

Environmental Protection Agency

§ 147.3002

paragraph (j)(1) of this section; and, when appropriate,

(ii) A showing that the condition in question is based on:

(A) A finding of fact or conclusion of law that is clearly erroneous; or

(B) An exercise of discretion or important policy consideration which the Administrator, in his discretion, should review.

(4) The Administrator may also decide, on his initiative, to review any condition of any UIC permit issued under these requirements. The Administrator must act under this paragraph within 30 days of the date notice was given of the Regional Administrator's action.

(5) Within a reasonable time following the filing of the petition for review, the Administrator shall issue an order either granting or denying the request. To the extent that review is denied, the conditions of the final permit decision become final agency action.

(6) Public notice shall be given by the Regional Administrator of any grant of a review petition by the Administrator. Notice shall be sent to the applicant, the person requesting the review, appropriate persons on the Osage County mailing list and to newspapers of general circulation in the county. Included in the notice shall be a briefing schedule for the appeal and a statement that any interested person may file an amicus brief. Notice of denial of the review petition will be sent only to the person(s) requesting the review.

(7) A petition to the Administrator, under paragraphs (j) (1) and (2) of this section is a prerequisite to the seeking of judicial review of the final agency action. For purposes of judicial review, final agency action occurs when a final UIC permit is issued or denied by the Regional Administrator and agency review procedures are exhausted. A final permit decision shall be issued by the Regional Administrator:

(i) When the Administrator issues notice to the parties involved that review has been denied;

(ii) When the Administrator issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of the remand proceedings if the proceedings are remanded, unless the Administrator's remand order specifically provides that the appeal of the remand decision will be required to exhaust the administrative remedies.

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

SOURCE: 53 FR 43104, Oct. 25, 1988, unless otherwise noted.

§ 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, 146, 148, 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.

[53 FR 43104, Oct. 25, 1988, as amended at 56 FR 9422, Mar. 6, 1991]

§ 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:

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(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