Thus, when a commercial transportation ticket is converted to cash, the exclusion ceases to apply and the cash is counted as income in the month of conversion.

We are also amending § 416.1140(a)(1) to correct a regulatory reference contained therein.

This regulation was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 24, 1992 (57 FR 44146). A 60-day comment period was provided. The comment period ended on November 23, 1992. No comments were received. The NPRM, among other changes, would have added a new paragraph (c)(15) to § 416.1124. Since a paragraph (c)(15) has been promulgated with respect to another exclusion, the material designated as paragraph (c)(15) in the NPRM will be designated as paragraph (c)(16) in the final regulation. With this change, the proposed regulation is adopted.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, since the costs are expected to be less than $100 million and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect eligibility for SSI benefits. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, is not required.

Paperwork Reduction Act

This regulation does not impose reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income.)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: August 6, 1993.

Lawrence H. Thompson,

Principal Deputy Commissioner of Social Security.

Approved: September 22, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

Part 416 of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

2. In § 416.1124, the word "and" at the end of paragraph (c)(13) is removed, the period at the end of paragraph (c)(14) is removed and replaced by a semicolon, the period at the end of paragraph (c)(15) is removed and replaced by "; and ", and a new paragraph (c)(16) is added to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) *Other unearned income we do not count.* We do not count as unearned income—

* * * * *

(16) The value of any commercial transportation ticket, for travel by you or your spouse among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, which is received as a gift by you or your spouse and is not converted to cash. If such a ticket is converted to cash, the cash you receive is income in the month you receive the cash.

§ 416.1140 [Amended]

3. In § 416.1140(a)(1), the reference to "§ 416.1124(c)(10)" is revised to read "§ 416.1124(c)(12)."

4. In § 416.1161, the word "or" at the end of paragraph (a)(14) is removed, the periods at the end of paragraphs (a)(17) and (a)(18) are replaced by semicolons, and a new paragraph (a)(19) is added to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(a) * * *

(19) The value of a commercial transportation ticket as described in § 416.1124(c)(16). However, if such a ticket is converted to cash, the cash is income in the month your spouse or parent receives the cash.

* * * * *

[FR Doc. 93–29495 Filed 12–2–93; 8:45 am]

BILLING CODE 4190–29–P

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20 CFR Part 416

RIN 0960–AD41

Regulations No. 16, Subparts B, K and L; Exclusion of Earned Income Tax Credits From Income and Resources

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final regulations implement those provisions of section 11115 of the Omnibus Budget Reconciliation Act of 1990 which exclude from income under the supplemental security income (SSI) program any refund of Federal income taxes due to the earned income tax credit (EITC) and any advance EITC payments from an employer. Such payments also are excluded by section 11115 from resources in the month following the month of receipt. In addition to implementing these statutory changes, these regulations also provide that SSI applicants and recipients are no longer required to file for EITC payments as a condition of SSI eligibility since such payments are excluded from income.

EFFECTIVE DATE: These rules are effective December 3, 1993.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1762.

SUPPLEMENTARY INFORMATION: These regulations implement those provisions of section 11115 of the Omnibus Budget Reconciliation Act of 1990, Public Law (Pub. L.) 101–508, which amended sections 1612(b) and 1613(a) of the Social Security Act (the Act). As amended, section 1612(b) excludes from income, under title XVI, any refund of Federal income taxes due to an EITC and any advance EITC payments from an employer. Such payments also are excluded from resources, by section 1613(a) of the Act, in the month following the month of receipt. In addition, under these regulations, SSI applicants and recipients are no longer required to file for EITC payments as a condition of SSI eligibility since such payments are excluded from income. The SSI provisions of section 11115 of

Public Law 101–508 were effective January 1, 1991.

Prior to January 1, 1991, we counted EITC payments, received either as an advance or a refund, as earned income for purposes of assessing SSI eligibility and benefit amount. Any EITC payments retained into the month following the month of receipt were considered countable resources in that month. As a condition of SSI eligibility, an individual was required to file for any EITC payments for which he or she was eligible. These policies were based on section 1612(a)(1)(C) of the Act and regulations at §§ 416.210, 416.1110, 416.1111, and 416.1201.

Section 1612(a) of the Act defines income for purposes of the SSI program and section 1612(a)(1)(C) of the Act states that earned income includes any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1954 (relating to earned income tax credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income tax credit). However, income under section 1612(a) of the Act is subject to various exclusions set out in section 1612(b) of the Act, which, as noted above, was amended by section 11115 of Public Law 101–508 to exclude from income an EITC payment received through a refund of Federal income tax or as an advance payment from an employer.

These regulations were published in the **Federal Register** (57 FR 44348) as a Notice of Proposed Rulemaking on September 25, 1992. Interested parties were given 60 days to submit comments. We received no comments and are adopting the regulations as proposed.

Provisions of the Regulations

Effective January 1, 1991, we exclude from income under these regulations any refund of Federal income taxes due to an EITC and any advance EITC payments from an employer, which an individual receives after December 31, 1990, regardless of the tax year involved.

These regulations also provide that any unspent portion of an EITC advance or refund is excluded from resources in the month following the month of receipt. This includes any unspent portion of an EITC advance or refund received in (but not earlier than) December 1990. Any unspent funds retained into the second month following the month of receipt are subject to resource counting rules at that time.

Under these regulations, individuals are no longer required to file for EITC benefits as a condition of SSI eligibility since such payments are excluded from income.

Section 11115(e) of Public Law 101–508 states that the provision applies "* * * to determinations of income or resources made for any period after December 31, 1990." We interpret this to mean that only EITC payments received after December 31, 1990, are excluded from income. EITC payments received in November or December 1990 which are used in computing payments for January or February 1991 are not excluded from income. We believe that this interpretation correctly reflects the statute since section 11115(e) of Public Law 101–508 applies with respect to "determinations of income" rather than with respect to "benefits." If section 11115(e) had been effective with respect to benefit determinations made after December 31, 1990, retrospective monthly accounting (RMA) would require the exclusion of EITCs received in November and December 1990 for the benefit calculations of January and February of 1991. But determinations of income for a particular month are simply the calculations of countable income for that month which will be used in benefit calculations two months later. Thus, "determinations of income" after December 31, 1990 would only cover income received after that date. An EITC payment received in December 1990 may be excluded from resources in January 1991 since resources by definition include any income that is retained in the month following the month of receipt.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that these are not major rules under Executive Order 12291 since the costs are expected to be less than $100 million, and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: August 6, 1993.

Lawrence H. Thompson,

Principal Deputy Commissioner of Social Security.

Approved: September 22, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart B of part 416 continues to read as follows:

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; and sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

2. Section 416.210 is amended by revising paragraph (b) to read as follows:

§ 416.210 You do not apply for other benefits.

* * * * *

(b) *What "other benefits" includes.* "Other benefits" includes any payments for which you can apply that are available to you on an ongoing or one-time basis of a type that includes annuities, pensions, retirement benefits, or disability benefits. For example, "other benefits" includes veterans' compensation and pensions, workers' compensation payments, Social Security insurance benefits and unemployment insurance benefits.

* * * * *

3. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

§ 416.1111 [Amended]

4. Section 416.1111 is amended by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

5. The introductory text of paragraph (c) of § 416.1112 is republished, and paragraph (c) is amended by

redesignating existing paragraphs (c)(1) through (c)(8) as paragraphs (c)(2) through (c)(9), removing the parenthesis at the end of redesignated paragraph (c)(6) and adding a new paragraph (c)(1) to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) *Other earned income we do not count.* We do not count as earned income—

(1) Any refund of Federal income taxes you receive under section 32 of the Internal Revenue Code (relating to earned income tax credit) and any payment you receive from an employer under section 3507 of the Internal Revenue Code (relating to advance payment of earned income tax credit);

* * * * *

6. Section 416.1161 is amended by reserving paragraph (a)(19) and by adding paragraph (a)(20) to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(20) Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit, as provided in § 416.1112(c).

7. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

8. Section 416.1210 is amended by removing the word "and" at the end of paragraph (h), replacing the periods at the end of paragraphs (l), (m), and (n) with semicolons, adding "and" at the end of paragraph (n) and by adding a new paragraph (o) to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(o) Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit, as provided in § 416.1235.

9. Section 416.1235 is added to read as follows:

§ 416.1235 Exclusion of earned income tax credit.

In determining the resources of an individual (and spouse, if any), we exclude in the month following the month of receipt the unspent portion of any refund of Federal income taxes under section 32 of the Internal Revenue Code (relating to earned income tax credit) and the unspent portion of any payment from an employer under section 3507 of the Internal Revenue Code (relating to advance payment of earned income tax credit). Any unspent funds retained until the first moment of the second month following their receipt are subject to resource counting rules at that time.

[FR Doc. 93–29494 Filed 12–2–93; 8:45 am]

BILLING CODE 4190–29–P

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Feed Service Co., Inc., to A. L. Laboratories, Inc. (formerly A. L. Laboratories, Inc., A Subsidiary of A/S Apothekernes Laboratorium for Specialpraeparater).

EFFECTIVE DATE: December 3, 1993.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1646.

SUPPLEMENTARY INFORMATION: Feed Service Co., Inc., 303 Lundin Blvd., P.O. Box 698, Mankato, MN 56001, has informed FDA that it has transferred ownership of, and all rights and interests in NADA 111–637 for Tylosin to A. L. Laboratories, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024. Also, A. L. Laboratories, Inc., has informed FDA of a change of sponsor name from A. L. Laboratories, Inc., A Subsidiary of A/S Apothekernes Laboratorium for Specialpraeparater to A. L. Laboratories, Inc. Accordingly, FDA is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) and 21 CFR 558.625(b)(54) to reflect these changes.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for "A. L. Laboratories, Inc., A Subsidiary of A/S Apothekernes Laboratorium for Specialpraeparater" and in the table in paragraph (c)(2) in the entry for "046573" by revising the sponsor name to read "A. L. Laboratories, Inc."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended in paragraph (b)(54) by removing "030841" and adding in its place "046573".

Dated: November 29, 1993.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 93–29542 Filed 12–2–93; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[FRL–4260–7]

Revisions to the Safe Drinking Water Act Underground Injection Control Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final and interim final rule and request for comments.

SUMMARY: This rule adopts, with certain changes, amendments to EPA's Underground Injection Control (UIC) regulations proposed on June 28, 1990

(55 FR 26462). The amendments clarify the current requirements for wells authorized by rule. They also clarify the obligations for financial responsibility by the parties involved in a well transfer, the criteria for demonstrating mechanical integrity through the use of annulus pressure monitoring records, and the specific authority of the UIC Program Director to require information on any well. Finally, it restores the last sentence of § 144.31(a) which was inadvertently left out in the proposal.

DATES: Except for the amendments to § 144.26(e), these regulations are published as final and shall become effective on January 3, 1994. The amendments in § 144.26(e) are published as interim final and shall become effective May 2, 1994, unless significant comments are received. Comments on the regulation that is published as interim final will be accepted until February 1, 1994. EPA will publish a further notice prior to the effective date.

These regulations shall be considered to be promulgated for purposes of judicial review at 1 p.m., Eastern Time on December 16, 1993.

ADDRESSES: Send written comments on the interim final rule to the UIC Regulation Revisions Comment Clerk; Water Docket MC–4101; Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Commenters are requested to submit an original and 3 copies of their written comments and enclosures. Commenters who want receipt of their comments acknowledged should send a self addressed, stamped envelope. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: J. Howard Beard, III, Underground Injection Control Branch, EPA, (202) 260–8796.

SUPPLEMENTARY INFORMATION:

I. Background

These regulations are being amended under the authority of Part C of the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*). The Safe Drinking Water Act (SDWA) is designed to protect the quality of drinking water in the United States. Part C of the SDWA specifically mandates the regulation of underground injection of fluids through wells. The Agency has promulgated a series of regulations under this authority.

Section 1421 of the Act requires EPA to propose and promulgate regulations specifying minimum requirements for State programs to prevent well injection which may endanger drinking water sources. EPA promulgated administrative and permitting regulations, now codified in 40 CFR part 144, on May 19, 1980 (45 FR 33290), and technical requirements in 40 CFR part 146 on June 24, 1980 (45 FR 42472). The regulations were subsequently amended on August 27, 1981 (46 FR 43156), February 3, 1982 (47 FR 4992), January 21, 1983 (48 FR 2938), April 1, 1983 (48 FR 14146), May 11, 1984 (49 FR 20138), November 15, 1984 (49 FR 45292) and July 26, 1988 (53 FR 28118).

Section 1422 of the Act provides that States may apply to EPA for primary responsibility to administer the UIC program. Where States do not seek this responsibility, or fail to demonstrate that they meet EPA's minimum requirements, EPA is required to prescribe, by regulation, a UIC program for each State. These direct implementation (DI) programs were promulgated in two phases, on May 11, 1984 (49 FR 20138) and November 15, 1984 (49 FR 45308).

The Agency has been implementing the program for several years, and in doing so, has found the need for some clarifications and additions to make the program more effective. In most cases, the amendments do not impose any new requirements on owners or operators of injection wells. The Agency has found, however, that in some cases, the language of the current regulations can lend itself to misinterpretation or differing interpretations, making consistent and effective implementation of the program difficult. The amendments clarify the intent of the original regulations and add certain provisions to the regulations that should make them easier to implement and enforce consistently.

II. Response to Comments

EPA requested and accepted comments on the proposed regulations until August 29, 1990. EPA held a public hearing on the regulations on August 12, 1990, at the EPA Education Center, 401 M Street, SW., in Washington, DC. EPA received a total of 19 sets of comments on the proposed regulations during the comment period. For a detailed analysis of the comments received, please refer to the background document entitled "Response to Comments". Comments which led to changes to the proposal and other significant comments are addressed below.

A. Financial Responsibility

Most of the commenters provided comments regarding the amendments dealing with financial responsibility. The Agency's intent in the proposal was to ensure that financial responsibility be maintained during a transfer of ownership. The proposal attempted to achieve this result without interfering with the rights of well owners or operators to transfer properties or unduly impeding injection. The Agency, therefore, proposed that, upon transfer of ownership or operational control of the well, the current owner (transferor) would maintain financial responsibility for the well until the new owner (transferee) had demonstrated financial responsibility to the Director. The proposal also required, however, that the transferee not inject into the well until he had demonstrated financial responsibility to the Director.

In order to place the following discussion in the proper context, the Agency notes that the amendments to the financial responsibility requirements apply only to Federally-implemented programs. The Agency has to rely solely on the financial responsibility demonstration of owners and operators of injection wells to assure that these wells are not improperly abandoned or otherwise left in a manner that will endanger underground sources of drinking water (USDWs). EPA's experience in running the program has shown that the possibility of abandonment or improper plugging is greatest during a transfer of ownership, particularly for economically marginal wells. The Agency does not have a well plugging fund at its disposal as do several States, nor can it, without a court judgment, attach property of delinquent operators as can some States. In the case of transfers, it is, therefore, paramount for the Agency to have in place a mechanism that will ensure that there is no interruption in the financial coverage of a well. Since the transferor's financial fitness is a known quantity, it is prudent for the Agency to require that the transferor maintain financial responsibility for the well until the transferee can make a financial responsibility demonstration.

The commenters noted an inconsistency between the preamble language and proposed § 144.28(l) regarding the party responsible for providing notice to the Agency of the intended transfer. The Agency's intent was that the transferor be responsible, and § 144.28(l) has been modified accordingly.

There was significant agreement among the commenters that as long as the transferor must remain financially liable for the well, the transferee should be allowed to inject into the well after transfer. Commenters also argued that a transfer should be assumed to be valid for rule-authorized wells, as it is for permitted wells under § 144.38. EPA

agrees with these comments since the Agency's intention in clarifying the financial responsibility requirements was to allow for uninterrupted injection during transfer of ownership as long as financial responsibility was maintained by one of the parties. EPA also agrees that the process specified in § 144.38 for well transfers for permitted wells should be used for wells authorized by rule. For this purpose, EPA has deleted proposed sections 144.21(c)(2), 144.22(c)(2), and 144.28(d)(5), and has amended proposed § 144.28(l) to parallel the language in § 144.38, but the Agency has maintained authority in § 144.28(l)(3) to require the transferee to cease injection upon failure to demonstrate financial responsibility.

Some commenters suggested that the Agency should somehow protect the transferors from gross negligence or willful noncompliance by the transferee during the period that the transferor is liable for the financial responsibility of the well. EPA believes that it is up to the owners or operators to clearly establish the responsibility of each party in the sale or transfer contract. As pointed out by a commenter, the Agency should not and does not wish to interfere with these transactions. EPA does not have the authority to indemnify transferors for the willful or negligent conduct of transferees. Some commenters noted that many States require blanket bonds from owners or operators and that there is no need for the Director to approve a financial responsibility demonstration of a transferee with an approved blanket bond. The Agency agrees. However, since these amendments do not apply to primacy States, and since the Agency seldom relies on blanket bonds, no special provisions are necessary in these regulations to deal with this issue.

Finally, one commenter argued that transfers should not be delayed because a 30-day notice could not be given to EPA. The Agency believes the 30-day advance notice requirement is essential, since it allows EPA to review the well's records prior to transfer. In addition, the advance notice requirement should not interfere with the operation of the well because EPA no longer requires the transferee to cease operations unless he receives notification from the Director that he has not demonstrated financial responsibility.

B. Regulation of Class V Wells

EPA proposed amendments to the regulations dealing with Class V wells to clarify the duration of well authorization and specify actions that can result in a well's loss of authorization (§ 144.24). EPA also proposed amendments to clarify that permits for Class V wells may include conditions that ensure that plugging and abandonment of a well will not allow movement of fluids into or between USDWs (§ 144.51(o)).

Two commenters suggested that the proposed amendments raised anew the regulatory status of Class V wells, and that EPA should establish a comprehensive regulatory program for Class V wells. Other commenters indicated that it was premature for EPA to prescribe any additional requirements for Class V wells in the absence of a comprehensive regulatory program.

EPA did not reopen the Class V requirements in the proposal nor do these rules alter the existing rules for Class V wells that provide for authorization by rule until further requirements under future regulations become applicable. However, EPA sees a need in this promulgation to clarify the inventory requirements for Class V wells. Under the existing regulations, EPA intended that an owner or operator who submitted inventory information before the regulatory deadline of § 144.26(d) would be authorized to inject pursuant to § 144.11. The regulations also provided that rule-authorization would terminate for failure to submit inventory information. Under these circumstances, existing Class V wells for which inventory information was not submitted on time can now only be authorized to inject by permit. In the proposed amendments, EPA simply corrected an erroneous cite for the inventory deadline in the introductory paragraph to § 144.26 and clarified that owners or operators of existing wells which failed to provide inventory information within the regulatory deadline had lost authorization to inject into the wells, but that the wells remained within the purview of the UIC program.

In reviewing the regulations, however, EPA became aware that there is an inconsistency inherent in the current language of the inventory requirements. Class V wells are authorized by rule to inject until EPA develops more detailed regulations for them. Yet, § 144.26 prohibits injection into any well which was not inventoried within one year of the adoption of a UIC program for the State (May or November 1985, in most cases). Class V wells, which did not commence injection until after that date, apparently would never be able to comply with § 144.26 or obtain authorization to inject unless and until they acquire a permit, because they missed the inventory deadline.

This was not EPA's intent when it adopted the inventory requirement in May 1984 (49 FR 20182). In addition, EPA failed to provide a mechanism for restoring authorization-by-rule to inject for Class V wells which have lost it for failure to inventory, a mechanism made necessary due to the lack of detailed permitting regulations. EPA is, therefore, correcting §§ 144.26 and 144.52 to clarify the status of Class V wells and provide owners or operators of these wells an opportunity to comply with the inventory requirements and continue, resume, or commence injection. EPA believes that these changes to the inventory requirements merely clarify EPA's original intent regarding the status of Class V wells which should have been inventoried after the one-year deadline. However, EPA is also providing in § 146.26(e)(1) that owners or operators of wells which were subject to the one-year deadline, but who failed to submit inventory information, may resume injection 90 days after submittal of inventory information to the Director unless directed otherwise. Since EPA did not include this clarifying change in the proposal, this provision is included in this rule as interim final. EPA solicits comments for a 60 day period beginning with the date of the publication of this revision. In the absence of significant comments, this provision will be final on May 2, 1994.

EPA disagrees that its proposal reopened the issue of how it should regulate Class V wells; the proposal only clarified existing requirements. Thus, any comments regarding the adequacy of § 144.24 are not germane to this rule, and EPA declines to respond to them. Nonetheless, EPA notes that it is currently working on a regulatory program for Class V wells.

Several other commenters requested clarification on the status of a Class V well once it has been properly closed, since there are no specific provisions for the termination of authorization by rule once a Class V well is properly closed. The Agency believes that the authorization by rule of any well terminates when the well has been closed in such a manner that it will not cause the endangerment of USDWs. Finally, some commenters argued that since no specific closure requirements have been proposed, it is premature to include a standard for appropriate closure of Class V wells in the permitting requirements of § 144.52. EPA disagrees since the general requirements for all wells include the prohibition against endangerment of USDWs. Inadequate closure of any well can lead to endangerment, and, therefore, it is appropriate for the Agency to require that Class V wells be

closed in a manner that will not allow endangerment of USDWs.

C. Mechanical Integrity Test (MIT)

EPA requires mechanical integrity testing to insure that there is no movement of injected or native formation fluids into or between USDWs. Section 146.8 specifies that mechanical integrity consists of two parts: Part I—no significant leaks in the casing, tubing or packer (§ 146.8(a)(1)), and Part II—no significant fluid movement into a USDW through vertical channels adjacent to the well bore (§ 146.8(a)(2)). Section 146.8 also specifies the types of tests that are accepted by EPA for these demonstrations and describes a procedure to follow to request the approval of other tests. EPA clarified in proposed § 146.8 (b) and (c) that the Director has the authority to make the final decision on the test(s) that is (are) the most appropriate to demonstrate mechanical integrity (MI) for a specific well. The proposed amendments also defined the conditions for demonstrating MI by the use of annulus pressure monitoring (§ 146.8(b)(1)). Finally, the proposed amendments clarified the requirement that MI must be established and maintained (§§ 144.28(f)(2) and 144.51(q)(1)) and that injection must cease when a well lacks MI. The proposed amendments also provided the Director with the flexibility to allow injection to resume, after an MIT failure, if the owner or operator could demonstrate to the Director that there was no fluid movement into or between USDWs (§§ 144.28(f)(3) and 144.51(q)(2)).

Several commenters indicated that the well owner or operator should be able to decide which test is the most appropriate for a specific well and noted that the proposed amendments were inconsistent with § 146.8(e), which provides that when reporting results to the Director, the owner or operator must include a description of the test(s) and method(s) used. Other commenters requested that provisions be made for the Director's decision to be appealed. EPA believes that, in general, a UIC permit is the proper avenue for specifying a particular MIT, and EPA notes that permits may be appealed under § 124.19. However, for wells authorized by rule, the MIT provisions are self-implementing and not subject to appeal. Thus, the regulations, as currently written, are intended to give the owner or operator of a rule-authorized well some latitude in the choice of MITs, and EPA does not wish to change this policy. Therefore, EPA has decided not to amend §§ 146.8 (b) and (c) as proposed. However, the ultimate authority in deciding whether a test method is adequate and whether the test results are conclusive rests with the Director. Therefore, § 146.8(f) has been added clarifying the authority of the Director to require that additional or alternative tests be run if the Director is not satisfied with the results presented by the owner or operator.

The proposed amendments also included the clarification that if annulus pressure monitoring is the chosen method for demonstrating MI, as allowed in § 146.8(b)(1), the annulus pressure must be greater than atmospheric pressure at the surface. Several commenters indicated that this procedure would be expensive, that the results would be difficult to interpret and that, therefore, this method should not be required. The Agency agrees that monitoring of annulus pressure is technically complex and is not suggesting that it should be required across the board. This test is just one option for MIT. The Agency believes, however, that if other parameters which affect annulus pressure, particularly temperature of injected fluids, injection pressure and flow rates, are also monitored, annulus pressure monitoring is an effective tool for monitoring MI. Such complex monitoring requirements are undoubtedly most appropriate where it is essential to have continuous monitoring of MI such as for hazardous waste injection wells. EPA agrees with the commenters that, for most Class II wells, the required injection pressure and flow rate monitoring coupled with a 5-year pressure test are adequate. EPA's main point in the proposal was that monitoring pressure of an annulus open to atmospheric pressure is not an effective method for detecting leaks in the casing, tubing or packer. Annular pressure monitoring is only a reliable test to demonstrate the integrity of the casing and/or the injection string when the annulus can maintain a pressure, other than atmospheric, at the surface. A positive pressure may be more practical and easier to reach and maintain than a negative (less than atmospheric) pressure (References 1, 2, 3, 4 and 5). No data or other information were furnished by the commenters or are known to EPA to rebut these findings. The Agency also believes that continuous monitoring of the annulus pressure is the preferred method, but agrees that in some cases monitoring can be less than continuous as long as it is sufficiently frequent to be representative. Therefore, the amendments to § 146.8(b)(1) are promulgated with only minor revisions intended to clarify the proposed language and allow for non-continuous monitoring.

The Agency notes that this is the only amendment in this rulemaking which deals directly with the effectiveness of a program in protecting USDWs, since EPA is in fact specifying that monitoring of an open annulus is not acceptable as a technique to prove MI pursuant to § 146.8(a)(1) for any well. Mechanical integrity is considered an essential element in any effective program to protect USDWs. Clarifications in this rule other than those regarding annulus pressure monitoring may affect owners or operators on a case-by-case basis and do not include requirements that contradict State requirements or practices. However, the requirement that annulus pressure monitoring be conducted at pressure other than atmospheric is adhered to in only some of the States. The Agency, therefore, expects that even States that have been approved under section 1425 of the Act may need to amend their regulations to conform with this amendment if they allow open annulus pressure monitoring as an MIT.

Most commenters agreed with the proposed clarification that wells must maintain MI in order to operate. Some commenters, however, disagreed with EPA's proposal that injection must cease pursuant to an MI failure, unless the owner or operator can demonstrate that there is no fluid movement into or between USDWs. The commenters argued that movement of fluid into or between USDWs is a construction requirement issue, not an MIT issue. Further, the commenters argued that MIT should only deal with movement of injected fluids, not inter-formational movement of naturally-occurring formation fluids. Therefore, the commenters suggested that owners or operators should be allowed to resume injection if there is no "significant" fluid movement of injected fluids into a USDW.

The Agency believes that the purpose of the mechanical integrity testing requirements is to insure that the well is functioning according to specifications. The Agency agrees that the casing and cementing requirement is the proper vehicle for establishing which zones need to be isolated from each other. Furthermore, nothing in today's promulgation alters the flexibility provided to the Director to set casing and cementing requirements for Class II wells in existing fields to prevent only movement of fluid that may pose a significant risk to human health rather than any and all fluid movement (§ 146.22). However, the

Agency believes that § 146.8(a)(2) is indeed intended to verify the integrity of the approved casing and cementing program for these wells and to detect any movement of fluid (including inter-formational fluid movement) in noncompliance with the approved casing and cementing program. For example, temperature and noise logs are methods that use instruments lowered into the well to collect logging data to determine the presence or absence of significant fluid movement under § 146.8(a)(2). This information verifies the integrity of cement at the tested intervals and is compared with the applicable casing and cementing requirements. A well that fails Part II of the MIT (including the "cementing records" test of § 146.8(c)(2) as applicable) must be shut-in and repaired before injection is allowed to resume.

EPA, therefore, is revising proposed sections 144.28(f)(4) and 144.51(q)(3), to clarify that the flexibility for the Director to allow an operator to resume injection prior to full repair of the well is only available in the case of a failure of the MIT requirement in § 146.8(a)(1) where an owner or operator can categorically demonstrate that the failure would not lead to any fluid movement into or between USDWs. The Agency would expect that continued operation of such wells would be for short periods only, for example, until a rig could be brought on-site to perform necessary repairs.

EPA is also clarifying the period allowed for the cessation of injection after MIT failure. The proposed amendments in § 144.28(f)(3) required that injection cease within 48 hours of the notification of the MIT failure. EPA has amended this provision to clarify that the Director has the option to require immediate cessation of injection, and that the 48 hour period is the maximum time allowed when cessation can not reasonably be accomplished immediately.

Several commenters were concerned that §§ 144.28(f)(2) and 144.51(q)(3) would require owners or operators to establish MI prior to plugging and abandoning an injection well after a well has failed an MIT. This was not EPA's intent, and these sections have been clarified accordingly.

The Agency notes that, since the proposed amendments were published, final rules were promulgated which specify steps to be taken pursuant to an MIT failure of a Class I hazardous waste well. These regulations are not affected by today's promulgation. Also, EPA did not in its proposal reopen the issue of whether the UIC program should control the movement of inter-formational fluids. This issue was resolved in 1984, and EPA declines to respond to comments on this issue.

D. Reporting

EPA proposed a change in the frequency of noncompliance and program reporting by the States to quarterly instead of yearly and provided a definition for a "significant noncomplier." The Agency also proposed the elimination of the listing of all major facilities that are currently in noncompliance with the UIC regulations in the reports, opting instead for inclusion of recalcitrant violators only. The change in frequency has already been implemented for a number of years without any opposition from the States and has Office of Management and Budget (OMB) approval.

Several commenters expressed concern that the changes in the noncompliance reporting by the States could put an additional burden on the States and possibly on the well owners or operators. Several other commenters, however, indicated that elimination of the detailed noncompliance format in § 144.8 that requires well-by-well information would keep valuable information related to the pollution of ground water from the public and curtail information necessary for citizens' suits under the SDWA. EPA agrees in concept with comments concerning the need to ensure that the reporting requirements are not overly burdensome and the need to ensure that the State's UIC enforcement program is effective. EPA has therefore, decided to defer issuing rules on noncompliance and program reporting by the States and a definition of "significant noncomplier" until it has had more opportunity to study the impact that these changes will have on the States and EPA's enforcement and oversight responsibilities. Pending further action, the existing requirements in § 144.8 remain in effect.

III. Regulatory Impact

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether the amendments to the regulation are major and, therefore, subject to the requirements of a regulatory impact analysis. These amendments largely clarify the existing regulations and do not impose any additional burden on the States or the regulated community. The amendments, therefore, do not constitute a major rule. This rule has been submitted to OMB for review as required by Executive Order 12291. Any written comments received will be included in the public docket.

B. Paperwork Reduction Act

This rule places no additional information collection or record-keeping burden on respondents. Therefore, an information collection request has not been prepared and submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

C. Impact on Small Entities

Under the Regulatory Flexibility Act, an agency is required to prepare an initial regulatory flexibility analysis whenever it is required to publish general notice of any rule, unless the head of the agency certifies that the rule, if promulgated, will not have significant economic impact on a substantial number of small entities. These regulations require no additional reporting by owners or operators and few new substantive requirements or standards. Therefore, the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

D. Considerations under the Administrative Procedures Act

The changes made to the Class V inventory requirements are being made without prior notice and comment. EPA believes that there is good cause for waiving notice and comment. The current regulations unintentionally create a regulatory impossibility for Class V wells which commenced injection after 1985 to obtain authorization by rule to inject. EPA did not intend this result and believes that it is necessary to correct this problem to remove any doubt that EPA intends for such wells to be authorized. Thus, prior notice would not be in the public interest. In addition, EPA believes that notice and comment is unnecessary. A fair reading of the existing §§ 144.24 and 144.26 suggest that EPA did not intend for new Class V wells to be without authorization if they submit inventory information. Therefore, today's regulation makes no change to the original intent of the regulations for new wells, for which an adequate opportunity to comment was already provided prior to promulgation May 19, 1980 and May 11, 1984. Additional comment is being requested only on § 144.26(e)(1).

E. Effect on States with Primacy

The amendments being promulgated today are non-substantial or apply only to federally-implemented programs, except as noted above, regarding

annulus pressure monitoring to demonstrate MI. Other than this exception, these rules have no impact on programs approved under section 1425. According to the regulations at 40 CFR 145.32 for non-substantial program revisions, primacy States, other than those approved under section 1425, must assert in a letter from the State's Director or his authorized representative to the Regional Administrator that the State has incorporated the revisions and new regulatory language into its current program or that it already meets the requirements. The State must submit this document within 270 days of the effective date of the final rule. The Agency expects that most States will be able to satisfy the requirements of 40 CFR 145.32 in a letter to the Regional Administrator.

F. References

1. Nielsen, D. M., and L. Aller, 1984, "Methods For Determining the Mechanical Integrity of Class II Injection Wells", National Water Well Association/EPA Series, pp. 26–34.

2. "Final Report Mechanical Integrity Testing of Injection Wells", Geraghty & Miller, Inc., April 30, 1980, pp. 49–51.

3. "Preparation and Review of UIC Area Permits for Enhanced Oil Recovery Projects", Interstate Oil Compact Commission, Contract Number 68–03–1823 with the Environmental Protection Agency, pp. 42–44.

4. "Annulus Pressure Monitoring Systems For Class I Wells", Ken E. Davis Associates, Houston, Texas, May 1987 Prepared under subcontract to Engineering Enterprises Inc., Norman, Oklahoma.

5. "Modeling Variations in Annular Pressure Due to Fluid Injection", Frederic C. Arnold, Ground Water, Vol. 29, No. 6, November-December 1991, pp. 832–837.

List of Subjects in 40 CFR Parts 144 and 146

Environmental protection, Administrative practice and procedures, Reporting and recordkeeping requirements, Confidential business information, Underground injection.

Dated: November 19, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 144 and 146 of title 40 of the Code of Federal Regulations are amended as follows:

Part 144—Underground Injection Control Program

The authority citation for part 144 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

Subpart A—General Provisions

2. Section 144.3 is amended by adding new definitions for "transferee" and "transferor" in alphabetical order to read as follows:

§ 144.3 Definitions.

* * * * *

Transferee means the owner or operator receiving ownership and/or operational control of the well.

Transferor means the owner or operator transferring ownership and/or operational control of the well.

* * * * *

Subpart B—General Program Requirements

3. Section 144.11 is amended by revising the first sentence to read as follows:

§ 144.11 Prohibition of unauthorized injection.

Any underground injection, except into a well authorized by rule or except as authorized by permit issued under the UIC program, is prohibited. * * *

4. Section 144.17 is added to subpart B to read as follows:

§ 144.17 Records.

The Director or the Administrator may require, by written notice on a selective well-by-well basis, an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with Part C of the SDWA or its implementing regulations.

Subpart C—Authorization of Underground Injection by Rule

5. Section 144.21 is amended by redesignating paragraphs (b) and (c) as paragraphs (d) and (e), redesignating paragraph (a) as paragraph (b), revising newly designated (b), by redesignating the introductory text as paragraph (a) and revising newly designated (a) and by adding a new paragraph (c) to read as follows:

§ 144.21 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III Wells.

(a) An existing Class I, II (except enhanced recovery and hydrocarbon storage) and III injection well is authorized by rule if the owner or operator injects into the existing well within one year after the date at which a UIC program authorized under the SDWA becomes effective for the first time or inventories the well pursuant to the requirements of § 144.26. An owner or operator of a well which is authorized by rule pursuant to this section shall rework, operate, maintain, convert, plug, abandon or inject into the well in compliance with applicable regulations.

(b) *Duration of well authorization by rule.* Well authorization under this section expires upon the effective date of a permit issued pursuant to §§ 144.25, 144.31, 144.33 or § 144.34; after plugging and abandonment in accordance with an approved plugging and abandonment plan pursuant to §§ 144.28(c) and 146.10, and upon submission of a plugging and abandonment report pursuant to § 144.28(k); or upon conversion in compliance with § 144.28(j).

(c) *Prohibitions on injection.* An owner or operator of a well authorized by rule pursuant to this section is prohibited from injecting into the well:

(1) Upon the effective date of an applicable permit denial;

(2) Upon failure to submit a permit application in a timely manner pursuant to § 144.25 or § 144.31;

(3) Upon failure to submit inventory information in a timely manner pursuant to § 144.26;

(4) Upon failure to comply with a request for information in a timely manner pursuant to § 144.27;

(5) Upon failure to provide alternative financial assurance pursuant to § 144.28(d)(7);

(6) Forty-eight hours after receipt of a determination by the Director pursuant to § 144.28(f)(3) that the well lacks mechanical integrity, unless the Director requires immediate cessation;

(7) Upon receipt of notification from the Director pursuant to § 144.28(l) that the transferee has not demonstrated financial responsibility pursuant to § 144.28(d);

(8) For Class I and III wells:

(i) In States with approved programs, five years after the effective date of the UIC program unless a timely and complete permit application is pending the Director's decision; or

(ii) In States with programs administered by EPA, one year after the effective date of the UIC program unless a timely and complete permit application is pending the Director's decision; or

(9) For Class II wells (except enhanced recovery and hydrocarbon storage), five years after the effective date of the UIC program unless a timely and complete permit application is pending the Director's decision.

* * * * *

6. Section 144.22 is amended by revising paragraph (a), redesignating

paragraph (b) as (d), and adding new paragraphs (b) and (c), to read as follows:

§ 144.22 Existing Class II enhanced recovery and hydrocarbon storage wells.

(a) An existing Class II enhanced recovery or hydrocarbon storage injection well is authorized by rule for the life of the well or project, if the owner or operator injects into the existing well within one year after the date which a UIC program authorized under the SDWA becomes effective for the first time or inventories the well pursuant to the requirements of § 144.26. An owner or operator of a well which is authorized by rule pursuant to this section shall rework, operate, maintain, convert, plug, abandon or inject into the well in compliance with applicable regulations.

(b) *Duration of well authorization by rule.* Well authorization under this section expires upon the effective date of a permit issued pursuant to §§ 144.25, 144.31, 144.33 or § 144.34; after plugging and abandonment in accordance with an approved plugging and abandonment plan pursuant to §§ 144.28(c) and 146.10 of this chapter, and upon submission of a plugging and abandonment report pursuant to § 144.28(k); or upon conversion in compliance with § 144.28(j).

(c) *Prohibitions on injection.* An owner or operator of a well authorized by rule pursuant to this section is prohibited from injecting into the well:

(1) Upon the effective date of an applicable permit denial;

(2) Upon failure to submit a permit application in a timely manner pursuant to § 144.25 or § 144.31;

(3) Upon failure to submit inventory information in a timely manner pursuant to § 144.26;

(4) Upon failure to comply with a request for information in a timely manner pursuant to § 144.27;

(5) Upon failure to provide alternative financial assurance pursuant to § 144.28(d)(7);

(6) Forty-eight hours after receipt of a determination by the Director pursuant to § 144.28(f)(3) that the well lacks mechanical integrity, unless the Director requires immediate cessation; or

(7) Upon receipt of notification from the Director pursuant to § 144.28(l) that the transferee has not demonstrated financial responsibility pursuant to § 144.28(d).

* * * * *

7. Section 144.24 is revised to read as follows:

§ 144.24 Class V wells.

(a) A Class V injection well is authorized by rule until further requirements under future regulations become applicable.

(b) *Duration of well authorization by rule.* Well authorization under this section expires upon the effective date of a permit issued pursuant to §§ 144.25, 144.31, 144.33 or § 144.34, or upon proper closure of the well.

(c) *Prohibition of injection.* An owner or operator of a well which is authorized by rule pursuant to this section is prohibited from injecting into the well:

(1) Upon the effective date of an applicable permit denial;

(2) Upon failure to submit a permit application in a timely manner pursuant to § 144.25 or § 144.31;

(3) Upon failure to submit inventory information in a timely manner pursuant to § 144.26; or

(4) Upon failure to comply with a request for information in a timely manner pursuant to § 144.27.

8. Section 144.25 is amended by revising the first sentence in paragraph (a) introductory text and the first sentence of paragraph (c), and revising the first two sentences of paragraph (b) as follows;

§ 144.25 Requiring a Permit.

(a) The Director may require the owner or operator of any Class I, II, III or V injection well which is authorized by rule under this subpart to apply for and obtain an individual or area UIC permit. * * *

(b) For EPA-administered programs, the Regional Administrator may require an owner or operator of any well which is authorized by rule under this subpart to apply for an individual or area UIC permit under this paragraph only if the owner or operator has been notified in writing that a permit application is required. The owner or operator of a well which is authorized by rule under this subpart is prohibited from injecting into the well upon the effective date of permit denial, or upon failure by the owner or operator to submit an application in a timely manner as specified in the notice. * * *

(c) An owner or operator of a well authorized by rule may request to be excluded from the coverage of this subpart by applying for an individual or area UIC permit. * * *

9. Section 144.26 is amended by revising the introductory text, and by adding the introductory text of paragraph (d) and paragraph (e) to read as follows:

§ 144.26 Inventory requirements.

The owner or operator of an injection well which is authorized by rule under this subpart shall submit inventory information to the Director. Such an owner or operator is prohibited from injecting into the well upon failure to submit inventory information for the well within the time specified in paragraph (d) or (e) of this section.

* * * * *

(d) *Deadlines.* Except as provided in paragraph (e) of this section.

(1) * * *

(e) *Deadlines for Class V Wells (EPA-administered programs only).* (1) The owner or operator of a Class V well in which injection took place within one year after the date at which a UIC program authorized under the SDWA first became effective, and who failed to submit inventory for the well within the time specified in paragraph (d) of this section may resume injection 90 days after submittal of the inventory information to the Director unless the owner or operator receives notice that injection may not resume or may resume sooner.

(2) The owner or operator of a Class V well in which injection started after the first anniversary date at which a UIC program authorized under the SDWA became effective, shall submit inventory information no later than one year after May 2, 1994.

(3) The owner or operator of a Class V well in which injection will start after May 2, 1994, shall submit inventory information prior to starting injection.

(4) The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well within the time specified in paragraphs (e) (2) and (3) of this section, may resume injection 90 days after submittal of the inventory information to the Director unless the owner or operator receives notice from the Director that injection may not resume or may resume sooner.

10. Section 144.27 is amended by removing the last sentence of the section and adding a new paragraph (d) to read as follows:

§ 144.27 Requiring other information.

* * * * *

(d) An owner or operator of an injection well authorized by rule under this subpart is prohibited from injecting into the well upon failure of the owner or operator to comply with a request for information within the time period(s) specified by the Director pursuant to paragraph (c) of this section. An owner or operator of a well prohibited from injection under this section shall not resume injection except under a permit issued pursuant to §§ 144.25, 144.31, 144.33 or 144.34.

11. Section 144.28 is amended by revising the introductory sentence,

revising paragraph (d)(1), revising paragraph (d)(2) and adding new paragraphs (d)(5) and (d)(6); redesignating paragraphs (f) (2) and (3) as paragraphs (f) (5) and (6) and adding new paragraphs (f)(2), (f)(3) and (f)(4); and revising paragraph (l) to read as follows:

§ 144.28 Requirements for Class I, II, and III wells authorized by rule.

The following requirements apply to the owner or operator of a Class I, II or III well authorized by rule under this subpart, as provided by §§ 144.21(e) and 144.22(d).

* * * * *

(d) *Financial responsibility.* (1) The owner, operator and/or, for EPA-administered programs, the transferor of a Class I, II or III well, is required to demonstrate and maintain financial responsibility and resources to close, plug and abandon the underground injection operation in a manner prescribed by the Director until:

(i) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to §§ 144.28(c) and 146.10 and submission of a plugging and abandonment report has been made pursuant to § 144.28(k);

(ii) The well has been converted in compliance with the requirements of § 144.28(j); or

(iii) For EPA-administered programs, the transferor has received notice from the Director that the transferee has demonstrated financial responsibility for the well. The owner or operator shall show evidence of such financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as a financial statement.

(2) For EPA-administered programs, the owner or operator shall submit such evidence no later than one year after the effective date of the UIC program in the State. Where the ownership or operational control of the well is transferred more than one year after the effective date of the UIC program, the transferee shall submit such evidence no later than the date specified in the notice required pursuant to § 144.28(l)(2).

* * * * *

(5) For EPA-administered programs, an owner or operator must notify the Regional Administrator by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code which names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for the purpose of financial responsibility must so notify the Regional Administrator, if the guarantor is named as debtor in any such proceeding.

(6) In the event of commencement of a proceeding specified in paragraph (d)(5) of this section, an owner or operator who has furnished a financial statement for the purpose of demonstrating financial responsibility under this section shall be deemed to be in violation of this paragraph until an alternative financial assurance demonstration acceptable to the Regional Administrator is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties shall be prohibited from injecting into the well until such alternate financial assurance is provided.

* * * * *

(f) * * *

(2) The owner or operator of a Class I, II or III injection well authorized by rule shall establish and maintain mechanical integrity as defined in § 146.8 of this chapter until the well is properly plugged in accordance with an approved plugging and abandonment plan pursuant to §§ 144.28(c) and 146.10, and a plugging and abandonment report pursuant to § 144.28(k) is submitted, or until the well is converted in compliance with § 144.28(j). For EPA-administered programs, the Regional Administrator may require by written notice that the owner or operator comply with a schedule describing when mechanical integrity demonstrations shall be made.

(3) When the Director determines that a Class I (non-hazardous), II or III injection well lacks mechanical integrity pursuant to § 146.8 of this chapter, the Director shall give written notice of his determination to the owner or operator. Unless the Director requires immediate cessation, the owner or operator shall cease injection into the well within 48 hours of receipt of the Director's determination. The Director may allow plugging of the well in accordance with the requirements of § 146.10 of this chapter, or require the owner or operator to perform such additional construction, operation, monitoring, reporting and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon receipt of written notification from the Director that the owner or operator has demonstrated mechanical integrity pursuant to § 146.8 of this chapter.

(4) The Director may allow the owner or operator of a well which lacks mechanical integrity pursuant to § 146.8(a)(1) of this chapter to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.

* * * * *

(l) *Change of ownership or operational control.* For EPA-administered programs:

(1) The transferor of a Class I, II or III well authorized by rule shall notify the Regional Administrator of a transfer of ownership or operational control of the well at least 30 days in advance of the proposed transfer.

(2) The notice shall include a written agreement between the transferor and the transferee containing a specific date for transfer of ownership or operational control of the well; and a specific date when the financial responsibility demonstration of § 144.28(d) will be met by the transferee.

(3) The transferee is authorized to inject unless he receives notification from the Director that the transferee has not demonstrated financial responsibility pursuant to § 144.28(d).

* * * * *

Subpart D—Authorization by Permit

12. Section 144.31 is amended by revising paragraph (a) and paragraph (c)(2) and adding new paragraph (e)(10) to read as follows:

§ 144.31 Application for a permit; authorization by permit.

(a) *Permit application.* Unless an underground injection well is authorized by rule under subpart C of this part, all injection activities including construction of an injection well are prohibited until the owner or operator is authorized by permit. An owner or operator of a well currently authorized by rule must apply for a permit under this section unless well authorization by rule was for the life of the well or project. Authorization by rule for a well or project for which a permit application has been submitted terminates for the well or project upon the effective date of the permit. Procedures for applications, issuance and administration of emergency permits are found exclusively in § 144.34. A RCRA permit applying the standards of part 264, subpart C of this chapter will constitute a UIC permit for hazardous waste injection wells for which the technical standards in part 146 of this chapter are not generally appropriate.

* * * * *

(c) * * *

(2) For new injection wells, except new wells in projects authorized under § 144.21(d) or authorized by an existing area permit under § 144.33(c), a reasonable time before construction is expected to begin.

* * * * *

(e) * * *

(10) A plugging and abandonment plan that meets the requirements of § 146.10 of this chapter and is acceptable to the Director.

* * * * *

Subpart E—Permit Conditions

13. Section 144.51 is amended by removing paragraph (p), redesignating paragraph (o) as paragraph (p) and adding new paragraphs (o) and (q) to read as follows:

§ 144.51 Conditions applicable to all permits.

* * * * *

(o) A Class I, II or III permit shall include and a Class V permit may include, conditions which meet the applicable requirements of § 146.10 of this chapter to insure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of § 146.10 of this chapter, the Director shall incorporate it into the permit as a permit condition. Where the Director's review of an application indicates that the permittee's plan is inadequate, the Director may require the applicant to revise the plan, prescribe conditions meeting the requirements of this paragraph, or deny the permit. For purposes of this paragraph, temporary or intermittent cessation of injection operations is not abandonment.

* * * * *

(q) *Duty to establish and maintain mechanical integrity.* (1) The owner or operator of a Class I, II or III well permitted under this part shall establish prior to commencing injection or on a schedule determined by the Director, and thereafter maintain mechanical integrity as defined in § 146.8 of this chapter. For EPA-administered programs, the Regional Administrator may require by written notice that the owner or operator comply with a schedule describing when mechanical integrity demonstrations shall be made.

(2) When the Director determines that a Class I, II, or III well lacks mechanical integrity pursuant to § 146.8 of this chapter, he shall give written notice of his determination to the owner or operator. Unless the Director requires immediate cessation, the owner or operator shall cease injection into the well within 48 hours of receipt of the Director's determination. The Director may allow plugging of the well pursuant to the requirements of § 146.10 of this chapter or require the permittee to perform such additional construction, operation, monitoring, reporting and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Director that the owner or operator has demonstrated mechanical integrity pursuant to § 146.8 of this chapter.

(3) The Director may allow the owner or operator of a well which lacks mechanical integrity pursuant to § 146.8(a)(1) of this chapter to continue or resume injection, if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.

14. Section 144.52 is amended by revising paragraph (a)(7) to read as follows:

§ 144.52 Establishing permit conditions.

(a) * * *

(7) *Financial responsibility.* (i) The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director until:

(A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to §§ 144.51(o) and 146.10 of this chapter, and submitted a plugging and abandonment report pursuant to § 144.51(p); or

(B) The well has been converted in compliance with the requirements of § 144.51(n); or

(C) The transferor of a permit has received notice from the Director that the owner or operator receiving transfer of the permit, the new permittee, has demonstrated financial responsibility for the well.

(ii) The permittee shall show evidence of such financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as a financial statement or other materials acceptable to the Director. For EPA administered programs, the Regional Administrator may on a periodic basis require the holder of a lifetime permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility, if necessary. The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of subpart F of this part.

* * * * *

PART 146—UNDERGROUND INJECTION CONTROL PROGRAM: CRITERIA AND STANDARDS

1. The authority citation for part 146 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

Subpart A—General Provisions

2. Section 146.2 is revised to read as follows:

§ 146.2 Law authorizing these regulations.

The Safe Drinking Water Act, 42 U.S.C. 300f *et seq.* authorizes these regulations and all other UIC program regulations referenced in 40 CFR part 144. Certain regulations relating to the injection of hazardous waste are also authorized by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

3. Section 146.8 is amended by revising paragraph (b)(1) and adding paragraph (f) to read as follows:

§ 146.8 Mechanical integrity.

* * * * *

(b) * * *

(1) Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Director, while maintaining an annulus pressure different from atmospheric pressure measured at the surface;

* * * * *

(f) The Director may require additional or alternative tests if the results presented by the owner or operator under § 146.8(e) are not satisfactory to the Director to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

Subpart B—Criteria and Standards Applicable to Class I Wells

§ 146.15 [Removed]

4. Section 146.15 is removed.

Subpart C—Criteria and Standards Applicable to Class II Wells

§ 146.25 [Removed]

5. Section 146.25 is removed.

Subpart D—Criteria and Standards Applicable to Class III Wells

§146.35 [Removed]

6. Section 146.35 is removed.

Subpart F—Criteria and Standards Applicable to Class V Injection Wells

§146.52 [Amended]

7. Section 146.52 is amended by removing paragraph (a) and redesignating paragraph (b) as paragraph (a) and by adding and reserving a new paragraph (b).

[FR Doc. 93–29410 Filed 12–2–93; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7590]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Deputy Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, 3 CFR,