New Mexico and the Indian lands in Oklahoma not already covered.

Five public hearings on the "tailored programs" were held in New Mexico, Arizona, and Oklahoma. Sixteen people commented on them either at the public hearings or in writing afterwards. The commenters generally approved of the scheme of adding some variations to the Federal generic program, but changes were suggested for some of the individual sections.

III. Scope

Today's rule consists of two tailored programs. One covers all wells on the Navajo Indian lands, wells on the lands of the Ute Mountain Ute (Class II wells only on Ute Mountain Ute lands in Colorado, and all wells on Ute Mountain Ute lands in Utah and New Mexico) and all wells on other Indian lands in New Mexico. The lands of the Navajo extend into the States of New Mexico, Utah, and Arizona, areas covered by EPA Regions VI, VIII and IX. The latest inventory of wells on Navajo Indian lands indicates there is a total of 704 Class II wells (458 in Utah, 241 in New Mexico, and 5 in Arizona), 87 Class III wells (all in New Mexico) and two Class V wells (both in New Mexico).

The Ute Mountain Ute lands extend into the States of New Mexico, Colorado and Utah, EPA Regions VI and VIII. There are 15 Class II wells on Ute Mountain Ute lands (12 in New Mexico and three in Colorado). EPA is already administering the generic Federal program for non-Class II wells on the lands of the Ute Mountain Ute in Colorado.

The remainder of the existing injection wells in New Mexico on Indian lands are three Class II wells on the Jicarilla Indian Reservation and three Class V wells on the Laguna Indian Reservation.

The second tailored program applies to all classes of wells on all Indian lands in Oklahoma, except for Class II wells on the Osage Mineral Reserve in Osage County and Class II wells on the lands of the Five Civilized Tribes (Choctaw, Cherokee, Chickasaw, Creek and Seminole). The Class II program for the Osage Mineral Reserve was promulgated on November 15, 1984, and may be found at 40 CFR 147 Subpart GGG. The Class II program on the lands of the Five Civilized Tribes was promulgated on December 2, 1981, as part of the State-administered program. (40 CFR 147, Subpart LL).

The latest inventory indicates that there are one Class I well and 194 Class II wells on the Indian lands in Oklahoma covered by this proposal. The wells are located on lands of 13 of the 33 tribes.

The UIC programs for most Indian lands outside the scope of this rule are identical to the Federal generic program, although a few programs ban some classes of injection wells. A notice of the promulgation of UIC programs for Indian lands in forty-one states and territories appears elsewhere in today's *Federal Register*. UIC programs on Indian lands in fourteen other states were previously promulgated. (52 FR

17680, May 11, 1987; 49 FR 45292, November 15, 1984; 49 FR 20138, May 11, 1984).

IV. Comments and Modifications to the Proposed Rule

EPA received relatively few comments on this proposed rule. Most of them concerned either the notice, mechanical integrity, or injection pressure provisions of the proposed rule. Comments on specific provisions and EPA's responses are incorporated into the section-by-section description which follows.

A. General Comments

EPA also received some general comments regarding the proposed rule. Two of the Indian commenters made general statements of support for the UIC programs which they believe will protect ground water. One of the Indian commenters also thanked EPA for informing and consulting his tribe as the proposal was developed. The Hopi Tribe emphasized its special situation, surrounded by the Navajo lands and sharing ownership of many resources with the Navajo. The Hopi had no suggestions for special provisions, but wanted to be sure that they would have an opportunity for future involvement. Finally, one of the States reiterated its preference for extending the State program to Indian lands. EPA continues to believe, as explained in the preamble to the proposed rule, that administering a State program would not be feasible. Some provisions of State UIC programs are dependent upon State authority. EPA would not have authority to enforce these provisions under the SDWA.

B. Jurisdiction Issues

Two commenters had questions about the definition of Indian lands and how EPA would set the jurisdictional boundaries for these programs. As mentioned above, the definition of Indian lands adopted for the UIC program is set forth in 40 CFR 144.3. Whatever definition is chosen, there will be disagreements about whether particular lands fall within the definition. An Indian tribe would probably object to a State exercising jurisdiction over lands it perceives as Indian lands, and a State would object to an Indian Tribe exercising authority over lands which it believes to be non-Indian lands. Thus, disputes could prevent both the State and the Indian tribe from exercising primary enforcement responsibility for a UIC program. In order to ensure regulation of injection wells and minimize any disruption, pending the resolution of

jurisdictional disputes, EPA will implement the Federal UIC program for disputed lands.

The recently proposed EPA regulation to allow Indian Tribes to apply for primary enforcement authority under the SDWA does not define Indian lands over which the Tribe could exercise UIC authority. The proposed rule would allow neighboring governmental units to object to a Tribe's assertion of jurisdiction. When there is a conflicting claim, EPA will consult with the Department of the Interior and decide whether the Tribe has adequately demonstrated jurisdiction to administer a program under the SDWA. A Tribe may not proceed to the next step of applying for primary enforcement responsibility over a particular program until EPA has determined that the Tribe's jurisdictional showing is adequate.

This different approach is consistent with the different mandate for the primacy regulations. The primacy regulations allow for transfer of responsibility for the UIC (and other SDWA programs) under carefully delineated criteria specified in section 1451. On the other hand, the intent of the last sentence of section 1422(e) is to make sure that all Indian lands are covered by some UIC program. There will be cases in which a Tribe does not apply for primacy or cannot demonstrate its jurisdiction, but a State could not administer the UIC program on those lands. The EPA must administer the UIC programs for those lands.

One commenter wanted to be sure that jurisdictional decisions would be made ahead of time, as the program is being established, rather than on an ad-hoc basis later. Although this sounds sensible, it will not be possible. Advance decisions would delay the implementation of the program for an unacceptable amount of time. As described above, EPA will assume that lands described by the definition in 40 CFR 144.3 are Indian lands and will begin implementation of the UIC program on them. If disputed territory is later adjudged to be non-Indian lands, it will be deleted from the EPA Direct Implementation Indian land program and added either to the EPA (non-Indian land) DI program for that State or to the State program, as appropriate.

Another commenter suggested that for Class II wells, the definition of Indian lands be restricted to the reservation because that would be in line with other regulations of the oil and gas industry. As described above, EPA believes that restricting these regulations to the

reservations could result in unregulated wells on non-reservation Indian lands. The commenter went on to say that under the definition of Indian country "all a tribe has to do is buy a small parcel of land with a well on it and they will assume complete authority over an operation in which they have no interest." It appears that this commenter thought the regulations would confer primary enforcement responsibility on the Indian tribes, but that is covered under a separate set of regulations. Under this rule, the Federal EPA will regulate wells on whatever is considered Indian land. Furthermore, purchases of land by Indians or Indian tribes is not alone sufficient to make the land "Indian Country." If land owned by Indians is not held in trust or with restraints on alienation, it is no different than land owned by other persons. Thus, the State has authority over it and may implement its UIC program (assuming the State has been granted primacy). If ownership of mineral rights and the surface estate is split, and either is considered Indian lands, the Federal EPA will regulate the well under the Indian land program.

V. Program Contents—Provisions of the Navajo, Ute Mountain Ute, and New Mexico Indian Lands Program

The program for the Navajo, Ute Mountain Ute, and New Mexico Indian lands incorporates the Federal UIC program codified at 40 CFR Parts 124, 144 and 146 with certain additional requirements described below.

As more than one commenter pointed out, the proposed rule incorrectly listed the effective date of both tailored programs as June 10, 1987 (30 days after publication of the proposed rule). The effective date should have read "30 days after publication of the final rule in the Federal Register."

A. Public Notice of Permit Actions (§ 147.3002)

The proposed rule required actual, individual notification of intent to apply for a permit to landowners, tenants, and lease operators within one-half mile of the well, in addition to the notice to the affected Tribal government. Some oil industry commenters objected to the proposed notice requirement, particularly to tenants, saying that it was difficult and unnecessary. Both commenters thought it should be sufficient to notify the Tribal government. One commenter also thought the waiver provision was burdensome.

EPA has decided not to change the proposed notice requirement. Similar provisions are being implemented

without undue difficulties in New Mexico and Oklahoma. Those commenting on proposed permit applications are frequently tenants and landowners. EPA believes that it is good practice to give notice to those actually on the land where new drilling is contemplated, and other kinds of notice may not be adequate in sparsely populated areas. Finally, if the requirement to give notice is too onerous in a particular situation, the permittee may apply for a waiver. The waiver may apply to an area rather than to a single permit.

Affected Tribal governments will be notified by owners or operators of an intent to apply for a permit. EPA will also provide to the affected Tribal governments all notices given to "affected States" under § 124.10(c) of this chapter.

A Bureau of Land Management (BLM) field office suggested that EPA notify local BLM and Bureau of Indian Affairs (BIA) offices of proposed permit actions at the same time as affected Tribal governments to facilitate review and processing. However, § 124.10(c)(1) already requires EPA to send notice of permit actions to federal agencies with jurisdiction over fish and wildlife resources and other "appropriate government authorities." BIA and BLM, which retain some jurisdiction over injection wells and the projects of which they are a part, constitute "appropriate governmental authorities." Thus, there is no need to establish by regulation additional notice for these federal agencies. EPA, BIA and BLM are developing Memoranda of Agreement covering mutual notice for these Indian lands.

The Navajo Tribe requested that it be notified of maximum injection pressures established for individual fields under the procedures of § 147.3006(b)(1). That paragraph requires the Director to provide opportunity for comment and public hearing according to the provisions of Part 124, Subpart A of this chapter before setting the field pressure, and informing the owners and operators in writing of the final decision. The Navajo wish to be apprised of the final decision. The Tribe will have been informed of the tentative decision under the procedures of Part 124 because affected Tribes will receive all notices sent to affected state governments whenever the procedures of Part 124 are used. EPA has no objection to providing notice of the final decision as well. Section 147.3006(b)(1) has been changed to add this notice.

B. Aquifer Exemptions (§ 147.3003(a))

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 which contains a sufficient quantity of ground water 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 which 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.

EPA is aware that some Class II wells on the lands of the Navajo, particularly enhanced recovery wells, are injecting into aquifers with less than 10,000 TDS water. If the Agency had not designated them exempted aquifers under this rule, injection would have become illegal on the day the UIC program took effect. New wells may necessitate additional aquifer exemptions after program promulgation. Owners and operators may apply for them using established Agency procedures.

The exemptions included in this rule are limited to the injection formation only and to Class II wells. Some of the aquifers that EPA has exempted are at a great depth, an average of 5,400 feet. The aquifers in question serve as the injection zone for enhanced recovery wells, and by their nature, are hydrocarbon producing zones. EPA has investigated the aquifers and solicited comment on them, and has found 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 exempted aquifers are listed in Appendix A.

The Agency received four comments on the aquifer exemption provisions. The first suggested that EPA modify its regulations so that an operator could inject produced fluids back into the formation from which they came without any conditions or necessity for exemptions. This comment is directed at a long-established part of the Federal UIC program on which comments are no longer timely. Furthermore, the requirement for exemptions is based on the statutory mandate to protect all

aquifers which supply or can reasonably be expected to supply a public water system. EPA may only allow injection into a formation which has the capacity to supply a public water system upon a showing that there is some other reason why it would never be used for public water supplies; that it is not in fact an underground source of drinking water.

The second comment was from the Navajo Tribe who did not want EPA to exempt any aquifers until it had had a chance to comment. EPA's procedures require an opportunity for comment on requests for aquifer exemptions. The aquifer exemption requests received during the comment period on this proposal will be processed with separate notices of opportunity to comment after this rule becomes effective.

The Navajo also noted that the area around a well that is exempted is one-quarter mile while the area around a well which must be examined for abandoned and improperly completed wells is one-half mile, and suggested that they ought to be the same: Both one-half mile. The Agency believes that the cone of influence, the area in which pressure is changed by injection, is larger than the area which will actually receive the injected fluid. It is only necessary to exempt that portion which will be contaminated by injection fluid, not that part merely influenced by pressure. Thus, the Agency believes that it is appropriate to have a smaller area covered by the aquifer exemption.

Another industry commenter wanted the Agency to exempt aquifers within the areal extent of productive fields currently used for injection because it would allow operators to drill new wells in active areas without applying for permits. EPA points out that the premise of the suggestion is legally incorrect. Aquifer exemptions and permits are independent requirements. Even if the whole aquifer has been exempted, new injection wells require permits (with some exceptions). However, an owner or operator of a field which has been exempted may apply for an area permit under § 144.33. This permit allows new wells to be drilled without individual permits.

EPA chose to exempt only the area surrounding active wells because it believes that a restrictive policy is consistent with the SDWA. The SDWA presumes that aquifers are underground sources of drinking water, and the regulatory program should make the same presumption until someone demonstrates that a particular aquifer is not a USDW and that there is a reason to exempt it. As the preamble to the proposed rule stated, EPA will entertain

requests for exempting whole fields. The commenter did not submit a request for its fields. EPA sees no reason to revise its policy, but will consider any request for aquifer exemptions submitted by this or any other owner or operator.

The same commenter also suggested that EPA should not rely on lists of exempted aquifers in the Regions, but should either publish them in the *Federal Register* or exempt all aquifers into which wells are currently injecting. EPA agrees that publication in the *Federal Register* will make it easier to check on the status of aquifers, and as the description of exempted aquifers turned out to be of a manageable length, the exempted portions of aquifers on these Indian lands are published as an appendix to today's rule. Minor exceptions granted in the future will not be published in the *Federal Register* because they are not considered substantial program revisions under § 145.32. (Minor exemptions are those associated with a single permit action or concerning an aquifer of more than 3000 TDS and related to a Class II, III or V well. See 48 FR 40108, Sept. 2, 1983). As is the case for all UIC programs, the Regional EPA offices will maintain a complete list of aquifer exemptions, both major and minor. Those desiring to ascertain the status of aquifers in the future should check with the Regional EPA offices as well as the CFR.

C. Aquifer Cleanup (§ 147.3003(b) and § 147.3011)

The generic Federal program requires owners and operators of Class III wells which inject in or through an exempted aquifer to demonstrate that the plugging and abandonment plan will protect underground sources of drinking water (USDWs). The Director of a UIC program must prescribe "aquifer clean-up and monitoring where he deems it necessary and feasible to ensure adequate protection of USDWs." (40 CFR 146.10(d)). This means that the mined area must be cleaned up to the extent necessary and feasible after cessation of mining so that contaminants from mining operations will not endanger the USDWs surrounding the exempted portion which had been mined.

Today's rule requires some clean-up and monitoring for Class III uranium projects located on these Indian lands and injecting in or through an exempted aquifer of 5,000 milligrams per liter (mg/l) total dissolved solids (TDS) or less, as needed to protect surrounding USDWs. The generic regulations at § 146.10(d) give the Director the discretion to prescribe aquifer clean up where he deems it necessary and feasible. The

economic and technological feasibility of such clean-up for uranium mines has been demonstrated for the types of mining and geology likely to be covered by the program in projects in New Mexico and Texas. Although the rule requires some clean-up, the contaminants of concern and the actual level of clean-up and monitoring will be decided for each project and specified in its permit. The Director would continue to be able to use the discretion granted in § 146.10(d) in deciding whether to require clean-up and monitoring for other kinds of Class III projects and for uranium mining projects injecting in or through aquifers of 5,000–10,000 mg/l TDS.

The scarce water in this arid region is very valuable and justifies this higher level of protection, which has been specifically requested by the affected Tribes. All of the existing (though currently abandoned) Class III projects covered by this rule are located on Indian lands in New Mexico and New Mexico is the most likely location for new Class III wells. The New Mexico State UIC program requires levels of protection equivalent to those specified in this program.

Pre-injection formation water quality will be analyzed by the applicant for appropriate ground-water contaminants. The level of clean-up for each contaminant will be specified in the permit. It will be set as close as is feasible to the original conditions.

If a permittee finds, after reasonable attempts, that an approved clean-up plan has proven infeasible to achieve in practice, he may document for the Director the attempt and failure to achieve contaminant levels set in the permit standards and request a modification of the clean-up standards through the procedures in 40 CFR 144.39 and 124.5.

The permittee must submit a proposed schedule for clean-up to the Director for his approval at the time the permittee requests permission to plug and abandon the well (see § 146.34(c)). The owner or operator will continue clean-up and monitoring according to the clean-up schedule until notified by the Director that the conditions of his permit have been satisfied. The Director will base his decision on reports submitted by the operator and the results of water quality analyses. The permittee must notify the Director at least two weeks in advance of sampling dates and provide the opportunity for splitting samples with the Director.

EPA recommends to the Director the following procedure to determine when

sufficient clean-up has been achieved. After three consecutive sample sets (a "sample set" is one sample from each well designated in the permit) taken at a minimum of 30-day intervals, show that constituents from each well are at concentrations equal to or less than that required by the permit, the Director will allow the permittee to cease clean-up efforts. The permittee will be required to file with the Director a written report of the results of the analyses and a summary of clean-up efforts. After filing the report, sampling for all constituents listed in the permit would again be conducted at 30-day intervals for a minimum of three more sample sets and reported to the Director. (This makes a total of six sample sets.) The Director will determine within 120 days of receiving the sixth sample analysis whether or not clean-up has been achieved. Upon acknowledgment in writing by the Director of final clean-up, the permittee may cease all monitoring and clean-up activities in the affected area.

One commenter suggested that EPA make clear that the level of contaminants in each well must meet the permit level, that they cannot be averaged. EPA has made that clarification.

D. Duration of Rule Authorization for Class I and III Wells (§ 147.3004, 3007(a))

Owners and operators of existing Class I and III wells must submit permit applications no later than 90 days after the program becomes effective. The generic Federal program contains a one-year deadline. The longer period was established for administrative reasons, as it was clearly impossible to process all of the Class I and III permits in all direct implementation programs in a shorter time. However, there is only one existing Class I well covered by this program and only three Class III projects. In addition, owners and operators have already gathered most of the information for related submissions to State agencies. Therefore, the shorter period for permit application should not be a burden to owners and operators or to EPA.

E. Additional Requirements for Wells Injecting Radioactive Waste (§ 147.3005 and § 147.3016)

Under the generic Federal program, wells which inject radioactive waste below the lowermost USDW are Class V wells and are not currently subject to specific technical standards (40 CFR 146.51). Today's rule continues to classify wells which inject radioactive waste as Class V, but requires them to

comply with all permitting requirements pertaining to Class I wells (under the authority of § 144.25(a)(3)). Among other things, this rule requires owners and operators to obtain a permit before constructing a radioactive waste disposal well and to comply with Class I construction and operating standards and requirements. The Navajo Tribe specifically requested increased stringency for radioactive waste wells. Surrounding State UIC programs contain similar provisions.

The definition of "radioactive waste" contained in 40 CFR 144.3 is unchanged, and refers to any waste which contains radioactive materials in concentrations which exceed those listed in 10 CFR Part 20, Appendix B, Table II, Column 2. However, wells which inject high level and transuranic waste and spent nuclear fuel covered by 40 CFR Part 191 will continue to be covered by the general Class V regulations, and EPA will develop additional specific provisions should such a well be proposed.

EPA is not aware of any existing wells injecting radioactive wastes located on the Indian lands covered by this proposal. Any future radioactive waste disposal wells on Indian lands are expected to be associated with uranium mine sites.

F. Maximum Injection Pressure Limit for Rule-Authorized Class II Salt Water Disposal Wells (§ 147.3006(a))

Under the generic Federal regulations at 40 CFR 144.28(f)(3)(ii) and 40 CFR 146.23(a), the owner or operator is generally directed not to exceed whatever maximum pressure at the wellhead would assure that injection will not initiate new fractures or propagate existing fractures in the confining zone adjacent to the USDW.

Today's rule establishes a maximum surface injection pressure of 0.2 pounds per square inch (psi) for each foot of depth to the top of the injection zone for rule-authorized Class II salt water disposal wells on these Indian lands. This limit has been used for several years by the State of New Mexico and is considered by EPA to be a very conservative formula to prevent fracturing of the injection zone. For Class II wells in Utah, the maximum injection pressure allowed under the State-administered program is determined by the following equation: Maximum injection pressure = $(.733 - .433 \times \text{specific gravity of injection fluid}) \times \text{depth of injection}$. The equation for these Indian lands requires lower maximum injection pressures than the Utah program except where the TDS of the injected fluids exceed

approximately 250,000 mg/l. Use of the formula will assure that maximum injection pressures do not exceed those currently in effect in the area, and because there is no necessity for calculation of fluid density or tubing frictional loss, it is easily administered by the regulatory agency and easily understood by the regulated community. Higher injection pressures may be granted under a permit, provided that the conditions of § 144.52(a)(3) are met.

One industry commenter suggested that EPA adopt for the Navajo lands the formula used by the State of Utah because most wells are in San Juan County, Utah, and because there is no evidence that Utah's formula will cause degradation of ground water. EPA believes that the formula it has chosen is appropriate for rule-authorized wells. The higher level of protection afforded through the use of this more conservative formula is warranted based on preliminary reports provided by the Utah Division of Oil, Gas, and Mining, which suggest there is an increasing salinity in an overlying USDW in the Aneth field. The EPA is cooperating with the State of Utah, Navajo Nation, and other federal agencies to develop a strategy to identify the actual pathways and sources of the increasing salinity and to determine if injection activities could be accentuating the problem. Lower injection pressures for rule-authorized wells are therefore deemed desirable at this time. Operators do have the flexibility to seek approval of higher injection pressures based on actual fracture pressure data when the relatively few existing saltwater disposal wells are permitted.

G. Maximum Injection Pressure for Enhanced Recovery and Hydrocarbon Storage Wells (§ 147.3006(b))

Owners or operators of enhanced recovery and hydrocarbon storage wells must submit formation specific maximum injection pressure values for fields or projects as they do in other Direct Implementation programs (see for example, § 147.1353 (Montana) or § 147.1654 (New York)). The Agency will then establish appropriate limits for formations or units based on these and other data. The establishment of such "field rules" for maximum injection pressure has been favored by EPA because fracture gradients may vary considerably within relatively small areas and usually cannot be accurately described by a single formula. Operators who wish to inject at a higher pressure than those set for the formation and field must demonstrate in writing to the

Director that the higher pressure will not initiate new fractures, propagate existing fractures, or cause the movement of fluid into a USDW. After an opportunity for a public hearing and public comment, the Director may grant the request for higher pressure.

Two commenters objected to limitations on injection pressure saying that they were too restrictive, that wells had been successfully operated without them on the Navajo reservation for years, and that such restrictions could also reduce Federal and Indian royalties from oil and gas production. The SDWA mandates EPA to protect underground sources of drinking water, and the Agency is not persuaded by these arguments to depart from its long-established policies on injection pressure. This is not a new issue for the UIC program. The SDWA directs EPA not to impede injection of brine brought to the surface in connection with oil and gas production unless it is essential to prevent endangerment of underground sources of drinking water. EPA continues to be convinced that some limitation on injection pressure is essential to prevent fracturing zones adjacent to USDWs and creating avenues of migration for contaminants from the injection zone. EPA considered comments similar to this one when promulgating the 1984 Direct Implementation rule and the technical rationale for limiting injection pressure has not changed. The limitations on injection pressure in this program are identical to those in other direct implementation programs, and like those programs allows adjustments of the maximum pressure for each well and field.

If the owner of a salt-water disposal well believes that the formula is unnecessarily restrictive in his case, he can request a higher pressure through a permit application in compliance with § 144.52(a)(3). The Director sets individual field pressures for enhanced recovery and hydrocarbon storage wells after opportunity for comment and hearing. If an owner or operator is still dissatisfied, he may demonstrate to the Director in writing that a higher pressure will not violate the performance standard of § 144.28(f)(3)(ii) of this chapter. The Director may grant such a request for a higher pressure after notice and opportunities for public hearing.

H. Information To Be Considered in Permit Applications (§ 147.3007(b), § 147.3013, and § 147.3015)

Owners and operators must submit certain information with permit applications in addition to that in the minimum Federal requirements listed at

40 CFR 146.14(a) and 146.34(a). These additional requirements, which include information on expected pressure and fluid changes and sampling methodology, are consistent with the program of the State of New Mexico and allow for a more thorough evaluation of permit applications. A portion of this additional information, required for Class III wells, is a direct result of the aquifer clean-up requirement discussed above.

I. Criteria for Aquifer Exemptions (§ 147.3008)

Several criteria for granting aquifer exemptions under the generic Federal program are set forth in 40 CFR 146.4. Under this Indian lands program an aquifer can not be exempted solely on the grounds that "the total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system." This criterion, contained in § 146.4(c), will not apply for the Indian lands covered by this rule, although aquifers could still be exempted on the other grounds in § 146.4.

In most parts of the country, waters above 3,000 mg/l TDS might not reasonably be expected to supply a public water system. However, in the arid and rural Southwest lands for which this program is promulgated such water is used and needed. The higher level of protection is consistent with the New Mexico State program and is desired by the Indian Tribes.

One commenter objected to deletion of the criterion noting that if the aquifer might be expected to supply a public water system that it would not meet the other part of the two part exemption criteria anyway. It is true that this deletion does not change the substantive law, but it does shift the assumptions and change EPA's process for approval. Under 40 CFR 144.7, a Director's request for an exemption based on the 3,000 TDS criterion in § 146.4(c) will become final 45 days after submission to the Administrator, if the Administrator does not disapprove. The deletion of the criterion for this Indian land program means that aquifers with more than 3,000 TDS will not receive the semi-automatic approval of § 144.7(b)(3)(ii). Instead the drinking water potential of the aquifer will be specifically examined and the exemption requests will receive a final review at the Headquarters level under the procedures of § 144.7(b)(3)(i).

J. Area of Review (§ 147.3009)

The Federal minimum requirements, at 40 CFR 146.6, specify that the Director may establish the area of review around

an injection well either by setting a fixed radius, not less than one-quarter mile, or through the use of an appropriate formula to calculate the zone of endangering influence.

For these Indian lands, EPA has adopted the area of review requirements currently used in the Utah and New Mexico programs. For Class II wells, the area of review is a fixed radius of one-half mile. For Class I and III wells, the area of review is a fixed radius of two and one-half miles. Alternatively, an applicant for a Class I or III permit may make either of two demonstrations. First, in suitable cases, he may present technical information to show that withdrawal from the injection zone exceeds injection and results in a net withdrawal from the injection horizon at all times. Second, with the approval of the Director, he may use a mathematical equation, such as the modified form of the Theis equation (set out in 40 CFR 146.6(a)(2)) to calculate a zone of endangering influence. If the applicant chooses to make one of the alternative demonstrations, he should also propose a specific area of review not less than one-quarter mile for the Director's consideration.

It might appear that the minimum one-quarter mile area of review for Class I and III wells affords less protection than the fixed radius of one-half mile for Class II wells. However, the smaller area of review for Class I and III wells will be approved only where both the net volume of injected fluids and the maximum injection pressures anticipated (which together define the zone of endangering influence) is much less than would be allowed under a one-half mile fixed radius. It is desirable to limit the zone of endangering influence because this reduces the land area in which there is potential for movement of fluids through unplugged wells.

The States of New Mexico and Utah use these area of review calculations because they are believed to be suitable to the local geologic and environmental conditions. EPA adopted them to satisfy the strong public desire to follow the surrounding State programs as closely as possible, and to give additional protection to the groundwater in this arid region.

K. Mechanical Integrity Tests (§ 147.3010)

The May 11, 1987, Federal Register notice proposed approval of radioactive tracer surveys for evaluating the absence of significant leaks under § 146.8(a)(2). Since then the Director of the Office of Drinking Water has approved use of radioactive tracer

surveys for all UIC programs (52 FR 35324, September 18, 1987). The proposed Indian land provisions were based on a prior draft of that approval. Now that the draft has become final and applies to all UIC programs, there is no reason to publish separate provisions on radioactive tracer survey for Indian lands. Therefore, EPA has deleted provisions concerning radioactive tracer surveys from the final rule.

Two people commented on radioactive tracers in this program. A trade association supported use of radioactive tracers for demonstrations required by 40 CFR 146.8(a) paragraphs (1) and (2). It also suggested allowing use of radioactive tracer surveys instead of pressure tests to precede monitoring of the annulus. In fact, under EPA's current rules, a radioactive tracer survey could replace the combination of pressure test and annulus monitoring. The commenter also thought it unnecessary to obtain the approval of the Director before using the radioactive tracer survey and to do it in conjunction with another test. Under the current rules, the radioactive tracer would be sufficient, without a parallel test and without advance approval under certain geological conditions. The State of Utah objected to the requirement of a pressure test prior to annulus monitoring and the Director approval of a radioactive survey. As mentioned above, a radioactive survey without prior approval may now be used for a part I demonstration and, under certain conditions, for a part II demonstration. (Part I refers to the first part of the standard for demonstrating mechanical integrity in 40 CFR 146.8(a)(i); "no significant leak in the casing, tubing, or packer" and part II refers to the second part of the standard in 40 CFR 146.8(a)(2): "no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.") Utah also objected to the requirement that a description of the MIT be submitted for EPA approval saying that it would delay permitting. The provision for Director approval had been intended to apply to the radioactive tracer surveys. Now that the Agency has established policy on the radioactive tracer surveys, advance approval is no longer necessary. Therefore, the requirement has been deleted from this final rule.

The State of Utah also opposed the requirement for all wells to pressure-test before monitoring the annulus because some wells are sufficiently pressured during completion and because it is irrelevant where there is no USDW to

protect. If an owner or operator does not wish to do a pressure test, he may now perform a radioactive tracer survey instead. If there is no USDW, the owner or operator may request the Director to reduce or waive certain requirements under § 144.16.

L. Construction Requirements (§§ 147.3012, 147.3014)

Section 146.12(b) of the generic regulations requires all Class I wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. As in other direct implementation programs, EPA is implementing the broad directive of the regulation by imposing specific cementing requirements appropriate to the local geologic conditions. Section 147.3012 requires that the entire casing-borehole annulus of Class I wells be cemented from bottom to surface, as the New Mexico State UIC program requires.

Class III operators will also have to provide a description of the radiological characteristics of the formation fluids, a necessary part of the plugging and abandonment plan that includes aquifer clean-up. Monitoring wells may be required by the Director (under the authority of § 144.52(a)(9)) for USDWs below the injection zone of Class III projects, in addition to those above the injection zone already required by EPA Federal regulations, if these USDWs may be affected by mining operations (§ 147.3014).

The Navajo commented that a complete radiological and chemical characterization should be required under both § 147.3014 and § 147.3015. This would be redundant because § 147.3015 applies to all Class III wells, existing as well as newly drilled.

VI. Program Contents—Provisions of the Program for Lands of Certain Oklahoma Indians

A. Introduction

EPA is today also promulgating a tailored UIC program covering lands of most Oklahoma Indian Tribes. Currently, the State of Oklahoma administers the approved UIC program for non-Indian lands and for Class II wells on the lands of the Five Civilized Tribes. 40 CFR 147.1850–147.1851 and 46 FR 58489 (Dec. 2, 1981). EPA administers the UIC program for Class II wells on the Osage Mineral Reserves. 40 CFR 147.1852. Today's rule establishes an EPA-administered program for all other Indian lands in Oklahoma including non-Class II wells on the lands of the Five Civilized Tribes and the Osage Mineral Reserve. There are at least 30

tribes in Oklahoma and currently over 200 wells not regulated under a UIC program on the lands of 13 of these tribes.

Like the program for the lands of the Navajo, Ute Mountain Ute, and New Mexico Tribes, the program for Indian lands in Oklahoma uses the generic Federal standards (40 CFR 124, 144 and 146) as a base and adds a few provisions which are similar to provisions in the State program. For a more detailed discussion of the background, development, and scope of this rule see sections I, II, and III above. A discussion of the scope and rationale of the requirements, comments made on them, and EPA's response appears below.

B. Notice (§ 147.3101)

Owners and operators and the Director of the program have public notice responsibilities beyond those in 40 CFR 124.10. An applicant must give notice of intent to apply for a permit to appropriate tribal governments. EPA will provide notice through newspaper publication and radio broadcast. These provisions are similar to those of the existing State program, and should help foster meaningful participation by Indian tribes.

EPA received comments objecting to the requirement for individual notice in the Oklahoma program also. For the reasons set out in section 2.A. above, EPA has decided to retain the notice requirement for the final rule. An industry commenter also objected to the 45-day notice for comment on draft permits for Class I and III wells, saying that Oklahoma and other States only require a 15-day notice. In fact, the 15-day notice period applies only to Class II wells. Oklahoma requires a 45-day comment period for Class I and III permits. EPA believes that the potential complexity of Class I and III well permits and the broader public interest in them justify the longer period.

C. Plugging and Abandonment (§ 147.3102, § 147.3104, § 147.3105 and § 147.3108)

EPA has adopted the Oklahoma approach for plugging and abandonment and associated reporting. The generic Federal standards do not specify detailed plugging requirements, but set forth the basic principle that plugging shall prevent movement of fluids either into or between underground sources of drinking water (40 CFR 146.10). However, the Class II wells in Oklahoma all have similar construction and are completed into a few similarly characterized strata, and EPA believes it

is expedient to prescribe detailed plugging requirements in the regulations. This is consistent with the State program and the EPA-regulated program in Osage County, thereby maintaining consistency within Oklahoma. The similarity of the wells allows EPA to set financial responsibility requirements without detailed plugging plans. The abbreviated individual plugging and abandonment plans will not be required of Class II operators until the operator submits a notice of abandonment to the EPA. The notice of abandonment is due 45 days before planned abandonment.

The setting of cement plugs is detailed in this proposal. Cement plugs are required to seal and isolate the injection zone and the lowermost USDW. The space between the cement plugs must be filled with mud, and a cement plug is required at the surface. The cement plugs so placed will prevent any movement of fluid into or between USDWs. The plugging requirements will be made a permit condition in any permit. Finally, the 45-day notice of abandonment should allow sufficient time for EPA's review and evaluation because the detailed plugging specifications in the regulations restrict the amount of variation in the types of plans EPA will review.

The Oklahoma Corporation Commission (OCC) made two comments on the plugging provisions. It suggested that EPA emphasize that the specifications are minimums which can be increased if necessary, particularly the size of the cement plug. EPA has adopted this suggestion and inserted the phrase "at least" in several places in the plugging section. The OCC also recommended adding its definition of mud to the provision. EPA has adopted this suggestion also, and revised the final rule accordingly.

D. Fluid Seals (§ 147.3103)

Fluid seals will not be allowed as alternatives to packers for Class I wells on these Indian lands. This prohibition is already a requirement in the Oklahoma State program and is more stringent than the minimum Federal standards. Currently, there is only one Class I well on Indian lands in Oklahoma.

E. Mechanical Integrity Tests (MIT) (§ 147.3107)

Any monitoring of annulus pressure pursuant to § 146.8(b)(1) must be preceded by a pressure test. A positive gauge pressure must be maintained upon an annulus filled with liquid during such annulus pressure monitoring. Experience in Oklahoma and elsewhere shows that unless a positive pressure is

continuously maintained on the annulus, the continued integrity of the well cannot be assumed from monitoring. Both initial pressure test and continued positive gauge pressure are current Agency guidance.

In addition, any pressure test conducted pursuant to § 146.8(b)(2) must be performed with a pressure on the casing/tubing annulus of at least 200 pounds per square inch (psi) unless otherwise specified by the Director. When such tests are conducted during well operation, a differential between the injection and annulus pressure of at least 100 psi must be maintained throughout the tubing length.

For monitoring of the relationship of injection pressure and injection flow rate in enhanced recovery wells pursuant to § 146.8(b)(3), the monitoring must be preceded by a pressure test conducted not more than 90 days prior to commencement of the monitoring. A pressure test prior to monitoring for the flow rate-volume relationship is consistent with current Agency guidance and with practice in the Osage UIC program.

A trade association made comments similar to those on the Navajo program, supporting the use of radioactive tracer surveys for demonstrations of both parts of the mechanical integrity definition in § 146.8(a). As discussed above, the approval of radioactive tracer surveys for the entire UIC program obviates need for provisions concerning radioactive tracer surveys in these Indian land programs. The trade association also said that pressure on the annulus would be destructive to many wells and that it is not necessary as a new study demonstrates that monitoring without pressure is technically sound. An owner or operator now has the option of conducting a radioactive tracer if he believes that a pressure test would be harmful.

Finally, existing Class I wells must have a valid mechanical integrity test conducted within 90 days of the date of the required application for a permit. EPA believes that a test should be run as close to the date of the application as possible. The operator must give the Director at least seven days prior-notice of the test so that an observer can be present. The seven-day period is shorter than the period currently in the Federal generic standards because there is only one existing Class I well on the Indian lands covered by this rule, which will not present a scheduling problem.

F. Other Comments on the Oklahoma Program

Some of the comments did not address any of the specific provisions.

One industry commenter supported the proposal because he believed that placing his Class I well under Federal control will resolve reporting, monitoring and testing requirements and facilitate transfer of primary enforcement responsibility to the Osage Council, if he should apply for it.

A Tribe said that the program is long over-due and should significantly reduce further ground water contamination. The tribe also wanted to know whether EPA, BLM, or BIA would implement the program. It should be clear that although BIA and BLM have some jurisdiction over injection wells, under the SDWA it is EPA's responsibility to implement the UIC program protecting underground sources of drinking water. Memoranda of Agreement between the three Agencies should reduce conflicts and inconsistencies.

Another tribe asserted that it retains inherent authority to regulate activities affecting the natural resources in the tribal management area, and suggested that EPA insert a warning that the regulations may be superseded by provisions of tribal law. While Indian tribes may have authority to regulate injection activities, it must be exercised through the statutory framework of the Safe Drinking Water Act. Tribes may now apply for and receive primary enforcement responsibility for UIC and Public Water System programs. Procedures to do so will be promulgated shortly.

The same tribe asked EPA to insert a provision requiring delivery to the Tribe of documents submitted to EPA and BIA. These regulations will assure that the Tribe receives notice of intent to apply for a permit, draft permits, and any other information sent to affected States under 40 CFR 124.10(c). The Tribe also requested addition of a section directing local BIA and EPA officials to release information such as the amount of injection activities upon request or subpoena. It appears that the Tribe wishes to use this information to learn more about oil and gas production and mining on its reservation. Most of the information used in the UIC program is available to the public, and the Tribe can obtain it without a subpoena or a new regulatory directive. Of course, EPA cannot direct disposal of BIA documents.

VII. Office of Management and Budget Review

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a

Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major" rule because it will not have an effect on the economy of \$100 million or more, nor will it have a significant effect on competition, costs, or prices. For the most part this proposal would extend to a relatively 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 the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

The original proposal for the generic Federal program concluded that the Federal program would not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 605(b)). The extension of a program basically consisting of the Federal requirements to a limited number of owners and operators, of whom only some are "small entities" does not change the original assessment. Therefore, I certify that this rule will not have 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. Part 147 is amended by adding a new Subpart HHH as follows:

Subpart HHH—Lands of the Navajo, Ute Mountain Ute, and All Other New Mexico Tribes

Sec.

- 147.3000 EPA-administered program.
- 147.3001 Definition.
- 147.3002 Public notice of permit actions.
- 147.3003 Aquifer exemptions.
- 147.3004 Duration of rule authorization for existing Class I and III wells.
- 147.3005 Radioactive waste injection wells.
- 147.3006 Injection pressure for existing Class II wells authorized by rule.
- 147.3007 Application for a permit.
- 147.3008 Criteria for aquifer exemptions.
- 147.3009 Area of review.

Sec.

- 147.3010 Mechanical integrity tests.
 - 147.3011 Plugging and abandonment of Class III wells.
 - 147.3012 Construction requirements for Class I wells.
 - 147.3013 Information to be considered for Class I wells.
 - 147.3014 Construction requirements for Class III wells.
 - 147.3015 Information to be considered for Class III wells.
 - 147.3016 Criteria and standards applicable to Class V wells.
- Appendix A to Subpart HHH—Exempted Aquifers in New Mexico.

Subpart HHH—Lands of the Navajo, Ute Mountain Ute, and All Other New Mexico Tribes

§ 147.3000 EPA-administered program.

(a) *Contents.* The UIC program for the Indian lands of the Navajo, the Ute Mountain Ute (Class II wells only on Ute Mountain Ute lands in Colorado and all wells on Ute Mountain Ute lands in Utah and New Mexico), and all wells on other Indian lands in New Mexico is administered by EPA. (The term "Indian lands" is defined at 40 CFR 144.3.) The Navajo Indian lands are in the States of Arizona, New Mexico and Utah; and the Ute Mountain Ute lands are in Colorado, New Mexico and Utah. 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. The additions and modifications of this subpart apply only to the Indian lands described above. Injection well owners and operators and EPA shall comply with these requirements.

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

§ 147.3001 Definition.

Area of review. For the purposes of this subpart, area of review means the area surrounding an injection well or project area described according to the criteria set forth in § 147.3009 of this subpart.

§ 147.3002 Public notice of permit actions.

An applicant shall give public notice of his intention to apply for a permit as follows:

(a) Prior to submitting an application to the Director, the applicant shall give notice to each landowner, tenant, and operator of a producing lease within one-half mile of the well and to the affected Tribal Government. The notice shall include:

- (1) Name and address of applicant;
- (2) A brief description of the planned injection activities including well location, name and depth of the

injection zone, maximum injection pressure and volume, and source and description of the fluid to be injected;

(3) Name, address, and phone number of the EPA contact person; and

(4) A statement that opportunity to comment will be announced to the public after EPA prepares a draft permit.

(b) In addition to the requirements of § 144.31(e) of this chapter, a permit applicant shall submit a description of the way the notice was given and the names and addresses of those to whom it was given.

(c) Upon written request and supporting documentation, the Director may waive the requirement in paragraph (a) of this section to give individual notice of intent to apply for permits in an area where it would be impractical. However, notice to the affected Tribal government shall not be waived.

(d) The Director shall also provide to the affected Tribal government all notices given to State governments under § 124.10(c) of this chapter.

§ 147.3003 Aquifer exemptions.

(a) *Aquifer exemptions in connection with Class II wells.* In accordance with § 144.7(b) and § 146.4 of this chapter, the portions of authorized injection zones into which existing Class II wells are currently injecting which are described in Appendix A are hereby exempted. The exempted aquifers are defined by a one-quarter mile radius from the existing injection well. The exemption includes the intended injection zone only and is solely for the purpose of Class II injection.

(b) *Class III wells.* In addition to the requirements of § 144.7(c)(1) of this chapter, an applicant for a uranium mining permit which necessitates an aquifer exemption shall submit a plugging and abandonment plan containing an aquifer cleanup plan, acceptable to the Director, describing the methods or techniques that will be used to meet the standards of § 147.3011. The cleanup plan shall include an analysis of pre-injection water quality for the constituents required by the Director. The Director shall consider the cleanup plan in addition to the other information required for permit applications under §§ 144.31(e) and 146.34 of this chapter.

§ 147.3004 Duration of rule authorization for existing Class I and III wells.

Notwithstanding § 144.21(a)(3)(i)(B) of this chapter, authorization by rule for existing Class I and III wells will expire 90 days after the effective date of this UIC program unless a complete permit

application has been submitted to the Director.

§ 147.3005 Radioactive waste injection wells.

Notwithstanding §§ 144.24 and 146.51(b) of this chapter, owners and operators of wells used to dispose of radioactive waste (as defined in 10 CFR Part 20, Appendix B, Table II, but not including high level and transuranic waste and spent nuclear fuel covered by 40 CFR Part 191) shall comply with the permitting requirements pertaining to Class I wells in Parts 124, 144 and 146 of this chapter, as modified and supplemented by this subpart.

§ 147.3006 Injection pressure for existing Class II wells authorized by rule.

(a) *Rule-authorized Class II saltwater disposal wells.* In addition to the requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall, except during well stimulation, use an injection pressure measured at the wellhead that is not greater than the pressure calculated by using the following formula: $P_m = 0.2d$

where:

P_m = injection pressure at the wellhead in pounds per square inch

d = depth in feet to the top of the injection zone.

Owners and operators shall comply with this requirement no later than one year after the effective date of this program.

(b) *Rule-authorized Class II enhanced recovery and hydrocarbon storage wells.* (1) In addition to the requirements of § 144.28(f)(3)(ii) of this chapter, owners and operators shall use an injection pressure no greater than the pressure established by the Director for the field or formation in which the well is located. The Director shall establish such maximum pressure after notice (including notice to the affected Tribe), opportunity for comment, and opportunity for public hearing according to the provisions of Part 124, Subpart A, of this chapter, and shall inform owners and operators and the affected Tribe in writing of the applicable maximum pressure; or

(2) An owner or operator may inject at a pressure greater than that specified in paragraph (b)(1) of this section for the field or formation in which he is operating after demonstrating in writing to the satisfaction of the Director that such injection pressure will not violate the requirements of § 144.28(f)(3)(ii) of this chapter. The Director may grant such a request after notice (including notice to the affected Tribe), opportunity for comment and opportunity for a public hearing according to the

provisions of Part 124, Subpart A of this chapter.

(3) Prior to the time that the Director establishes rules for maximum injection pressure under paragraph (b)(1) 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); and

(ii) Submit data acceptable to the Director which defines the fracture pressure of the formation in which injection is taking place. A single submission may be made on behalf of two or more operators conducting operations in the same field and formation, if the Director approves. The data shall be submitted to the Director within one year of the effective date of this program.

§ 147.3007 Application for a permit.

(a) Notwithstanding the requirements of § 144.31(c)(1) of this chapter, the owner or operator of an existing Class I or III well shall submit a complete permit application no later than 90 days after the effective date of the program.

(b) The topographic map (or other map if a topographic map is unavailable) required by § 144.31(e)(7) of this chapter, shall extend two miles from Class II wells, and 2½ miles from Class I and III wells. These maps will show all the information listed in paragraph 144.31(e)(7) within ½ mile for Class II wells and 2½ miles for Class I and III wells.

§ 147.3008 Criteria for aquifer exemptions.

The aquifer exemption criterion in § 146.4(c) of this chapter shall not be available for this program.

§ 147.3009 Area of review.

The area of review shall be defined as follows:

(a) *Class II wells.* The area of review for Class II permits and area permits shall be defined by a fixed radius as described in § 146.6(b) (1) and (2) of this chapter except that the radius shall be one-half mile.

(b) *Class I and III wells.* The area of review for Class I and III wells are well fields which may be either:

(1) An area defined by a radius two and one-half miles from the well or well field; or

(2) An area one-quarter mile from the well or well field where the well field production at the times exceeds injection to produce a net withdrawal; or

(3) A suitable distance, not less than one-quarter mile, proposed by the owner or operator and approved by the Director based upon a mathematical

calculation such as that found in § 146.6(a)(2) of this chapter.

§§ 147.3010 Mechanical integrity tests.

The monitoring of annulus pressure listed in 146.8(b)(1) of this chapter will only be acceptable if preceded by a pressure test, using liquid or gas that clearly demonstrates that mechanical integrity exists at the time of the pressure test.

§ 147.3011 Plugging and abandonment of Class III wells.

To meet the requirements of paragraph 146.10 (d) of this chapter, owners and operators of Class III uranium projects underlying or in aquifers containing up to 5,000 mg/l TDS which have been exempted under § 146.4 of this chapter shall:

(a) Include in the required plugging and abandonment plan a plan for aquifer clean-up and monitoring which demonstrates adequate protection of surrounding USDWs.

(1) The Director shall include, in each such permit for a Class III uranium project the concentrations of contaminants to which aquifers must be cleaned up in order to protect surrounding USDWs.

(2) The concentrations will be set as close as is feasible to the original conditions.

(b) When requesting permission to plug a well, owners and operators shall submit for the Director's approval a schedule for the proposed aquifer cleanup, in addition to the information required by § 146.34(c).

(c) Cleanup and monitoring shall be continued until the owner or operator certifies that no constituent listed in the permit exceeds the concentrations required by the permit, and the Director notifies the permittee in writing that cleanup activity may be terminated.

§ 147.3012 Construction requirements for Class I wells.

In addition to the cementing requirement of § 146.12(b) of this chapter, owners and operators of Class I wells shall, through circulation, cement all casing to the surface.

§ 147.3013 Information to be considered for Class I wells.

(a) In addition to the information listed in § 146.14(a) of this chapter, the Director shall consider the following prior to issuing any Class I permit:

(1) Expected pressure changes, native fluid displacement, and direction of movement of the injected fluid; and

(2) Methods to be used for sampling, and for measurement and calculation of flow.

(b) In addition to the information listed in § 146.14(b) of this chapter, the Director shall consider any information required under § 146.14(a) of this chapter (as supplemented by this subpart) that has been gathered during construction.

§ 147.3014 Construction requirements for Class III wells.

(a) In addition to the requirements of § 146.32(c)(3) of this chapter, radiological characteristics of the formation fluids shall be provided to the Director.

(b) In addition to the requirements of § 146.32(e) of this chapter, the Director may require monitoring wells to be completed into USDWs below the injection zone if those USDWs may be affected by mining operations.

§ 147.3015 Information to be considered for Class III wells.

(a) In addition to the requirements of § 146.34(a) of this chapter, the following information shall be considered by the Director:

(1) Proposed construction procedures, including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing and coring program.

(2) Depth to the proposed injection zone, and a chemical, physical and radiological analysis of the ground water in the proposed injection zone sufficient to define pre-injection water quality as required for aquifer cleanup by § 147.3011 of this subpart.

(3) An aquifer cleanup plan if required by § 147.3003(b) of this subpart.

(4) Any additional information that may be necessary to demonstrate that cleanup will reduce the level of contaminants in the surrounding USDWs as close as feasible to the original conditions.

(b) In addition to the requirements of § 146.34(b) of this chapter, the Director shall consider any information required under § 146.34(a) of this chapter (as supplemented by this subpart) that has been gathered during construction.

§ 147.3016 Criteria and standards applicable to Class V wells.

In addition to the criteria and standards applicable to Class V wells set forth in Subpart F of Part 146 of this chapter, owners and operators of wells that do not fall within the Class IV category but that are used to dispose of radioactive wastes (as defined in 10 CFR Part 20, Appendix B, Table II, Column 2, but not including high level and transuranic wastes and spent nuclear fuel covered by 40 CFR Part 191) shall comply with all of the requirements applicable to Class I injection wells in 40 CFR Parts 124, 144 and 146 as supplemented by this subpart.

Appendix A to Subpart HHH—Exempted Aquifers in New Mexico

The areas described by a one-quarter mile radius around the following Class II wells in the listed formations are exempted for the purpose of Class II injection.

	Sec.					Well No.
Arco Oil & Gas Co.—Operator/Horseshoe Gallup—Field/Gallup—Formation						
SE/NE.....	5	T30N R16W	1650'FNL	330'FEL		134
NW/NW.....	30	T31N R16W	660'FNL	703'FWL		8
SE/SW.....	28	T31N R16W	790'FSL	2150'FWL		167
NW/SE.....	33	T31N R16W	1710'FSL	2310'FEL		199
SE/NW.....	35	T31N R16W	2105'FNL	2105'FWL		196
NW/NW.....	4	T30N R16W	455'FNL	4435'FEL		219
NW/SW.....	33	T31N R16W	1980'FSL	386'FWL		65
NW/SE.....	27	T31N R16W	1980'FSL	2080'FEL		164
SE/SE.....	30	T31N R16W	660'FSL	660'FEL		5
NW/NW.....	34	T31N R16W	730'FNL	515'FWL		180
NW/NE.....	34	T31N R16W	813'FNL	2036'FEL		182
NW/NE.....	2	T30N R16W	720'FNL	2040'FEL		229
NW/NW.....	29	T31N R16W	660'FNL	660'FWL		24
NW/SW.....	13	T31N R17W	1975'FSL	670'FWL		77
NW/SE.....	29	T31N R16W	1980'FSL	1980'FEL		22
SE/SW.....	27	T31N R16W	660'FSL	1980'FWL		171
NW/SW.....	35	T31N R16W	1980'FSL	660'FWL		205
SE/NW.....	30	T31N R16W	1980'FNL	2061'FWL		7
NW/NE.....	31	T31N R16W	660'FNL	1980'FEL		17
NW/NE.....	4	T30N R16W	330'FNL	2160'FEL		221
NW/NE.....	29	T31N R16W	660'FNL	1980'FEL		26
SE/NE.....	34	T31N R16W	1990'FNL	645'FEL		194
SE/SE.....	31	T31N R16W	640'FSL	660'FEL		27
NE/SW.....	14	T31N R17W	2250'FSL	2630'FWL		94
NE/NW.....	14	T31N R17W	625'FNL	1995'FWL		69
SE/NW.....	10	T30N R16W	1900'FNL	2080'FWL		271
SE/SE.....	29	T31N R16W	560'FSL			21
SE/NE.....	30	T31N R16W	1980'FNL	660'FEL		10
SE/NW.....	29	T31N R16W	2080'FNL	1980'FWL		23
NW/SE.....	25	T31N R17W	1980'FSL	1980'FEL		122
SE/SW.....	32	T31N R16W	660'FSL	1980'FWL		14
NW/SW.....	30	T31N R16W	2021'FSL	742'FWL		19
SE/SW.....	13	T31N R17W	660'FSL	1980'FWL		82
NW/NW.....	27	T31N R16W	520'FNL	660'FWL		150
SE/SE.....	28	T31N R16W	660'FSL	660'FEL		169
NW/SW.....	29	T31N R16W	1980'FSL	660'FWL		11
SE/NW.....	34	T31N R16W	2310'FNL	1650'FWL		192
SE/NW.....	29	T31N R16W	660'FSL	1980'FWL		12
NW/SW.....	27	T31N R16W	1650'FSL	330'FWL		162
NE/SE.....	23	T31N R17W	1880'FSL	340'FEL		96
NW/SW.....	24	T31N R17W	2050'FSL	990'FWL		97
SE/NW.....	4	T30N R16W	2060'FNL	1710'FWL		232
NW/NW.....	31	T31N R16W	620'FNL	701'FWL		30
NW/SE.....	35	T31N R16W	1980'FSL	1980'FEL		207

	Sec.					Well No.
SE/NE.....	32	T31N R16W	1980'FNL	417'FEL		20
NE/NW.....	28	T31N R16W	1980'FNL	1980'FEL		152
NE/NW.....	34	T31N R16W	2140'FSL	735'FWL		201
SE/NW.....	3	T30N R16W	2310'FNL	1640'FWL		236
SE/SW.....	34	T31N R16W	660'FSL	1980'FWL		213
NW/NE.....	30	T31N R16W	660'FNL	1980'FFL		9
SE/SW.....	26	T31N R16W	660'FSL	1980'FWL		175
NW/SE.....	30	T31N R16W	1980'FSL	1980'FEL		6
SE/NW.....	9	T30N R16W	1650'FNL	2131'FWL		264
NW/SW.....	4	T30N R16W	2310'FSL	4390'FEL		242
NW/SW.....	2	T30N R16W	1980'FSL	660'FWL		250
NW/NW.....	33	T31N R16W	660'FNL	386'FWL		66
NE/NE.....	15	T31N R17W	660'FNL	660'FEL		67
NW/NE.....	33	T31N R16W	660'FNL	1980'FEL		178
NW/SE.....	24	T31N R17W	1875'FSL	1900'FEL		99
NW/NE.....	28	T31N R16W	660'FNL	1980'FEL		148
NW/NW.....	19	T31N R16W	680'FNL	682'FWL		89
NW/SE.....	4	T30N R16W	1820'FSL	2130'FEL		244
SE/SW.....	20	T31N R16W	660'FSL	1980'FWL		115
NW/NE.....	25	T31N R17W	660'FNL	1980'FEL		118
SE/SW.....	4	T30N R16W	660'FSL	3300'FEL		253
NW/SW.....	19	T31N R16W	1980'FSL	706'FWL		101
NW/SE.....	32	T31N R16W	1950'FSL	1980'FEL		22
NW/NW.....	35	T31N R16W	605'FNL	690'FWL		184
SE/NE.....	29	T31N R16W	1980'FNL	417'FEL		25
SE/NW.....	19	T31N R16W	1980'FNL	2023'FWL		95
NW/NW.....	32	T31N R16W	660'FNL	660'FWL		4
SE/SW.....	24	T31N R17W	660'FSL	3300'FEL		107
SE/NE.....	28	T31N R16W	2105'FNL	940'FEL		154
NW/NE.....	35	T31N R16W	610'FNL	2000'FEL		186
SE/SW.....	5	T31N R16W	990'FSL	2310'FWL		139
NW/SE.....	28	T31N R16W	1980'FSL	1980'FEL		160
SE/SE.....	33	T31N R16W	330'FSL	990'FEL		211
NW/NE.....	5	T30N R16W	330'FNL	1650'FEL		128
SE/NW.....	27	T31N R16W	1900'FNL	2050'FWL		156
SE/SW.....	35	T31N R16W	660'FSL	1980'FWL		217
NW/NW.....	10	T30N R16W	526'FNL	330'FWL		265
NE/SW.....	21	T31N R16W	1880'FSL	1980'FWL		143
NW/NE.....	24	T31N R17W	409'FNL	1914'FEL		87
NW/SW.....	32	T31N R16W	1980'FSL	660'FWL		15
SE/SE.....	34	T31N R16W	960'FSL	910'FEL		215
SW/SE.....	21	T31N R16W	820'FSL	1820'FEL		145
SE/SE.....	27	T31N R16W	610'FSL	640'FEL		173
NW/SW.....	3	T30N R16W	1920'FSL	350'FWL		246
SE/SW.....	19	T31N R16W	601'FSL	2002'FWL		111
SW/SE.....	14	T31N R17W	330'FSL	1900'FEL		79
NW/NW.....	27	T31N R16W	520'FNL	660'FWL		150
SE/NW.....	31	T31N R16W	1724'FNL	2067'FWL		29
NW/NE.....	32	T31N R16W	660'FNL	1980'FEL		13
SE/NE.....	24	T31N R17W	1998'FNL	702'FEL		93
NW/NW.....	5	T30N R16W	660'FNL	660'FWL		126
NW/SW.....	28	T31N R16W	1740'FSL	590'FWL		158
SE/NE.....	31	T31N R16W	1980'FNL	660'FEL		16
NW/NW.....	24	T31N R17W	660'FNL	760'FWL		85

Energy Reserve Backup Inc.—Operator/Horseshoe Gallip—Field/Gallip—Formation

SE/SE.....	5	T31N R17W	660'FSL	660'FEL		4
NE/SW.....	10	T30N R16W	1970'FSL	2210'FWL		31
SE/NW.....	11	T30N R16W	2090'FNL	2190'FWL		29
SE/SE.....	10	T30N R16W	700'FSL	500'FEL		37

Solar Petroleum Inc.—Operator/Horseshoe—Field/Gallip—Formation

SW/SE.....	11	T31N R17W	736'FSL	2045'FEL		205
SE/NE.....	9	T31N R17W	1980'FNL	660'FEL		122
NW/SE.....	4	T31N R17W	1980'FSL	1980'FFL		127
NE/NE.....	10	T31N R17W	660'FNL	660'FEL		136
SE/SW.....	4	T31N R17W	660'FSL	1980'FWL		125
SW/NW.....	11	T31N R17W	2300'FNL	660'FWL		206
NW/SW.....	4	T31N R17W	1980'FSL	660'FWL		103
SE/NW.....	4	T31N R17W	1989'FNL	1980'FWL		128
NW/NW.....	4	T31N R17W	660'FNL	660'FWL		101
SW/NE.....	10	T31N R17W	1980'FNL	1980'FEL		117
SW/NW.....	10	T31N R17W	1980'FNL	660'FWL		108
SW/SW.....	10	T31N R17W	660'FSL	660'FWL		114
SW/SE.....	3	T31N R17W	330'FSL	2310'FEL		143
SE/NE.....	5	T31N R17W	1980'FNL	660'FEL		302
NE/NE.....	5	T31N R17W	1950'FNL	1050'FEL		307
SE/SE.....	9	T31N R17W	990'FSL	850'FEL		140
NE/NW.....	10	T31N R17W	660'FNL	1980'FWL		118
SW/SW.....	11	T31N R17W	660'FSL	660'FWL		204

	Sec.				Well No.
NW/SE.....	9	T31N R17W	1980'FSL	1980'FEL	115
SW/SE.....	10	T31N R17W	990'FSL	1980'FEL	144
NW/NE.....	9	T31N R17W	660'FSL	1980'FEL	123
NE/SW.....	10	T31N R17W	1980'FSL	1980'FWL	109
NE/SW.....	11	T31N R17W	1980'FSL	1980'FWL	203
SE/NW.....	9	T31N R17W	1980'FSL	1980'FWL	134
NW/SW.....	3	T31N R17W	1980'FSL	660'FWL	132
SW/SW.....	3	T31N R17W	560'FSL	660'FWL	110
NW/NW.....	9	T31N R16W	660'FSL	660'FWL	133
SE/SE.....	4	T31N R17W	660'FSL	660'FEL	124
WTR Oil Co.—Operator/Horseshoe Gallup—Field/Gallup—Formation					
NE/SW.....	33	T32N R17W	1980'FSL	1989'FWL	2
Arco Oil & Gas Co.—Operator/Many Rocks Gallup—Field/Gallup—Formation					
NW/NW.....	7	T31N R16W	898'FNL	500'FWL	2
SW/NE.....	17	T31N R16W	1673'FNL	1789'FEL	21
NW/SE.....	17	T31N R16W	1890'FSL	2150'FEL	23
SW/NE.....	7	T31N R16W	2310'FNL	2310'FEL	6
NE/SW.....	8	T31N R16W	1650'FSL	1650'FWL	12
NE/NW.....	17	T31N R16W	660'FNL	2030'FWL	18
NE/NE.....	18	T31N R16W	360'FNL	855'FEL	16
SE/SW.....	7	T31N R16W	716'FSL	2185'FWL	13
SE/SE.....	17	T31N R16W	660'FSL	660'FEL	26
NE/SW.....	17	T31N R16W	2040'FSL	2070'FWL	22
SW/SW.....	6	T31N R16W	330'FSL	330'FWL	1
SW/NW.....	17	T31N R16W	2073'FNL	641'FWL	19
NW/SW.....	17	T31N R16W	1967'FSL	981'FWL	8
James P. Woosley—Operator/Many Rocks Gallup—Field/Gallup—Formation					
NW/NE.....	20	T32N R17W	330'FNL	2310'FEL	13
SW/SW.....	27	T32N R17W	660'FSL	990'FWL	1
SW/NW.....	17	T32N R17W	2310'FWL	330'FWL	4
SW/NW.....	27	T32N R17W	260'FWL	1360'FNL	11
NE/SW.....	27	T32N R17W	1980'FSL	1980'FWL	6
NE/SE.....	18	T32N R17W	2474'FSL	133'FEL	18
SW/SE.....	27	T32N R17W	625'FNL	2000'FEL	3
NE/SE.....	28	T32N R17W	1980'FSL	330'FEL	12
Solar Petroleum Inc.—Operator/Many Rocks Gallup—Field/Gallup—Formation					
SE/NW.....	1	T31N R17W	1980'FNL	1980'FWL	216
NW/NE.....	2	T31N R17W	805'FNL	940'FEL	215
SE/NE.....	2	T31N R17W	1980'FNL	660'FEL	218
NW/SW.....	1	T31N R17W	2310'FSL	990'FNL	223
SE/NE.....	12	T31N R17W	1820'FNL	500'FEL	217
WTR Oil Co.—Operator/Many Rocks Gallup—Field/Gallup—Formation					
NW/NW.....	35	T32N R17W	810'FNL	510'FWL	11
SE/SE.....	35	T32N R17W	660'FSL	660'FEL	6
SE/NE.....	34	T32N R17W	775'FEL	1980'FNL	8
SE/NW.....	35	T32N R16W	1980'FNL	1980'FWL	9
NW/SE.....	35	T32N R17W	1980'FSL	1980'FEL	7
Chaco Oil Co.—Operator/Red Mtn Meseverde—Field/Menefee—Formation					
NE/NE.....	29	T20N R9W	395'FNL	1265'FEL	6
SE/SW.....	20	T20N R9W	442'FSL	2430'FWL	17
Geo Engineering Inc.—Operator/Red Mtn Meseverde—Field/Menefee—Formation					
NW/NE.....	29	T20N R9W	160'FNL	2135'FEL	35
NE/NE.....	29	T20N R9W	225'FNL	1265'FEL	7
SE/NW.....	29	T20N R9W	1344'FNL	2555'FWL	20
NW/NE.....	29	T20N R9W	615'FNL	1920'FEL	5
NE/NW.....	29	T20N R9W	834'FNL	2113'FWL	21
SW/SE.....	20	T20N R9W	265'FSL	2150'FEL	36
NE/NE.....	29	T20N R9W	5'FNL	1130'FEL	8
SE/SE.....	20	T20N R9W	450'FSL	1145'FEL	24
SE/SE.....	20	T20N R9W	990'FSL	1280'FEL	10
NW/NE.....	29	T20N R9W	1115'FNL	2325'FEL	22
SE/SE.....	20	T20N R9W	1085'FSL	860'FEL	12
Tesoro Petroleum Co.—Operator/S. Hospah Lower Sand—Field/Hospah—Formation					
NW/SE.....	6	T17N R8W	2310'FSL	2310'FEL	28
SW/SE.....	6	T17N R8W	990'FSL	230'FEL	34
SW/SW.....	6	T17N R8W	5'FSL	20'FWL	18
SE/SW.....	6	T17N R8W	5'FSL	2635'FWL	20

3. Part 147 is amended by adding a new Subpart III as follows:

Subpart III—Lands of Certain Oklahoma Indian Tribes

Sec.

- 147.3100 EPA-administered program.
- 147.3101 Public notice of permit actions.
- 147.3102 Plugging and abandonment plans.
- 147.3103 Fluid seals.
- 147.3104 Notice of abandonment.
- 147.3105 Plugging and abandonment report.
- 147.3106 Area of review.
- 147.3107 Mechanical integrity.
- 147.3108 Plugging Class I, II, and III wells.
- 147.3109 Timing of mechanical integrity test.

Subpart III—Lands of Certain Oklahoma Indian Tribes

§ 147.3100 EPA-administered program.

(a) *Contents.* The UIC program for the Indian lands in Oklahoma, except for that covering the Class II wells of the Five Civilized Tribes, is administered by EPA. The UIC program for all wells on Indian lands in Oklahoma, except Class II wells on the Osage Mineral Reserve (found at 40 CFR Part 147, Subpart GGG) and the Class II program for the Five Civilized Tribes consists of the 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 all wells on Indian lands except Class II wells on the Osage Mineral Reserve and Class II wells on the lands of the Five Civilized Tribes is November 25, 1988.

§ 147.3101 Public notice of permit actions.

(a) In addition to the notice requirements of § 124.10 of this chapter, the Director shall provide to the affected Tribal government all notices given to an affected State government under § 124.10(c) of this chapter.

(b) *Class I and III wells.* In addition to the notice requirements of § 124.10 of this chapter:

(1) Owners and operators of Class I and III wells shall notify the affected Tribal government prior to submitting an application for a permit, shall publish such notice in at least two newspapers of general circulation in the area of the proposed well, and shall broadcast notice over at least one local radio station.

(2) The Director shall publish a notice of availability of a draft permit in at least two newspapers of general circulation in the area of the proposed well, and broadcast notice over at least one local radio station. The public notice shall allow at least 45 days for public comment.

(c) *Class II wells.* In addition to the notice requirements of § 124.10 of this chapter:

(1) Owners and operators of Class II wells shall give notice of application for a permit to the affected Tribal government prior to submitting the application to the Director.

(2) In addition to the public notice required for each action listed in § 124.10(a) of this chapter, the Director shall also publish notice in a daily or weekly newspaper of general circulation in the affected area for actions concerning Class II wells.

§ 147.3102 Plugging and abandonment plans.

In lieu of the requirements of § 144.28(c)(1) and (2)(i)-(iii) of this chapter, owners and operators of Class II wells shall comply with the plugging and abandonment provisions of § 147.3108 of this subpart.

§ 147.3103 Fluid seals.

Notwithstanding § 144.28(f)(2) and § 146.12(c) of this chapter, owners and operators shall not use a fluid seal as an alternative to a packer.

§ 147.3104 Notice of abandonment.

(a) In addition to the notice required by § 144.28(j)(2) of this chapter, the owner or operator shall at the same time submit plugging information in conformance with § 147.3108 of this subpart including:

- (1) Type and number of plugs;
- (2) Elevation of top and bottom of each plug;
- (3) Method of plug placement; and
- (4) Type, grade and quantity of cement to be used.

(b) In addition to the permit conditions specified in §§ 144.51 and 144.52 of this chapter, each owner and operator shall submit and each permit shall contain the following information (in conformance with 146.3108 of this subpart):

- (1) Type and number of plugs;
- (2) Elevation of top and bottom of each plug;
- (3) Method of plug placement; and
- (4) Type, grade and quantity of cement to be used.

§ 147.3105 Plugging and abandonment report.

(a) In lieu of the time periods for submitting a plugging report in § 144.28(k) of this chapter, owners and operators of Class I and III wells shall submit the report within 15 days of plugging the well and owners or operators of Class II wells within 30 days of plugging, or at the time of the next required operational report (whichever is less.) If the required

operational report is due less than 15 days following completion of plugging, then the plugging report shall be submitted within 30 days for Class II wells and 15 days for Class I and III wells.

(b) In addition to the requirement of § 144.28(k)(1) of this chapter, owners and operators of Class II wells shall include a statement that the well was plugged in accordance with § 146.10 of this chapter and § 147.3109 of this subpart, and, if the actual plugging differed, specify the actual procedures used.

(c) The schedule upon which reports of plugging must be submitted are changed from those in § 144.51(o) to those specified in paragraph (a) of this section.

§ 147.3106 Area of review.

(a) When determining the area of review under § 146.6(b) of this chapter, the fixed radius shall be no less than one mile for Class I wells and one-half mile for Class II and III wells. In the case of an application for an area permit, determination of the area of review under § 146.6(b) shall be a fixed width of not less than one mile for the circumscribing area of Class I projects and one-half mile for the circumscribing area of Class II and III projects.

(b) However, in lieu of § 146.6(c) of this chapter, if the area of review is determined by a mathematical model pursuant to paragraph § 146.6(a) of this chapter, the permissible radius is the result of such calculation even if it is less than one mile for Class I wells and one-half for Class II and III wells.

§ 147.3107 Mechanical integrity.

(a) Monitoring of annulus pressure conducted pursuant to § 146.8(b)(1) shall be preceded by an initial pressure test. A positive gauge pressure on the casing/tubing annulus (filled with liquid) shall be maintained continuously. The pressure shall be monitored monthly.

(b) Pressure tests conducted pursuant to § 146.8(b)(2) of this chapter shall be performed with a pressure on the casing/tubing annulus of at least 200 p.s.i. unless otherwise specified by the Director. In addition, pressure tests conducted during well operation shall maintain an injection/annulus pressure differential of at least 100 p.s.i. throughout the tubing length.

(c) Monitoring of enhanced recovery wells conducted pursuant to § 146.8(b)(3), must be preceded by an initial pressure test that was conducted no more than 90 days prior to the commencement of monitoring.

§ 147.3108 Plugging Class I, II, and III wells.

In addition to the requirements of § 146.10 of this chapter, owners and operators shall comply with the following when plugging a well:

(a) For Class I and III wells:

(1) The well shall be filled with mud from the bottom of the well to a point one hundred (100) feet below the top of the highest disposal or injection zone and then with a cement plug from there to at least one hundred (100) feet above the top of the disposal or injection zone.

(2) A cement plug shall also be set from a point at least fifty (50) feet below the shoe of the surface casing to a point at least five (5) feet above the top of the lowest USDW.

(3) A final cement plug shall extend from a point at least thirty feet below the ground surface to a point five (5) feet below the ground surface.

(4) All intervals between plugs shall be filled with mud.

(5) The top plug shall clearly show by permanent markings inscribed in the cement or on a steel plate embedded in the cement the well permit number and date of plugging.

(b) For Class II wells:

(1) The well shall be kept full of mud as casing is removed. No surface casing shall be removed without written approval from the Director.

(2) If surface casing is adequately set and cemented through all USDWs (set to at least 50 feet below the base of the USDW), a plug shall be set at least 50 feet below the shoe of the casing and

extending at least 50 feet above the shoe of the casing; or

(3) If the surface casing and cementing is inadequate, the well bore shall be filled with cement from a point at least 50 feet below the base of the USDW to a point at least 50 feet above the shoe of the surface casing, and any additional plugs as required by the Director.

(4) In all cases, the top 20 feet of the well bore below 3 feet of ground surface shall be filled with cement. Surface casing shall be cut off 3 feet below ground surface and covered with a secure steel cap on top of the surface pipe. The remaining 3 feet shall be filled with dirt.

(5) Except as provided in sub-paragraph (b)(6) of this section, each producing or receiving formation shall be sealed off with at least a 50-foot cement plug placed at the base of the formation and at least a 50-foot cement plug placed at the top of the formation.

(6) The requirement in sub-paragraph (b)(5) of this section does not apply if the producing/receiving formation is already sealed off from the well bore with adequate casing and cementing behind casing, and casing is not to be removed, or the only openings from the producing/receiving formation into the well bore are perforations in the casing, and the annulus between the casing and the outer walls of the well is filled with cement for a distance of 50 feet above the top of the formation. When such conditions exist, a bridge plug capped with at least 10 feet of cement set at the

top of the producing formation may be used.

(7) When specified by the Director, any uncased hole below the shoe of any casing to be left in the well shall be filled with cement to a depth of at least 50 feet below the casing shoe, or the bottom of the hole, and the casing above the shoe shall be filled with cement to at least 50 feet above the shoe of the casing. If the well has a screen or liner which is not to be removed, the well bore shall be filled with cement from the base of the screen or liner to at least 50 feet above the top of the screen or liner.

(8) All intervals between cement plugs in the well bore must be filled with mud.

(c) For the purposes of this section mud shall be defined as: mud of not less than thirty-six (36) viscosity (API Full Funnel Method) and a weight of not less than nine (9) pounds per gallon.

§ 147.3109 Timing of mechanical integrity test.

The demonstrations of mechanical integrity required by § 146.14(b)(2) of this chapter prior to approval for the operation of a Class I well shall, for an existing well, be conducted no more than 90 days prior to application for the permit and the results included in the permit application. The owner or operator shall notify the Director at least seven days in advance of the time and date of the test so that EPA observers may be present.

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