

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

08-109

November, 2016

Class III UIC Permit Applications and Petitions for Aquifer Exemption Environmental Fact Sheet

Class III wells that are used to inject solutions for the purpose of mining are regulated by the Underground Injection Control (UIC) Program, implemented by the EPA under the Safe Drinking Water Act. The State of Nebraska was granted primacy over the state UIC program by the EPA in 1984. The Nebraska Department of Environmental Quality (NDEQ) regulates these injection wells through Title 122 – Rules and Regulations for Underground Injection and Mineral Production Wells.

All persons/entities constructing or operating injection wells for the purpose of mining must apply for a Class III UIC Permit (Title 122, Ch. 7, Section 001). If injection is to occur in a potential underground source of drinking water (USDW) or if the aquifer may subside, the applicant must also submit a Petition for Aquifer Exemption. The Class III UIC permit application must be received by the NDEQ before the Petition for Aquifer Exemption (Title 122 Ch. 5 Section 003).

Permit Application Requirements:

A complete application for a Class III UIC well permit includes the following:

1. A completed application form.
2. A non-refundable application fee of \$25,000, which may be paid by check or money order to the Nebraska Department of Environmental Quality.
3. Any supplemental information required by the Director.
(Title 122 Ch.11)

The application form may be requested by writing to the UIC Coordinator, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, (402) 471-4290.

Class III UIC Application Processing:

Upon receipt of a Class III UIC application for permit, NDEQ's UIC Coordinator performs a completeness review to make sure all required portions of the application have been addressed. A copy of the completed application is retained in the department's files for public review.

Once the Class III UIC application is complete, the technical review process begins. Copies of the Class III application are forwarded to the following State and Federal Agencies for technical consultation (Title 122 Ch. 7 006):

- University of Nebraska – Lincoln, Conservation and Survey Division
- Nebraska Oil and Gas Conservation Commission

Copies of the application are also forwarded to:

- EPA Region 7 UIC Program

- Nuclear Regulatory Commission (if the Class III application is for a uranium facility)
- The appropriate NDEQ Field Office

Comments from these reviewers pertaining to the application are directed to the UIC Program.

The proposed decision to issue or deny the permit is public noticed and is available for public comment for a period of 30 days. During this time, the public can comment on the proposed decision and/or request that the director hold a public hearing. If requested, a public hearing may be scheduled at the Director's discretion. At the public hearing, the public can raise concerns regarding the issuance or denial of the proposed Class III permit. After the public hearing, the Director takes all the testimony and application information into account and decides to issue or deny the Class III permit. The permit, if issued, allows the applicant to operate Class III UIC wells for mining purposes. If injection is to occur in a potential source of drinking water, an Aquifer Exemption must also be granted in order for operation of the Class III UIC wells to begin.

Petition for Aquifer Exemption Processing:

While the Class III UIC application is undergoing formal review and/or public comment, the associated Petition for Aquifer Exemption can begin the review process. The NDEQ UIC Coordinator reviews the document to determine if the petition for exemption demonstrates the following criteria as outlined in Title 122 Chapter 5 Section 004 and in 40 CFR Chapter 1 §146.4:

- The aquifer, or portion thereof, does not currently serve as a source of drinking water; and
- It cannot now and will not in the future serve as a source of drinking water because any of the following conditions exist:
 - It is mineral-, hydrocarbon-, or geothermal energy-bearing with the ability to economically produce minerals, oil and gas, or geothermal energy; or
 - It is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical; or
 - It is so heavily contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
 - It is located above a Class III well mining area subject to subsidence or catastrophic collapse.

Copies of the Petition for Aquifer Exemption are reviewed by:

- NDEQ, Lincoln Office
- EPA Region 7
- EPA Headquarters (through EPA Region 7, at NDEQ's request)
- University of Nebraska – Lincoln, Conservation and Survey Division
- Nebraska Oil and Gas Conservation Commission
- The appropriate NDEQ Field Office

Comments from these reviewers pertaining to the petition application are incorporated into NDEQ's requests for additional information.

If the Department determines the petition meets the required criteria for exemption, the proposed decision is public noticed with a period of public comment extending 30 days after publication. During this time, the public can comment on the proposed aquifer exemption or request a public hearing by submitting comments and requests, in writing, to the NDEQ Director. If requested, a public hearing may be scheduled at the Director's discretion. At the public hearing, people can direct comments regarding the proposed decision on the aquifer exemption to members of the NDEQ staff. The Department then recommends a determination to EPA. After considering the State's recommendation, the EPA makes a final determination on the aquifer exemption petition.

Produced by: Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, NE 68509-8922; phone (402)471-2186.
To view this, and other information related to our agency, visit our web site at <http://deq.ne.gov>.