FACT SHEET

Louisiana Underground Injection Control Program Class VI Primacy Proposed Rule

May 2023

Under the Safe Drinking Water Act (SDWA), Underground Injection Control (UIC) Class VI programs ensure that when carbon dioxide is stored underground to reduce greenhouse gases and mitigate climate change, underground sources of drinking water are protected. States and EPA ensure that these activities are permitted to protect underground drinking water and consider potential impacts to nearby communities. With this proposed rule, EPA is asking for public input on the Agency's intent to approve the State of Louisiana's request to have primary responsibility (primacy) for implementing and enforcing the state's UIC Class VI program.

Application Process

On September 17, 2021, Louisiana submitted to EPA an application to add Class VI injection wells to the state's existing UIC program. Under the SDWA, EPA is required to review primacy applications to determine whether the applicant's proposed program meets stringent federal regulations and to evaluate the effectiveness of the proposed program.

EPA conducted a comprehensive review of the state's application. The Agency is proposing to approve Louisiana's application because EPA has determined, subject to public comment, that the application meets all applicable requirements for approval. Upon approval, the State of Louisiana would be the permitting authority for Class VI UIC wells. EPA would oversee Louisiana's administration of the SDWA Class VI program and will continue to oversee Louisiana's administration of the programs for SDWA Class I, II, III, IV, and V wells.

Environmental Justice Considerations

EPA is committed to advancing environmental justice for overburdened communities in all its programs, including the Class VI UIC program. That's why, on December 9, 2022 and January 11, 2023, EPA Administrator Regan sent letters to governors and Tribal leaders calling for partnership to advance the twin goals of combatting climate change and supporting environmental justice goals. As part of developing this proposal, EPA worked with the State of Louisiana to adopt the environmental justice approaches encouraged in the letter, which Louisiana has incorporated into their primacy application, including enhanced community engagement and evaluation of project impacts on overburdened communities. EPA also follows guidance from the Council on Environmental Quality to ensure that the advancement of carbon capture, utilization, and sequestration technologies are done in a responsible manner that incorporates the input of communities and reflects the best available science.

Class VI Wells Under the UIC Program

Class VI wells are used to inject CO2 into deep rock formations for the purpose of long-term underground storage, also known as geologic sequestration. Geologic sequestration, when used as a part of carbon capture and storage and carbon dioxide removal projects, is a promising tool for reducing the amount of carbon dioxide in the atmosphere. Class VI injection wells are regulated under an existing, rigorous Safe Drinking Water Act (SDWA) permitting framework that protects underground sources of drinking water.

Requirements for Class VI Wells

The UIC Class VI program provides safeguards to protect underground sources of drinking water. Owners or operators that wish to inject carbon dioxide for the purpose of geologic sequestration must demonstrate that their injection well will meet stringent regulatory requirements and receive a Class VI permit for each well. The UIC Class VI program requires applicants to meet requirements to obtain a Class VI permit, including:

- Site characterization to ensure the geological formations below ground in the project area will effectively contain the carbon dioxide within the zone where it will be injected.
- Modeling to define the area where the carbon will be stored over the lifetime of operation.
- Evaluation to ensure all potential pathways for fluid movement have been identified and addressed through corrective action.
- Well construction requirements that ensure the Class VI injection well will not leak carbon dioxide.
- Testing and monitoring throughout the life of the project, including after carbon dioxide injection has ended. Requirements include testing to ensure physical integrity of the well, monitoring for seismic activity near the injection site, monitoring of injection pressure and flow, chemical analysis of the carbon dioxide stream that is being injected, and monitoring the extent of the injected carbon dioxide plume and the surrounding area (e.g., ground water) to ensure the carbon dioxide is contained.
- Operating requirements to ensure the injection activity will not endanger underground sources of drinking water or human health.
- Financial assurance mechanisms sufficient to cover the cost for all phases of the geologic sequestration project including the post injection site care period and until the Director approves site closure.
- Emergency and remedial response plans.
- Reporting of all testing and monitoring results to the permitting authority to ensure the well is operating in compliance with all permit and regulatory requirements.

The permitting authority ensures that these protective requirements are included in each Class VI permit. A draft of each Class VI permit is made available to the public for comment before a final permit is issued.

UIC Program and Primary Enforcement Authority (Primacy)

SDWA Section 1422 directs EPA to establish requirements that states, territories, and federally recognized Tribes (hereafter referred to as applicants) must meet to be granted primary enforcement responsibility or "primacy" for implementing a UIC program, including a Class VI program. An applicant seeking primacy under SDWA Section 1422 for a Class VI program must demonstrate to EPA that the applicant's Class VI program is as stringent as the federal requirements and is protective of underground sources of drinking water, including that the applicant has jurisdiction over underground injection and regulatory provisions for necessary administrative, civil, and criminal enforcement penalty remedies under SDWA. To be approved for Class VI primacy under SDWA Section 1422, an applicant must have a UIC program that meets federal requirements (40 CFR Parts 124, 144, 145, and 146).

Public Comment Period

EPA will hold a 60-day public comment period including an in-person public hearing on June 15, 2023, in Baton Rouge, LA. To sign up for the hearing and learn more information please visit: https://www.epa.gov/uic/underground-injection-control-epa-region-6-ar-la-nm-ok-and-tx. In addition to the public hearing, EPA requests that comments be sent via the Federal Register, docket number EPA-HQ-OW-2023-0073.