

NOTICE OF FINAL RULEMAKING
TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R18-9-103	Amend
Article 6	New Article
Part A	New Part
R18-9-A601	New Section
R18-9-A602	New Section
R18-9-A603	New Section
R18-9-A604	New Section
R18-9-A605	New Section
R18-9-A606	New Section
Part B	New Part
R18-9-B607	New Section
R18-9-B608	New Section
R18-9-B609	New Section
R18-9-B610	New Section
R18-9-B611	New Section
R18-9-B612	New Section
R18-9-B613	New Section
R18-9-B614	New Section
R18-9-B615	New Section
Part C	New Part
R18-9-C616	New Section
R18-9-C617	New Section
R18-9-C618	New Section
R18-9-C619	New Section
R18-9-C620	New Section
R18-9-C621	New Section
R18-9-C622	New Section
R18-9-C623	New Section
R18-9-C624	New Section
R18-9-C625	New Section
R18-9-C626	New Section
R18-9-C627	New Section
R18-9-C628	New Section
R18-9-C629	New Section
R18-9-C630	New Section
R18-9-C631	New Section
R18-9-C632	New Section
R18-9-C633	New Section
R18-9-C634	New Section
Part D	New Part
R18-9-D635	New Section
R18-9-D636	New Section
R18-9-D637	New Section
R18-9-D638	New Section
R18-9-D639	New Section
Part E	New Part
R18-9-E640	New Section

R18-9-E641	New Section
R18-9-E642	New Section
Part F	New Part
R18-9-F643	New Section
R18-9-F644	New Section
R18-9-F645	New Section
Part G	New Part
R18-9-G646	New Section
R18-9-G647	New Section
R18-9-G648	New Section
Part H	New Part
R18-9-H649	New Section
Part I	New Part
R18-9-I650	New Section
R18-9-I651	New Section
R18-9-I652	New Section
R18-9-I653	New Section
R18-9-I654	New Section
R18-9-I655	New Section
Part J	New Part
R18-9-J656	New Section
R18-9-J657	New Section
R18-9-J658	New Section
R18-9-J659	New Section
R18-9-J660	New Section
R18-9-J661	New Section
R18-9-J662	New Section
R18-9-J663	New Section
R18-9-J664	New Section
R18-9-J665	New Section
R18-9-J666	New Section
R18-9-J667	New Section
R18-9-J668	New Section
R18-9-J669	New Section
R18-9-J670	New Section
Table 1	New Table

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute:	A.R.S. §§ 49-203(A)(6), 49-203(A)(9), 49-104(C)(1)
Implementing statute:	A.R.S. § 49-257.01

3. The effective date for the rules:
[SEC. OF STATE TO FILL IN]

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Openings:	25 A.A.R. 2491 (September, 27, 2019)
	26 A.A.R. 2003 (September 25, 2020)
	27 A.A.R. 1592 (October 1, 2021)
Notice of Proposed Rulemaking:	28 A.A.R. 16 (January 7, 2022)

5. The agency’s contact person who can answer questions about the rulemaking:

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6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

General Explanation of this Rulemaking:

The Arizona Department of Environmental Quality (ADEQ) is required under A.R.S. §§ 49-203(A)(6) and 49-257.01(A) to adopt a permit program for underground injection control (UIC), as administered under the Safe Drinking Water Act (SDWA; 42 U.S.C. § 300h et seq.). Per the conditional enactment in proposed rule R18-9-A602(A), any UIC rules promulgated by the State of Arizona shall not have the force and effect of law until the U.S. Environmental Protection Agency (EPA) approves the transfer of primary enforcement authority (referred to herein as "Primacy") through EPA's publication of a final rule granting ADEQ Primacy in the Federal Register (see 40 CFR § 145.31). ADEQ first attempted this process in the late 1990s; but those efforts ultimately failed due to insufficient statutory and regulatory authority to develop the program. In 2018 Senate Bill 1494 was passed, giving ADEQ the requisite statutory authority to promulgate a state-level UIC program as required to obtain primacy approval.

In this action, ADEQ proposes new regulatory framework to articulate compliance expectations, mandate regulatory duties, and identify certain rights of those regulated through the Arizona UIC program. On May 7, 2018, the Governor's Office approved an exemption to the rulemaking moratorium in Executive Order 2018-02 so ADEQ can proceed with this rulemaking.

Associated Rulemakings

The Arizona UIC program is a regulatory program with associated fees and licensing time frames (LTF). A.A.C. R1-1-103(D)(4) states, "...[a]n agency shall file only one Chapter per notice for any rulemaking activity." In adherence to the rule, the fee component of the Arizona UIC program, which amends A.A.C. Title 18, Chapter 14, is a separate Notice of Proposed Rulemaking filed contemporaneously with this rulemaking, which amends A.A.C. Title 18, Chapter 9. Furthermore, the Arizona UIC program amendments to the LTF has also been filed contemporaneously with the program and fee amendments. The LTF Notice of Proposed Rulemaking amends A.A.C. Title 18, Chapter 1.

What is Underground Injection?

An injection well is used to place fluid underground into porous geologic formations. These underground formations may range from deep sandstone or limestone, to a shallow soil layer. Injected fluids may include water, wastewater, brine (salt water), or water mixed with chemicals.

What is a well?

A well is a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or a subsurface fluid distribution system.

What does the Federal UIC program do?

The UIC program protects Underground Sources of Drinking Water (USDW) through the regulation of injection wells. USDWs are:

aquifers or portions of aquifers that:

1. supply public water systems; or
2. contain a sufficient quantity of ground water to supply a public water system; and
 - a. currently supply drinking water for human consumption, or
 - b. contain fewer than 10,000 mg/l total dissolved solids; and
3. are not aquifers exempted under the UIC program.

How does the UIC program protect USDWs?

The UIC program requires injected fluids stay within the well or the intended injection zone. The program also regulates fluids that are directly or indirectly injected into a USDW by prohibiting the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons.

What are the different well classifications in the UIC program?

Class I

Class I wells are used to inject hazardous and non-hazardous wastes into deep, isolated rock formations. Class I wells are disposal wells used by the petroleum refining, metal production, chemical production, pharmaceutical production, commercial disposal, food production and municipal wastewater treatment industries (amongst others) to dispose. These deep well injections release fluids into formations below USDWs, usually formations separated by multiple geologic strata from USDWS and often times at depths thousands of feet below the surface.

Class II

Class II wells are used exclusively to inject fluids associated with oil and natural gas production. Class II wells fall into one of the following three categories: disposal wells, enhanced recovery wells and hydrocarbon storage wells. Class II fluids are primarily brines (salt water) that are brought to the surface while producing oil and gas. Brines are separated from hydrocarbons at the surface and reinjected into the same or similar underground formations for disposal. Enhanced recovery wells utilize fluids consisting of brine, freshwater, steam, polymers, or carbon dioxide that are injected into oil-bearing formations to recover residual oil and in limited applications, natural gas. Hydrocarbon storage wells inject liquid hydrocarbons into underground formations (such as salt caverns) where they are stored, generally, as part of the U.S. Strategic Petroleum Reserve.

Class III

Class III wells are used to inject fluids for the purpose of dissolving and then extracting minerals. Production wells, which bring mining fluids to the surface, are not regulated under the UIC program. Class III wells are used to mine Uranium, Salt, Copper and Sulfur. Class III injection requirements isolate fluids from underground sources of drinking water.

Class IV

Class IV wells are used to inject hazardous or radioactive wastes into or above a geologic formation that contains a USDW. In 1984, EPA banned the use of Class IV injection wells. ADEQ will continue this ban upon primacy. These wells may only operate as part of an EPA or state authorized ground water clean-up action. Less than 32 waste clean-up sites with Class IV wells exist in the United States.

Class V

Class V wells are used to inject non-hazardous fluids underground. Most Class V wells are used to dispose of wastes into or above USDWs. This disposal can pose a threat to ground water quality if not managed properly. The different types of Class V wells pose various threats. Most Class V wells are shallow disposal systems that depend on gravity to drain fluids directly in the ground. Over 20 well subtypes fall into the Class V category. There are more than 650,000 Class V wells estimated to operate in the United States. Most of these Class V wells are unsophisticated shallow disposal systems such as stormwater drainage wells, septic system leach fields and agricultural drainage wells.

Class VI

Class VI wells are used to inject carbon dioxide (CO₂) into deep rock formations. This long-term underground storage is called geologic sequestration (GS). Geologic sequestration refers to technologies to reduce CO₂ emissions to the atmosphere and mitigate climate change.

What does a UIC inspection entail?

Verification of proper well construction, mechanical integrity testing (MIT), no leaks detected from the well into the environment, assurance that monitoring, recordkeeping, and reporting conducted by the operator, as well as, assurance that any required operating conditions are being followed, amongst other check points.

Is the Arizona UIC Program different from the EPA UIC program?

Arizona’s UIC program must meet all of the requirements set forth in the Code of Federal Regulations or 40 CFR Part 145 in order for EPA to grant ADEQ Primacy over the program. The CFR requirements include building the state program up to the standards delineated in 40 CFR 145.1 through 40 CFR 145.14. Generally, Arizona’s UIC program must be at least as stringent as the EPA UIC program. However, A.R.S. § 49-104(16) requires ADEQ rules to be “...no more stringent than the corresponding federal law...” unless specifically authorized by the legislature. The UIC rules do not have a specific authorization to be more or less stringent. Therefore, the content of the proposed rules does not exceed Federal stringency and is largely the same as the rules that comprise the EPA program.

The noteworthy differences are as follows:

- R18-9-A602 is a rule that outlines the scope of applicability for the program. There is no EPA UIC program analog. The rule does not add or subtract regulatory burden on the regulated community. On the contrary, it is meant to clarify the program as a whole.
- R18-9-B609 prohibits Hazardous Waste Injection and Class IV injections. This rule differs from its federal analog at 40 CFR 144.13 in that subsection A was added in order to meet Arizona’s existing prohibition on injecting hazardous waste in A.A.C. R18-8-270(B)(2)(b).
- R18-9-A627 explains the requirements for a final permit decision. This rule differs from its federal analog at 40 CFR 124.15 in that information regarding Arizona state regulatory appeals processes has been added for the clarification of the regulated community. Subsections (C) through (F) were added to explain how issuances, modifications, or revocations and reissuances of permits that necessitate new aquifer exemptions or enlargements of a previously approved aquifer exemption are not effective until confirmed by the Administrator of the EPA.
- R18-9-C631 delineates the requirements for modification, revocation and reissuance or termination of permits. Subsection B was altered from its federal analog at 40 CFR 124.5 in order to accommodate a reasonable request made by a stakeholder to allow for a *notice of intent to deny* to be issued when a request for a *modification* or a *revocation and reissuance* is denied as long as the scope of the request has not been proposed and denied before.
- R18-9-I654 delineates the prohibition of Class V cesspools and motor vehicle waste disposal wells. The rule was altered in order to expand the scope of the prohibition from its federal analog at 40 CFR 144.88. The scope of the prohibition in 40 CFR 144.88 is “large-capacity cesspools”. The scope of the draft language in R18-9-I654 is all “cesspools”. This language was changed in order to align with the more comprehensive prohibition in the APP program at R18-9-A309(A)(4).
- Table 1 is a list of the applicable primary drinking water maximum contamination limits (MCL). These are the standards applicable to the Arizona UIC program. The Arizona UIC program is listing the applicable MCLs where the Federal program simply references 40 CFR 141 and 142.

A comparison of the EPA UIC program and the Arizona UIC program can be made by referencing the following table which shows the analogs:

AAC	CFR	AAC	CFR	AAC	CFR
R18-9-A601	40 CFR 144.3; 146.3	R18-9-B611	40 CFR 144.17	R18-9-C623	40 CFR 124.17
R18-9-A602	N/A	R18-9-B612	40 CFR 146.6	R18-9-C624	40 CFR 144.33
R18-9-A603	40 CFR 144.5	R18-9-B613	40 CFR 146.8	R18-9-C625	40 CFR 144.34
R18-9-A604	40 CFR 144.6; 146.5	R18-9-B614	40 CFR 146.10	R18-9-C626	40 CFR 144.35
R18-9-A605	40 CFR 144.7	R18-9-B615	40 CFR 144.19	R18-9-C627	40 CFR 124.15
R18-9-A606	40 CFR 146.4	R18-9-C616	40 CFR 144.31	R18-9-C628	40 CFR 144.36
R18-9-B607	40 CFR 144.11	R18-9-C617	40 CFR 144.32	R18-9-C629	40 CFR 144.37
R18-9-B608	40 CFR 144.12	R18-9-C618	40 CFR 124.6	R18-9-C630	40 CFR 144.38
R18-9-B609	40 CFR 144.13	R18-9-C619	40 CFR 124.8	R18-9-C631	40 CFR 124.5
R18-9-B610	40 CFR 144.16	R18-9-C620	40 CFR 124.10	R18-9-C632	40 CFR 144.39
		R18-9-C621	40 CFR 124.11	R18-9-C633	40 CFR 144.41
		R18-9-C622	40 CFR 124.12	R18-9-C634	40 CFR 144.40

AAC	CFR
R18-9-D635	40 CFR 144.51
R18-9-D636	40 CFR 144.52
R18-9-D637	40 CFR 144.53
R18-9-D638	40 CFR 144.54
R18-9-D639	40 CFR 144.55; 146.7
R18-9-E640	40 CFR 146.12
R18-9-E641	40 CFR 146.13
R18-9-E642	40 CFR 146.14
R18-9-F643	40 CFR 146.22
R18-9-F644	40 CFR 146.23
R18-9-F645	40 CFR 146.24
R18-9-G646	40 CFR 146.32
R18-9-G647	40 CFR 146.33

AAC	CFR
R18-9-G648	40 CFR 146.34
R18-9-H649	40 CFR 144.23
R18-9-I650	40 CFR 144.24; 144.84
R18-9-I651	40 CFR 144.25
R18-9-I652	40 CFR 144.26; 144.83(a)
R18-9-I653	40 CFR 144.27; 144.83(b)
R18-9-I654	40 CFR 144.88
R18-9-I655	40 CFR 144.15
R18-9-J656	40 CFR 146.81
R18-9-J657	40 CFR 146.82
R18-9-J658	40 CFR 146.83

AAC	CFR
R18-9-J659	40 CFR 146.84
R18-9-J660	40 CFR 146.85
R18-9-J661	40 CFR 146.86
R18-9-J662	40 CFR 146.87
R18-9-J663	40 CFR 146.88
R18-9-J664	40 CFR 146.89
R18-9-J665	40 CFR 146.90
R18-9-J666	40 CFR 146.91
R18-9-J667	40 CFR 146.92
R18-9-J668	40 CFR 146.93
R18-9-J669	40 CFR 146.94
R18-9-J670	40 CFR 146.95
Table 1	40 CFR Part 141, 142

Can a Class V well be in operation before inventorying?

No. New Class V wells must inventory before operation.

Stakeholder Composition

Arizona currently has five (5) individual EPA UIC program permits operating within the state boundaries (not including Indian lands), all of which are for Class III wells for the purpose of extracting salts and copper. The three companies operating the five permits are Morton Salt, Inc., Excelsior Mining Arizona, Inc. and Florence Copper, Inc.

The UIC program applies to a large number of Class V injection wells through the programs “authorization by rule.” Class V authorization by rule includes initial inventorying, operators meeting a set of criteria, including a general standard to not cause fluids to move in such a way where a USDW would receive a pollutant above the standards in Table 1. Examples of Arizona Class V wells include drywells, aquifer storage recharge wells, septic systems serving greater than 20 people per day or that have a design flow of over 3,000 gallons per day and stimulation injection wells for the purpose of inert gas extraction (See proposed rule R18-9-A604(E) in Section 13 below for more examples of Class V wells). Furthermore, through stakeholder outreach, ADEQ has become aware of Arizona municipalities that are interested in developing Class I municipal wastewater disposal wells.

What has been the stakeholder process thus far for this rulemaking?

Statutory authority for program pursuit was passed into law through Senate Bill 1494 in 2018 at A.R.S. §§ 49-257 and 49-257.01. An exemption memo was received from the Governor’s Office in May of 2018. Since those events, ADEQ has been reaching out to UIC stakeholders throughout the state in a pre-rulemaking process known internally as “informal rulemaking”. Informal rulemaking involves developing and setting internal goals for what the rulemaking should achieve. ADEQ has held nine (9) stakeholder meetings, either presenting to stakeholders, receiving stakeholder input or both. Tribal consultation presentations were conducted three times in May 2019. Tribal correspondence has been addressed throughout the informal rulemaking phase as well.

The nine stakeholder meetings were designed to inform the regulated community of ADEQ’s progress in pursuing Primacy, as well as, explaining and presenting drafts of the state rules being developed for the ultimate purpose of administering the program. In November 2019 and November 2020, stakeholders were given access to drafts of the “program rule”. Afterwards, ADEQ solicited hundreds of comments from the regulated community, addressing and analyzing each one. Some comments led to changes in rule language, while others were determined to be inapplicable or unnecessary. All comments received were considered and are

appreciated by the Agency. A repository of materials and events can be viewed on ADEQ's "Stakeholder Materials" page for the UIC rulemaking. That webpage can be found here: <https://azdeq.gov/UIC>

In the context of stakeholder involvement, it should be noted that this set of rules, internally referred to as the "program rules," is largely the same in substance as the EPA UIC permit program, which can be viewed in the CFR (see 40 CFR Parts 144 and 146). The substantive similarities were made by design, as EPA requires a primacy applicant's administering rules to be at least as stringent as the EPA program. Furthermore, in Arizona, a number of statutes (A.R.S. §§ 41-1052(D)(9), 49-104(16) and others) prohibit a rule's passage if the rule is more stringent than a corresponding federal law unless there is statutory authority to exceed the federal requirements. Due to these limitations on stringency, the language in the EPA program was adopted largely as is. The influence of stakeholder input can be seen in R18-9-A602, R18-9-C627(B) through (F) and R18-9-C631(B).

R18-9-A602(G)(2)

The Oil and Gas Conservation Commission (OGCC) has state statutory authority to permit some injection wells at A.R.S. § 27-516(A)(20). ADEQ responded by delineating R18-9-A602(G)(5), which excludes from the program, "[i]njection wells authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq." This language allows the OGCC to issue UIC permits, should they receive primacy for certain injection wells from EPA. ADEQ intends to assist OGCC in their pursuit of primacy.

R18-9-A602(H)

Stakeholder comment was received by ADEQ concerning the exemption of natural gas storage from the program. ADEQ responded by delineating R18-9-A602(H), a subsection entitled the "Safe Drinking Water Act exemptions". Here, ADEQ decided to make explicit the exemptions from the program that can be found in the United States Code (USC) at 42 USC 300h(d)(1), including the exclusion of "the underground injection of natural gas for purposes of storage" from the UIC definition of "underground injection".

R18-9-A602(J)

Stakeholder comment was received by ADEQ concerning the preference to make explicit the transfer of existing UIC aquifer exemptions to the state program. This transfer is a requirement of ADEQ attaining primacy from EPA. ADEQ decided to make explicit the transfer as no issues arise in doing so.

R18-9-C627(A) through (F)

Subsection A: Stakeholder comment was received by ADEQ concerning appeals rights in permit, modification and aquifer exemption actions. The Federal analog for this rule is significantly different as the Federal terminology and appeals rights differ from those on the state level. A.R.S. 41-1092.03 was followed in delineating the notice components.

Subsection B addresses what accompanies a permit issuance.

Subsection C addresses how the denial of an aquifer exemption request can be appealed.

Subsection D addresses makes explicit the effectivity of a final permit decision.

Subsection E addresses when a permit in which necessitates an aquifer exemption may be appealed and when the permitting action becomes effective in relation to the formal approval of the EPA Administrator.

Subsection F addresses when a permit in which necessitates an injection depth waiver pursuant to R18-9-J670 may be appealed and when the permitting action becomes effective in relation to the written concurrence of the EPA Administrator.

R18-9-C631(B)

Stakeholder comment was received by ADEQ concerning the preference for a permittee to have the right to a notice of intent to deny if requested from a modification or revocation and reissuance decision. ADEQ found no issue in allowing such a right and proceeded to work with EPA and the stakeholder to develop appropriate language.

Why is Article 1 being amended?

Individually Permitted Class V UIC Wells

Article 1 is being amended in order to avoid a scenario where a UIC Class V individual permittee would also be required to obtain an individual Aquifer Protection Permit (APP). A.R.S. § 49-

250(B)(26) exempts all individual UIC permittees from APP program requirements - except Class V wells as “prescribed by rule”. This leaves Class V wells “prescribed by rule” subject to both UIC and APP regulation. UIC Class V wells are automatically “authorized by rule” unless the Director requires an individual permit. “Authorized by rule” means a well owner need only inventory their well and follow a set of criteria to remain in compliance. “Authorized by rule” Class V wells do not need an individual permit. The reason Class Vs were left out of the exemption from APP is that APP regulation for Class V wells is more protective of human health and the environment than the UIC requirements. However, the “prescribed by rule” language in A.R.S. § 49-250(B)(26) was unintentionally altered in the legislative process from “authorized by rule”. ADEQ is concerned that Class V wells “prescribed by rule” may be interpreted to include Class V wells “authorized by rule” and individually permitted Class V wells, which ADEQ does not believe was the intention of the legislation. If A.R.S. § 49-250(B)(26) is interpreted to require both Class V wells “authorized by rule” and Class V wells individually permitted to be applicable to APP, then individually permitted UIC Class V wells would be required to get a duplicative, individual APP permit. ADEQ has a goal of eliminating duplicative permitting in the APP and UIC programs, while simultaneously upholding robust protection of human health and the environment. To that end, ADEQ is proposing to add a Class Exemption in Article 1 pertaining to the APP program. Authority to make such an exemption can be found in A.R.S. § 49-250(A). The Class Exemption in the A.A.C. would make Class V wells with individual UIC permits not subject to the APP program.

Coal Combustion Residuals (CCR) Class Exemption From APP

Also proposed for amendment in Article 1 is R18-9-103(5). Currently, this language exempts a class of facilities from APP known as Coal Combustion Residuals Units or CCR Units. CCR disposal units are used for the treatment, storage, or disposal of CCR, which can be wet or dry, and is generally composed of fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers. Arizona CCR Units are currently regulated under the federal CCR regulations, which are self-implementing rules (see 40 CFR 257, Subpart D). Generally, this approach means that the regulations were not intended to be implemented through direct government oversight, and enforcement is largely left to be performed through citizen lawsuits (see generally Final Rule: Hazardous and Solid Water Management System; Disposal of CCR from Electric Utilities, 80 Fed. Reg. 21,302 (Apr. 17, 2015)). In addition to the self-implementing rules is the opportunity for a state agency to obtain primary enforcement authority (primacy) over the CCR regulatory program in which individual permits are issued (see 42 U.S.C. § 6945(d)(1)). At the time the 2019 rulemaking amended R18-9-103 (see 25 A.A.R. 3060) -- adding the exemption to subsection (5) -- ADEQ presumed that the implementation of the CCR regulatory program would occur within the APP program. APP’s rules are located in A.A.C. Title 18, Chapter 9. Since that time, ADEQ has decided that the CCR regulatory program would be better suited in the agency’s Waste Programs rules. Waste Program’s rules are located in A.A.C. Title 18, Chapter 8. In an effort to effectuate this intention and avoid confusion, ADEQ is proposing legislation to amend A.R.S. § 49-250(B). The proposal would exempt CCR units from APP on the statutory level if the units are:

- (1) Regulated under 40 CFR 257, Subpart D, or
- (2) ADEQ receives approval from EPA for a CCR regulatory program in accordance with 42 U.S.C. § 6945(d)(1)).

Adjusting the language in R18-9-103(5) through this rulemaking aligns the exemption in rule with the proposed legislative amendment.

7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The economic, small business, and consumer impact statement:

This Economic, Small Business, and Consumer Impact Statement has been prepared to meet the requirements of A.R.S. § 41-1055.

A. An identification of the rulemaking:

The rulemaking addressed by this Economic, Small Business, and Consumer Impact Statement (EIS) consists of 72 new sections, as well as amendments to existing sections, made by the Arizona Department of Environmental Quality (ADEQ) to 18 A.A.C. 9, Articles 1 and 6, 18 A.A.C. 1, Article 5 and 18 A.A.C. 14, Article 1 in order to adopt the Federal Safe Drinking Water Act's (SDWA) Underground Injection Control Program (UIC) under the relevant regulation in 40 C.F.R. Parts 144 through 146 within the State of Arizona as required under A.R.S. §§ 49-203(A)(6), 49-257.01.

Arizona Revised Statutes §§ 49-203(A)(6) and 49-257.01 mandate that ADEQ establishes the UIC Program through rule. Federal statute at 42 United States Code 300h et seq. authorizes EPA to grant states primary enforcement authority or primacy over the UIC program upon the adoption of the program in rule at the state level (see 40 CFR 145.22(a)(5)).

Control of underground injection conducted in the industrial, municipal and residential sectors is necessary in order to protect Arizona's underground sources of drinking water (USDWs) or aquifers. In Arizona, the UIC program has been administered by the Environmental Protection Agency (EPA) for decades. Currently 5 Federal UIC permits are in effect, along with thousands of UIC Class V wells that are authorized by rule.

Arizona's program adoption will allow primacy to rest with ADEQ who is entirely focused on, and knowledgeable of, Arizona's unique geology and climate; and who deeply understand Arizona's environment, economy, and community. Additionally, program adoption will allow ADEQ to issue better permits, faster, and eliminate duplicative regulation, permitting, and permittee fees between the Federal and state programs. Adoption of this program will supplement Arizona's already existing groundwater safeguards, taking a place in conjunction with the Aquifer Protection Permit Program.

B. A summary of the EIS:

General Impacts

The primary costs of this rulemaking will be borne by UIC well permit holders and UIC wells authorized by rule. This includes in-situ copper mines, salt mines, municipal aquifer storage and recharge wells, extraction wells, carbon sequestration wells and a host of other injection wells.

There will be an increase in permitting costs due to ADEQ's fee-for-service model. The fee-for-service model institutes the charging of permittees for a significant portion of the funding needed to support the implementation of the regulatory program. The Federal UIC program operates off of a general fund model, where permittees are not charged and the cost of implementation of the regulatory program comes from specific, legislatively approved funds (usually with an origin in government tax revenue). Many of ADEQ's programs were changed after the 2008 recession from a general fund model to fee-for service model. The difference between the fee-for-service model and the general fund model is the reason the regulatory program within this rulemaking will impose a financial burden upon the permittees.

Despite the increase in permitting fees, such as annual fees, the beneficial impact to the stakeholders include permits and amendments being issued faster and the elimination of duplicative regulation, permitting, and permittee fees as a result of eliminating one of the two applicable regulatory programs for UIC permittees. ADEQ stands to benefit from this increase in fees by fulfilling a requirement of primacy. The stakeholders and the general public stand to benefit through the assurance provided that high-risk drywells in the state are being physically inspected from time to time, as opposed to rarely, as was the frequency of inspection before the ADEQ UIC program primacy.

A positive impact for all stakeholders is the protection of the environment that the program this rulemaking supports will bring. Individuals with a better understanding of Arizona's geology and climate will be developing and maintaining these permits, which will lead to better protection of the environment, which supports the economy, which supports the community.

Specific Impacts

While the three existing UIC permittees in the state of Arizona will see an increase in regulatory cost of conducting their business, they stand to benefit greatly in having the program administered in-state through speedier application review and permit services, the elimination of duplicative regulation between the Federal and state governments and local access to ADEQ expertise, personnel and customer service. Despite the increase in regulatory cost, the existing permittees support ADEQ's adoption of the program.

Drywell regulation in Arizona will be transitioned from dual regulation between the Federal and state governments to a singular, UIC Class V authorization by rule through a simple inventory. Arizona's more than 65,000 registered drywells will be transitioned into the UIC Class V well inventory without a charge. The former drywell registration fee of \$100 will be increased to \$200 per UIC Class V inventory.

The reason for this increase to the Drywell fees is to supplement the funds necessary to support the implementation of the Class V portion of the UIC program. This includes an EPA requirement for ADEQ to assume the inspection of responsibilities for Class V wells in the state.

Stakeholder Process

ADEQ and Arizona's UIC stakeholders spent many hours negotiating the fees for the UIC program in this rulemaking. The transparent and collaborative process rendered a balanced set of fees, whereupon the needs of all parties were met and the support of the stakeholders in adopting the program was preserved.

C. Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules:

This rulemaking will affect state government agencies, political subdivisions, and privately-owned businesses. Additionally, the rulemaking will impact the general public.

ADEQ has identified the following list of affected persons:

State government agencies

State agencies benefit from the rulemaking due to the rulemaking supporting the environment, the community, and industry.

- ADEQ
- Arizona Department of Water Resources
- Arizona Department of Agriculture

Political subdivisions

Political subdivisions benefit from the rulemaking due to the rulemaking supporting the environment, the community, and industry. Additional benefits include faster, better permits facilitating the installation of Drywells as needed and the development of groundwater treatment facilities to support Arizona's growing potable water needs. As permittees, political subdivisions will also bear the increased cost of the new permitting fee schedule.

- Counties
- Municipalities
- Domestic Water Improvement Districts

Privately-Owned Businesses

Privately-owned businesses will benefit from faster, better permits reducing the costs of delays to permit issuance. As permittees, political subdivisions will also bear the increased cost of the new permitting fee schedule.

- Mines
- Mineral Extraction Companies
- Businesses which utilize drywells

The General Public

The general public will benefit from the environmental protection of better permits being issued by an agency with expertise specific to the permitting actions occurring in Arizona’s climate and geology. Additional benefits will be derived through the benefits industry derives which in turn supports the community and the general public.

D. Cost/benefit analysis

1. Part I - Cost/Benefit Stakeholder Matrix:

Minimal	Moderate	Substantial	Significant
\$10,000 or less	\$10,001 to \$1,000,000	\$1,000,001 or more	Cost/Burden cannot be calculated, but the Department expects it to be important to the analysis.

Description of Affected Groups	Description of Effect	Increased Cost / Decreased Revenue	Decreased Cost / Increased Revenue
A. State and Local Government Agencies			
ADEQ	Costs of supporting and implementing a new regulatory program Ensuring underground sources of drinking water supply or aquifers are better protected from pollution. Compliance with state and federal law. Support of ADEQ’s mission to protect and enhance public health and the environment.	Moderate	Significant Significant Significant
Political Subdivisions	Tax revenues and indirect benefits of clean underground sources of drinking water supply Regulation of desalination disposal kept local Cost savings due to the elimination of duplicative regulatory programs (Federal UIC becomes State UIC, UIC permittees no longer applicable to APP)	Significant	Significant Significant
B. Privately Owned Businesses			
Privately-Owned Business	Cost savings due to elimination of duplicative regulatory programs (Federal UIC becomes State UIC, UIC permittees no longer applicable to APP) Permits and Permit Amendments issued faster		Moderate Significant

	Localized access to ADEQ’s expertise, personnel and customer service, as well as a streamlined permitting process, and a reduction in cost through the elimination of duplicative regulation between Federal and state programs.		Significant
General Public	Ensuring underground sources of drinking water supply or aquifers are better protected from pollution. ADEQ employees developing Arizona-specific permits, leading to a better protection of the environment, which supports the economy, which supports the community.		Significant Significant

2. Part II - Individual Stakeholder Summaries/Calculations:

This section outlines ADEQ’s analyses of the estimated costs and benefits of this rulemaking, made after consultation with ADEQ staff, as well as knowledgeable individuals in the area of groundwater protection and underground injection control.

ADEQ

ADEQ will incur moderate costs as a result of implementing this rulemaking and administering the program. The rulemaking process itself requires staff time for technical review, rule composition, and public input. In order to support the administration of the UIC program, ADEQ plans on hiring 3.2 new full-time employees (FTE). These 3.2 FTEs will be split primarily between permit specialist positions, inspectors and other administrative duties. Funding those positions will incur moderate costs to ADEQ annually which will be offset by permit service fees, annual fees, inventory fees, well fees and an EPA work grant.

This rulemaking will create significant benefit to ADEQ in its fulfillment of the legislative mandates at A.R.S. §§ 49-203(A)(6) and 49-257.01. Given ADEQ’s mission to protect human health and the environment, the Department acknowledges the benefits to stakeholders that will flow from the implementation of this program, including a streamlined permitting process and a reduction in cost through the elimination of duplicative regulation between Federal and state programs. Upon adoption of the program, stakeholders who would have in the past had to file dual applications, comply with dual regulatory programs, file a dual set of ongoing reports and pay for consulting costs for dual permits will see all of those obligations consolidated into one, localized state program and permit. This fact stands to save the regulated community time, money and hardship.

The Number of New, Full-Time Employees Necessary to Implement and Enforce the Proposed Rule
3.2

Political Subdivisions

Political subdivisions are likely to see minimal costs and minimal benefit from this rulemaking. As mentioned above, municipalities have shown interest in applying for Class I disposal well permits; however, none have been applied for at the time of this rulemaking. Until political subdivisions apply for UIC permits, they will see no costs due to this rulemaking and the UIC program. However, political subdivisions are interested in the disposal of brine from prospective desalinization plants. This rulemaking stands to localize brine disposal regulation, which would bring benefit to prospective stakeholders. Municipalities also often own a multitude of dry wells, which are to be regulated under the UIC program’s Class V wells.

The UIC program exists currently, administered by the Federal government, until ADEQ achieves primary enforcement authority over the program. As is stated above, the EPA administered program is funded through an approved budget from a Federal general fund. ADEQ’s funding for UIC program administration will be realized through a fee-for-service model. The fee-for-service model institutes the charging of applicants and permittees for a significant portion of the funding necessary to support the regulatory program and the personnel necessary to staff it. Many of ADEQ’s programs are structured this way. The Federal UIC program

does not charge applicants, but rather derives its approved funds from a Federal general fund. The difference between the fee-for-service model and the general fund model is the reason the regulatory program within this rulemaking will impose a potentially minimal financial burden upon political subdivisions.

However, when the political subdivisions choose to engage with the UIC program that is the subject of this rulemaking, the benefits include a streamlined permitting process, and a reduction in cost through the elimination of duplicative regulation between Federal and state programs. Upon adoption of the program stakeholders who would have in the past had to file dual applications, comply with dual regulatory programs, file a dual set of ongoing reports and pay for consulting costs for dual permits will see all of those obligations consolidated into one, localized state program. This fact stands to save the regulated community time, money and hardship.

Privately-Owned Business

Privately-owned business is likely to see moderate cost and moderate benefit from this rulemaking. The disparity between EPA's general fund program model and ADEQ's fee-for-service model will incur potentially moderate costs to privately-owned businesses, especially the businesses that currently have UIC permits.

However, and as mentioned above, the benefits to privately-owned business include a streamlined permitting process, and a reduction in cost through the elimination of duplicative regulation between Federal and state programs. Upon adoption of the program, stakeholders who would have in the past had to file dual applications, comply with dual regulatory programs, file a dual set of ongoing reports and pay for consulting costs for dual permits will see all of those obligations consolidated into one, localized state program. This fact stands to save the regulated community time, money and hardship.

General Public

The general public could see significant benefit from this rulemaking. The UIC program that is the subject of this rulemaking aims to protect underground sources of drinking water supply or aquifers, many of which provide drinking water to Arizonans. The price of treating contaminated water or having to resort to other sources of water for drinking water supply is potentially significant. Furthermore, A positive impact for all stakeholders is the protection of the environment that the program this rulemaking supports will bring. Individuals with a better understanding of Arizona's geology and climate will be developing and maintaining these permits, which will lead to better protection of the environment, which supports the economy, which supports the community.

E. A general description of the probable impact on private and public employment in business agencies, and political subdivisions of this state directly affected by the rulemaking:

ADEQ estimates that, for the most part, this rulemaking will not have an impact on public or private employment. However, and as mentioned above, all UIC permittees, whether public or private, stand to benefit through the state establishment of a streamlined permitting process, and a reduction in cost through the elimination of duplicative regulation between Federal and state programs. Upon adoption of the program, stakeholders who would have in the past had to file dual applications, comply with dual regulatory programs, file a dual set of ongoing reports and pay for consulting costs for dual permits will see all of those obligations consolidated into one, localized state program. This fact stands to save the regulated community time, money and hardship. Arizona environmental consultants may see a minimal detriment due to the streamlining of environmental compliance for companies using injection wells.

F. A statement of the probable impact of the rules on small business:

In this EIS, ADEQ uses the term "small business" consistent with A.R.S. § 41-1001(21), which defines a "small business" as a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.

1. An identification of the small business subject to the rules:

Among the stakeholders listed above, only a few meet the definition of small business as set forth in A.R.S. § 41-1001(21). For example, ADEQ estimates that all three current UIC permit holders in Arizona are not small businesses. However, ADEQ has recorded with frequency around 1,000 drywell registrations annually. Drywells will be regulated under the Class V UIC program upon primacy. Small businesses will constitute a significant portion of the approximately 1,000 drywell inventories ADEQ expects annually upon primacy. In terms of UIC Class V drywell inventorying, some small businesses will be affected in a minimally negative manner by this rulemaking. However, the rulemaking intends to institute some UIC Class V inspections, including drywells, which could prove minimally beneficial to certain small businesses.

2. The administrative and other costs required for compliance with the rules:

Compliance costs associated with this rulemaking will vary based on the stakeholder involved. ADEQ's examination of compliance costs for UIC well owners regulated through a permit or an authorization by rule is addressed in the cost benefit analysis above.

3. A description of the methods that the agency may use to reduce the impact on small businesses, as required in A.R.S. § 41-1035:

a. *Establishing less stringent compliance or reporting requirements in the rule for small businesses:*

Under the SDWA, small businesses are not given special treatment when it comes to compliance or reporting requirements. In order to be eligible for EPA's transfer of primary enforcement authority of the program from Federal to State, the Federal SDWA-UIC program must be at least as stringent as the Federal program.

b. *Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses:*

Under the SDWA, small businesses are not given special treatment when it comes to the stringency of schedules or deadlines for compliance and reporting. Please reference subsection (F)(3)(a) above for more explanation.

c. *Consolidating or simplifying the rule's compliance or reporting requirements for small businesses:*

Under the SDWA, small businesses are not given special treatment when it comes to compliance and reporting requirements. Please reference subsection (F)(3)(a) above for more explanation.

d. *Establishing performance standards for small businesses to replace design or operational standards in the rule:*

Under the SDWA, small businesses are not given special treatment when it comes to design or operational standards. Please reference subsection (F)(3)(a) above for more explanation.

e. *Exempting small businesses from any or all requirements of the law:*

Under the SDWA, small businesses are not given special treatment when it comes to requirements. Please reference subsection (F)(3)(a) above for more explanation.

4. The probable costs and benefits to private persons and consumers who are directly affected by the rules:

As is stated above in this EIS, the SDWA-UIC program is currently in effect, administered by the Federal government's EPA. This rulemaking is designed to support the primary enforcement authority or primacy application ADEQ has been mandated to pursue according to A.R.S. §§ 49-203(A)(6) and 49-257.01. The existing regulated parties in Arizona include three UIC Class III permittees and tens of thousands of UIC Class V wells (mostly drywells). Also stated above is the disparity in funding mechanisms between EPA's current administration of the program and ADEQ's proposed funding mechanisms in administration (EPA: General Fund based; ADEQ: Fee-For-Service based). Despite the new fees associated with Arizona's potential primacy, the state's UIC stakeholders have shown support for ADEQ's primacy pursuit. The reason for their support is the consolidation of Federal and state regulatory obligations into one, localized state program. The benefits to these private entities include the elimination of the necessity to file dual applications, to comply with dual regulatory programs, to file a dual set of ongoing reports and to pay for consulting costs for dual permits. Further benefits include the local access to ADEQ's expertise, personnel and

customer service, a streamlined permitting process, and a reduction in cost through the elimination of duplicative regulation between Federal and state programs.

UIC applicants and permittees will be subject to a water quality protection service fee of \$145 an hour for application review, permit writing and other, similar services. The maximum fee for a single licensing time frame for UIC Area and Classes I, II, III and V permits are set at \$200,000. UIC Area and Classes I, II, III and V permit modification and/or permit renewal are set at a maximum of \$150,000. UIC Class VI permits maximum fee proposal is “no max”. The reason why no maximum fee has been proposed for UIC Class VI is because of its complicated and unknown nature. Arizona does not have any Class VI carbon sequestration wells and the entire country only has a few in operation. ADEQ believes there is no basis for proposing a maximum on UIC Class VI wells at this time.

UIC permittees will be subject to Annual and Flat Fees, which were determined by considering the necessary revenue needed to support the administration of the program while putting the least burden possible on the stakeholders. Other factors include input from the APP program, other states’ UIC programs and directly affected stakeholders.

Drywell regulation in Arizona will be transitioned from a state statutorily based regulatory program to regulation under the UIC program’s Class V wells. Arizona’s more than 65,000 registered drywells will be transitioned into the UIC Class V well inventory without a charge. However, there will be a cost increase between new drywell registration fees associated with the state statutory program and new inventory fees in the state-administered UIC program. Registration fees are \$100 per registration, where inventory fees will be \$200 per inventory. The reason for this increase is to supplement the funds necessary to support the administration of the Class V portion of the UIC program, including the commencement of more regular inspection of high-risk drywells in Arizona. A condition of EPA granting ADEQ primacy to administer the UIC program is the inspection of a small portion of the UIC Class V wells in the state. In order to meet this requirement, ADEQ has increased the fee required to inventory a drywell in the state.

In discussion with UIC stakeholders, it was determined that a review of the revenues collected from the UIC program’s fees should take place once every three years in order to ensure that enough revenue is being collected to properly administer the program and to that the fees are equitable by putting the least amount of burden on the stakeholders. To that end, R18-14-115 is proposed in this rulemaking.

G. A statement of the probable effect on state revenues:

This rulemaking will not result in a significant increase, nor decrease in state revenues. Increased and decreased costs to ADEQ are expected to be minimal, as explained above in the analysis of costs and benefits to ADEQ. Because the UIC permittees in Arizona were permitted through the UIC program as administered by the EPA, ADEQ does not anticipate a significant decrease in business activity in the state or a corresponding loss of state tax revenues.

H. A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking:

The purpose of this rulemaking is to adopt the SDWA-UIC program in Arizona rule in order to lay the groundwork for state administration of the program as required by the legislature through A.R.S. §§ 49-203(A)(6) and 49-257.01. There are no less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

I. A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data:

The SDWA allows states to apply for primary enforcement authority in the administration of the UIC regulatory program (see 42 United States Code 300h et seq.). The Arizona legislature mandated pursuit of the SDWA-UIC program through the passage of the following statutes, A.R.S. §§ 49-203(A)(6) and

49-257.01. In order to achieve primacy, one requirement of a state is to put rules in place for the program to operate through (see 40 Code of Federal Regulations 145.22(a)(5)). These rules must be at least as stringent as the Federal UIC program rules in order for EPA to consider a state's primacy application. The rules must also be no more stringent than the analogous Federal rule, per Arizona state law (see A.R.S. § 49-104(16)). Given those parameters, the language for the rules in this rulemaking came largely from 40 CFR Parts 144, 145 and 146 and to a lesser extent, 40 CFR Parts 124, 141 and 142. A table showing specific analogous Federal regulations to the rules in this rulemaking can be found in section 6 of the Preamble above.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

R18-9-A601(3)

- To add clarity to the definition, replaced “‘Application’ means the ADEQ prescribed method for applying for a permit, including any additions, revisions or modifications to the forms” with “‘Application’ means the ADEQ prescribed method, such as a form, for applying for a permit, including any additions, revisions or modifications thereof.”

R18-9-A601(22) and (23)

- Switched the definitions of “Emergency permit” and “Environmental Protection Agency” for the purpose of adhering to alphabetization.

R18-9-A601(48)

- Replaced proposed definition language with language more closely following the Federal CFR analog. The proposed language is as follows, “‘Permit means an authorization issued by the Director pursuant to this Article, including an area permit under R18-9-C624 and an emergency permit under R18-9-C625.’” It is replaced by this final language, “‘Permit’ means an authorization issued by the Director pursuant to this Article. ‘Permit’ includes an area permit under R18-9-C624 and an emergency permit under R18-9-C625. ‘Permit’ does not include UIC authorization by rule or any permit which has not yet been subject to a final permit decision, such as a ‘draft permit.’”

R18-9-A601(68) and (69)

- Switched the definitions of “Underground Injection Control” and “Underground injection” for the purpose of adhering to alphabetization.

R18-9-A601(74) and (75)

- Switched the definitions of “Well stimulation” and “Well monitoring” for the purpose of adhering to alphabetization.

R18-9-A602(C)

- This edit was made to add clarity to the jurisdictional scope of the program and to restructure the language in a more digestible fashion. The proposed language read,
(C) “Underground injection is prohibited in the State of Arizona unless authorized by permit or rule under this Article or authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq. Any injection activity authorized by permit or rule under this Article shall prohibit the movement of fluid containing any contaminant into underground sources of drinking water (USDWs), where the presence of that contaminant may cause a violation of this Article or may adversely affect the health of persons.”

The final language reads,

- (C) “Underground injection is prohibited in lands under the jurisdiction of the State of Arizona unless:
(1) Authorized by permit or rule under this Article in accordance with 42 U.S.C. 300h et seq., or
(2) Authorized by OGCC pursuant to regulations approved by EPA.
(D) Any injection activity authorized by permit or rule under this Article shall prohibit the movement of fluid containing any contaminant into underground sources of drinking water (USDWs), where the presence of that contaminant may cause a violation of this Article or may adversely affect the health of persons.”

R18-9-A602(G); previously R18-9-A602(E) in proposed rule

- The edit was made for two reasons; one, to conform the language with the classification rule at R18-9-A604(E)(2)(a); and two, to allow the prohibition of cesspools language at R18-9-I654 to stand alone.

The proposed language read,

(G) “Specific exclusions. The following are not covered by these regulations:

- (1) Individual or single-family residential waste disposal systems such as domestic cesspools or septic systems.
- (2) Non-residential cesspools, septic systems or similar waste disposal systems if such systems:
 - (a) Are used solely for the disposal of sanitary waste, and
 - (b) Have the capacity to serve fewer than 20 persons a day or a design capacity of less than 3,000 gallons per day.
- (3) Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.
- (4) Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.
- (5) Injection wells authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq.”

The final language reads,

(G) “Specific exclusions. The following are not covered by these regulations:

- (1) Septic systems or similar waste disposal systems if such systems:
 - (a) Are used solely for the disposal of sanitary waste, and
 - (b) Have a design capacity of less than 3,000 gallons per day.
- (2) Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.
- (3) Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.
- (4) Injection wells authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq.”

R18-9-A602(J); previously R18-9-A602(I) in proposed rule

- Replaced “...upon the date of primacy” with “upon the effective date of the Arizona UIC Program” in order to align with program definitions. See R18-9-A601(21).

R18-9-A604(E)(2)(a)

- Removed “...the capacity to serve fewer than 20 persons a day or...” in order to reduce confusion between the formerly two thresholds, “...20 persons a day...” and “...design capacity ... 3,000 gallons per day.”

R18-9-A604(F)

- Replaced “Class VI well are wells that are” with “Class VI wells are” for clarity.

R18-9-A605(B)(4)(a) and (b)

- Removed the “(A)” in references R18-9-A606(A)(2) and R18-9-A606(A)(3) in order to properly cite the structure of the final rule.

R18-9-A606(2)(a)

- Replaced “consider” with “considering” in order to make the sentence grammatically correct.

R18-9-C616(C)(2)

- Added the word “at” at the beginning of the final phrase in order to complete the statement that starts with the language of subsection (C).

R18-9-C616(D)(9)

- Added a new subsection here in order to comply with the agency requirements in the State Historic Preservation Act, specifically A.R.S. § 41-863.

R18-9-C620(D)(1)(e)

- Added a new subsection here because none of the subsections in the proposed rule under R18-9-C620(D)(1)(e) represented the Federal analog at 40 CFR 124.10(c)(1)(ix)(B) and (C).

R18-9-C622(E)

- Added a new subsection here because none of the subsections in the proposed rule under R18-9-C622 represented the Federal analog at 40 CFR 124.12(d).

R18-9-C624(A)(2)

- Removed an extra word, “in”.

R18-9-C627(A)

- The provision of the permit itself and an updated fact sheet was inserted into the first sentence of R18-9-C627(A) from proposed R18-9-C627(C) for language consolidation, clarity and to align UIC permit issuance with permit issuance in similar ADEQ programs. "...of the A.R.S." was added to the second sentence for clarity.

The proposed language read,

- (A) "Issuance of a final permit decision by the Director shall be accompanied by a notification to the applicant and each person who has submitted written comments or requested notice of the final permit decision. The notice and hearing procedures are subject to either Title 41, Chapter 6, Article 10, or Title 49, Chapter 2, Article 7."

The final language reads,

- (A) "Issuance of a final permit decision by the Director shall be accompanied by the permit and an updated fact sheet per R18-9-C619, if applicable, and a notification to the applicant and each person who has submitted written comments or requested notice of the final permit decision. The notice and hearing procedures are subject to either Title 41, Chapter 6, Article 10, or Title 49, Chapter 2, Article 7 of the A.R.S."

R18-9-C627(D); previously R18-9-C627(E) in proposed rule

- The language "...and pursuant to..." was changed to "...unless stayed pursuant to..." in order to more accurately align the section with potential stays through either the Office of Administrative Hearings or the Water Quality Appeals Board. See A.R.S. §§ 41-1092 et seq. and 49-321 et seq., respectively.

The proposed language read,

- (E) "The final permit decision shall take effect 30 days after its issuance in accordance with the notification requirements of subsection A of this Section and pursuant to Title 41, Chapter 6, Article 10, or Title 49, Chapter 2, Article 7."

The final language reads,

- (E) "The final permit decision shall take effect 30 days after its issuance in accordance with the notification requirements of subsection A of this Section unless stayed pursuant to Title 41, Chapter 6, Article 10, or Title 49, Chapter 2, Article 7 of the A.R.S."

R18-9-C631(B)

- The first three sentences were reworked for clarity, but do not adjust the language substantively.

The proposed language read,

- (B) "If the Director decides the request is not justified, they shall send the requestor a brief written response giving a reason for the decision. A termination shall be accompanied by a brief written response giving a reason for the decision, but does not require a notice of intent to deny. Denials of modifications (not including minor modifications) or revocation and reissuances do not require a notice of intent to deny unless a request is made by the permittee, and the scope of the request has not been proposed and denied before. A notice of intent to deny is a type of draft permit which shall follow the same procedures as any draft permit prepared pursuant to R18-9-C618."

The final language reads,

- (B) "If the Director decides a request to modify, revoke and reissue, or terminate is not justified, they shall send the requestor a brief written response giving a reason for the decision. Denial of a request to terminate does not require a notice of intent to deny. Denial of a request for modification or revocation and reissuance requires a notice of intent to deny only when the request is made by the permittee, the scope of the request has not previously been requested and denied and the request is not for a minor modification. A notice of intent to deny is a type of draft permit which shall follow the same procedures as any draft permit prepared pursuant to R18-9-C618."

R18-9-C631(D)

- The final word "reissued" was changed to "issued" in order to more accurately describe the action the agency would take in this situation.

R18-9-C631(F)

- The language "...R18-9-C634 where the permittee objects..." was changed to "...R18-9-C634(A)(1), (2) or (3)..." for two reasons; one, to distinguish between non-requested causes for termination and the requested cause in the subsections of R18-9-C634; and two, ADEQ has chosen to issue a notice of

intent to terminate whether the permittee objects or not.
Proposed rule R18-9-C631(G), removed in final rule

- The subsection was removed as the EPA-issued permit transition plan, upon primacy, does not involve the termination of permits.

R18-9-C632(A)

- In the proposed rule, R18-9-C632(A) included what is now in final rule, R18-9-C632(A), (B), (C) and (D). No substantive changes have been made to the remaining first sentence of R18-9-C632(A) in the final rule through the restructuring. However, the proposed rule language at R18-9-C632(A), "...[w]hen a permit is modified, only the conditions subject to modification are reopened..." and "...[i]f a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term..." has been removed from the final rule as it is redundant with final rule R18-9-C631(D).

R18-9-C632(B); part of proposed rule R18-9-C632(A)

- The final rule splits proposed rule R18-9-C632(A) into four subsections, R18-9-C632(A), (B), (C) and (D). In the final rule, Subsection B is the second sentence of proposed rule R18-9-C632(A). No substantive changes have been made to this language.

R18-9-C632(C); part of proposed rule R18-9-C632(A)

- The final rule splits proposed rule R18-9-C632(A) into four subsections, R18-9-C632(A), (B), (C) and (D). In the final rule, Subsection C is the fifth sentence of proposed rule R18-9-C632(A). No substantive changes have been made to this language.

R18-9-C632(D); part of proposed rule R18-9-C632(A)

- The final rule splits proposed rule R18-9-C632(A) into four subsections, R18-9-C632(A), (B), (C) and (D). In the final rule, Subsection D is the sixth and seventh sentences of proposed rule R18-9-C632(A). No substantive changes have been made to this language.

R18-9-C632(E)(3); previously R18-9-C632(B)(3) in proposed rule

- The language "...of new or amended standards..." was replaced with "...of new regulations..." in order to more accurately capture the breadth of rule promulgations that may be cause for revocation and reissuance or modification.

R18-9-C633(8)

- Replace "an" with "and".

R18-9-C635(16)(b)

- Replace "and" with "an".

R18-9-C635(17)(b)

- The first reference in the proposed rule to R18-9-B614 should be to R18-9-613. The first reference in the proposed rule to R18-9-B613 should be to R18-9-B614. Both inaccurate references have been updated for the final rule.

R18-9-C636(A)(1)

- The reference in the proposed rule to R18-9-B634 should be to R18-9-633. The inaccurate reference has been updated for the final rule.

R18-9-E640(A)

- The second sentence of subsection A and further subsections 1 through 3 of subsection A in the proposed rule were removed for two reasons; one, because subsections 1 through 3 are not siting requirements; and two, because the removed language is not appropriate for a rule concerning construction requirements. ADEQ believes the language in R18-9-A604(A), classification of wells, suffices.

R18-9-E642(B)(16)

- The language "...R18-9-D636..." was replaced with "...R18-9-D636(A)(6)..." in order to add the appropriate amount of specificity.

R18-9-I650(A)(4); not in proposed rule

- This subsection was added to accommodate a transferability function for UIC Class V wells authorized by rule.

R18-9-I650(B)

- The reference to "...subsection (B)..." was changed to "...subsection (B)(2)..." in order to add the appropriate amount of specificity.

R18-9-I650(B)(2)

- In order to clarify the language, “...if one of any one...” was changed to “...upon any...”
- R18-9-I650(B)(2)(b)
- The language “...pursuant to R18-9-I651...” was added in order to attain the appropriate amount of specificity.
- R18-9-I650(B)(3)
- The proposed language for R18-9-I650(B)(3) was replaced with, “[p]rior to abandoning a Class V well, the owner or operator shall meet the plugging requirements in R18-9-B614(C)...” because R18-9-I650(B)(3) and R18-9-B614(C) are substantively identical and the removal or redundancy is a goal of the rulemaking.
- R18-9-J657(B)(1)
- The language “...R18-9-C616(E)(1) through (6)...” was changed to “...R18-9-C616(E)(1) through (9)...” in order to accurately reference the rule.
- R18-9-J657(B)(21), not in proposed rule
- Added a new subsection here in order to comply with the agency requirements in the State Historic Preservation Act, specifically A.R.S. § 41-863.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

Comment 1: Drywell Owners – UIC Drywell Regulation

How will the UIC program rulemaking affect drywell regulation in Arizona? Will the existing registrations be rolled in the new UIC program? If rolled into the new UIC program, will the regulations look the same/similar as they are now for the Class V wells? Upon primacy, will drywell owners with registrations under A.R.S. § 49-332 need to inventory under the UIC program? Are Dry Wells included in a Class? If so, which Class are they included in? Under the UIC program, will drywells be assessed an annual fee or a one-time fee?

ADEQ Response 1:

ADEQ appreciates the comment. Currently, drywells in Arizona are regulated primarily through a statutorily-based program that can be found at A.R.S. Title 49, Chapter 2, Article 8. This program requires registration of new drywells. There are a few special circumstances where drywells are required to register and apply for an Aquifer Protection Permit (APP) (see A.A.C. Title 18, Chapter 9, Article 3, Part C. Type 2 General Permits – specifically R18-9-C301, C303 & C304).

In 2022, the Arizona State Legislature passed a bill (signed by the Governor) which repeals the state statutory drywell program. The repealed state statutory drywell program leaves drywell regulation in Arizona to the UIC program. The UIC program regulates drywells as part of its Class V wells. Upon primacy over the UIC program (projected for early 2023), ADEQ would take administrative control from EPA over the program and the drywell regulation therein. Until primacy, the Environmental Protection Agency (EPA) will continue to administer the UIC program in Arizona (including drywells which are encompassed in the Class V wells).

ADEQ is currently developing the UIC program and aims to transfer all state drywell registrations into the UIC program inventory in the process (free of charge). More information on this process will be made public as program development continues.

Class V regulations in the UIC program that are currently in effect and administered by EPA out of the Code of Federal Regulations (CFR) are nearly identical to the Class V regulation in this rulemaking. Similar to the regulation in A.R.S. Title 49, Chapter 2, Article 8, the Class V regulation wherein drywells apply requires an inventory of new wells. Class V regulation also requires drywells to adhere to the prohibition of movement standard in rule R18-9-B608(A). This rule prohibits any injection activity in a manner that allows the movement of fluid containing any contaminant into an underground source of drinking water. The Class V-specific regulation can be found at R18-9-I650 et seq.

Under the Arizona UIC program, drywells and Class V wells are charged a one-time fee, per inventory, of \$200. Class V wells, authorized by rule, will also be charged \$100 upon transfer of the well to a new owner.

Comment 2: Drywell Industry Member – UIC Drywell Regulation

Will this proposed regulation impact the existing required registration of the typical parking lot drywell with ADEQ?

ADEQ Response 2:

ADEQ appreciates the comment. If EPA grants ADEQ primary enforcement authority of the SDWA-UIC program and a person wanted to install a typical drywell draining a parking lot and comply with the prospective regulatory scheme for drywells in Arizona (projected for 2023), they would have to inventory the new drywell with ADEQ through the SDWA-UIC program (the old state dry well program would no longer exist). It should be noted that Arizona drywells are required to be inventoried under the SDWA-UIC program through the Federal EPA program before primacy. In the inventory process, it is possible that the drywell described in the question above would additionally be subject to the Aquifer Protection Permits (APP) if:

- the drywell drained an area where hazardous substances are used, stored, loaded or treated (see Arizona Administrative Code R18-9-C301), or if
- the drywell drained a motor fuel dispensing facility where motor fuels are used, stored or loaded (see Arizona Administrative Code R18-9-C304).

Please note that this potential, additional APP requirement exists now and will remain unaffected by the legislation referred to above.

Comment 3: Drywell Industry Member – UIC Drywell Regulation

As far as moving the UIC EPA program to Arizona, I am concerned that we will lose access to obtaining drywell lists that are important to conducting Phase I Environmental Site Assessments. How is ADEQ going to maintain the ADEQ database for Drywells?

ADEQ Response 3:

ADEQ appreciates the comment. Similar to the EPA Online Inventory Form, ADEQ plans to provide online inventorying and reporting for all Class V wells (including drywells) through myDEQ, which is designed to be an easy-to-use, online interface for stakeholders. The existing drywell registrations will be migrated to the myDEQ Class V inventory database. This means both past registrations and future inventories will be accessible to the public. ADEQ is currently developing the UIC program and will take this comment into consideration as development continues. More information on this process will be made public as program development continues.

Comment 4: Injection Well Industry Member – UIC Underground Storage Facility Regulation

We provide professional services to various entities that operate Underground Storage Facilities (USF) that recharge (inject by gravity) treated effluent or potable water into drinking water aquifers in the state. Unless these facilities recharge only CAP water they require an APP. Can you please clarify which USFs, if any, would also require a UIC Class V permit under the proposed ADEQ UIC regulation R18-9-A604(E)(f), or any other provision of the proposed rule?

ADEQ Response 4:

ADEQ appreciates the comment. USFs are considered Class V wells for the purposes of the UIC program (see proposed UIC rule R18-9-A604(E)(1)(f)). All USFs (including facilities that inject only CAP water) are required to inventory with the UIC program pursuant to R18-9-1652. Each individual well requires an inventory.

Comment 5: Local Government – Class V Septic Regulation

AAC R18-9-A604(E)(2)

Class V wells do not include: Single-family residential septic system wells or non-residential septic system wells used solely for the disposal of sanitary waste with the capacity to serve fewer than 20 persons a day or a design capacity of less than 3,000 gallons per day.

The proposed language in AAC R18-9-A604(E)(2) above can be interpreted to include all of the following to be within the scope of UIC Class V regulation:

- Any non-residential septic system that comingles industrial or commercial waste with their sanitary waste, regardless of volume.
- Any non-residential septic system receiving sanitary waste serving 20 or more people a day, regardless of volume.
 - This can include an office building for 20 or more employees (20 gpd x 20 employees = 400 gpd design flow).
 - This can include facilities open to the public. An example could be a convenience mart with 3 employees a day and a men's and a women's bathroom (20 gpd x 3 employees = 60 gpd; 200 gpd x 2 public toilets = 400 gpd; total design flow of 460 gpd).

- This can include theaters, strip malls, park restrooms, arenas, or other businesses discharging only sanitary waste.
 - Any non-residential septic system with design capacity 3,000 gpd or more.
- Because it states “single-family residential septic system wells or”, it can be assumed the passage after “non-residential septic system wells” applies to the first part as well. It would read “Class V wells do not include: Single-family residential septic system wells used solely for the disposal of sanitary waste with the capacity to serve fewer than 20 persons a day or a design capacity of less than 3,000 gallons per day”. If so, the following would also apply.
- Any single-family residence septic system with a design capacity of 3,000 gallons per day or more.
 - Any single-family residence septic system that commingles industrial or commercial waste with their sanitary waste, regardless of volume. This can occur with home businesses.
 - Any single-family residence septic system receiving sanitary waste serving 20 or more people a day, regardless of volume. This can occur with home businesses.

ADEQ Response 5:

ADEQ appreciates the comment and recognizes the issues illustrated above. In response, ADEQ has decided to amend A.A.C. R18-9-A604(E)(2). The new language is as follows,

Class V wells do not include single-family residential septic system wells or non-residential septic system wells used solely for the disposal of sanitary waste with a design capacity of less than 3,000 gallons per day.

Eliminating the first of the previously two standards should address the stakeholder’s concerns above. The language removed was “with the capacity to serve fewer than 20 persons a day.”

Taking the amended language above along with all of the classification language in proposed rule R18-9-A604, the following list of wells would be considered Class V wells:

- Non-residential septic systems receiving only sanitary waste with a design capacity of 3,000 gallons per day or more.
- Single-family residential septic systems with a design capacity of 3,000 gallons per day or more.

Taking the amended language above along with all of the classification language in proposed rule R18-9-A604, the following list of wells would not be considered Class V wells:

- Non-residential septic systems that commingle industrial or commercial waste with their sanitary waste.
- Single-family residential septic systems that commingle industrial or commercial waste with their sanitary waste.

Comment 6: Local Government – UIC / APP Septic Regulation Interface

AAC R18-9-A604(E)(2) does not directly correlate with the Aquifer Protection General Permits, Type 4.23. APP Type 4.23 General Permits include cumulative flows on a property. This means it could be one septic system or multiple septic systems on the property. Nowhere in the UIC proposed regulations does it suggest that one consider the flow for the entire site or multiple septic systems for application of the UIC regulations when considering design capacity of 3000 gpd or more. One could avoid this regulation by installing multiple smaller septic systems that serve only sanitary waste with design capacities of less than 3000 gpd for each one. This would allow for example six 2500 gpd septic systems to be placed on a property without classifying as a Class V Injection Well.

ADEQ Response 6:

ADEQ appreciates the comment. For the purpose of calculating design flow for an APP Type 4.23 General Permit, all septic systems on a property are counted cumulatively. Therefore, an RV Park with three 1,100 gallon per day septic systems (totaling 3,300 gallons per day in cumulative design flow) would require an APP Type 4.23 General Permit. However, the UIC program takes the opposite approach for the purpose of determining applicability to Class V regulation. Under the UIC program, each septic system’s design flow (even if on the same property) is viewed independently of the other. Therefore, due to AAC R18-9-A604(E)(2) requirement of 3,000 gallons per day or more for Class V applicability, each of the 1,100 gallon per day septic systems in the hypothetical above **would not** be applicable to the UIC program. Taking the regulation of both the APP and UIC programs together, the six 2500 gallon per day septic systems from the commenter’s example above would not be applicable to UIC Class V regulation (not counted cumulatively), but would be applicable to APP General Permit regulation (counted cumulatively). ADEQ drafted the rules here carefully in order to make sure any septic systems with design

flows below 3,000 gallons per day would be subject to the APP program and septic systems with design flows at or above 3,000 gallons per day would be subject to, at least, the UIC Class V regulation. However, it should be noted that onsite wastewater treatment facilities of a cumulative design flow of between 3,000 and 24,000 gallons per day are subject to an APP General Permit (see A.A.C. R18-9-E323). If the facility is singular and falls between 3,000 and 24,000 gallons per day in design flow, then the UIC Class V regulation would apply in addition to the APP regulation.

Comment 7: Local Government – Class V Septic Regulation

AAC R18-9-A604(E)(1)(i) - Class V wells include but are not limited to septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank.

This section suggests that regardless of flow volume or flow type (sanitary, commercial, or industrial), multiple family and business septic systems are Class V Injection Wells.

ADEQ Response 7:

ADEQ appreciates the comment. It should be noted that the proposed rules are based on the Federal analog. This is dictated by the fact that EPA requires ADEQ's rules to be at least as stringent as the Federal rule. Also, Arizona law dictates that the regulations be no more stringent than the corresponding Federal rule (see A.R.S. § 49-104(16)).

With that said, ADEQ understands UIC Class V regulation to include septic system wells used to inject effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank, regardless of flow volume. Flow volume is considered only for single-family residential septic system wells or non-residential septic system wells used solely for the disposal of sanitary waste with a design capacity of less than 3,000 gallons per day. In other words, R18-9-A604(E)(2) is carved out of the broader, R18-9-A604(E)(1)(i). For example, a non-residential small business building septic system would initially be applicable to UIC Class V regulation. However, the same septic system w/a design flow below 3,000 gallons per day would fall out of UIC Class V applicability under R18-9-A604(E)(2).

Comment 8: Local Government - UIC Class V / APP Regulation Interface

Concerning UIC Class V regulation at AAC R18-9-A604(E)(1), air conditioning return flows, storm wells, and some of the other identified inclusions may include APP Type 1 and Type 2 General Permits or other permits within the AAC.

ADEQ Response 8:

ADEQ appreciates the comment. Per A.R.S. § 49-250(B)(26), UIC Class V is the only UIC well class in which wells are additionally subject to the APP program. This statute preserves ADEQ's robust APP program while taking into consideration that UIC Class V regulation requires (almost always) only an inventory instead of a permit. However, it should be noted that under proposed UIC rule R18-9-I651, the Director has the authority to require a permit of a Class V well that was previously subject to an "authorization by rule". Even in this rare situation, the language proposed in R18-9-103(6) would exempt a Class V well which has been issued a UIC permit from APP applicability. The statute and rule language relevant to this question was designed to eliminate duplicative permitting.

Comment 9: Local Government – Cesspools

AAC R18-9-A604(E)(1)(b) - Class V wells include but are not limited to cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day.

Cesspools are prohibited by AAC R18-9-A309(A)(4).

ADEQ Response 9:

ADEQ appreciates the comment. The rule cited by the stakeholder above applies to the APP program, not the UIC program. However, proposed UIC rule R18-9-I654 likewise prohibits cesspools from the UIC program. The rule cited by the stakeholder above characterizes the wells. Therefore, UIC Class V regulation does apply to cesspools, amongst other injection wells. However, R18-9-I654 prohibits them nonetheless.

Comment 10: Local Government – Aquifer Storage Recharge Wells

We recommend allowing Class V wells authorized by rule to be exempt from requiring an individual APP if the source water injected into the aquifer is already regulated by an AZPDES/NPDES permit, or the SDWA. We feel it too burdensome on the utility to also obtain APP coverage for ASR wells when the source water being injected into the aquifer is already regulated by existing rules or regulations. This would

align with the UIC program exempting Class V wells having individual UIC permit coverage exempt from requiring an APP permit to avoid duplicative permitting.

The EPA UIC program allows Class V wells to be authorized by rule if both the owner or operator submits the well information and the well injection does not endanger a USDW. If being authorized by rule is indicative that the injectate will not endanger the USDW, we recommend the establishment of a regulatory avenue for owners and operators to further demonstrate that their injectate will not endanger the USDW and allow an exemption from the individual APP requirement. If the UIC program standards are based on the National Primary Drinking Water Standards like the State's APP program then in cases where the injectate is potable water then a process to submit for exemption would be preferred rather than having to obtain another permit.

ADEQ Response 10:

ADEQ appreciates the comment. ASR facilities are applicable to UIC, but exempt from APP under A.R.S. § 49-250(B)(12), (13), (14) or (24), unless the facility is using reclaimed water. Under the UIC program ASRs are considered Class V wells, which require an inventory to become authorized by rule. The AZPDES Program (per ARS 49-255.01) regulates discharges to surface water bodies under the Clean Water Act, which does not align with the requirements of the UIC Program (under the SDWA) or APP that explicitly regulates discharges to groundwater. Additionally, the surface water quality standards under the AZPDES Program at Title 18, Chapter 11 of the A.A.C. differ from the Aquifer Water Quality Standards which are used in the APP Program (see A.A.C. R18-11-406).

Comment 11: Resource Extraction Industry Member – Class VI Primacy Authority

Are legislative changes required in order to apply for Class VI primacy?

ADEQ Response 11:

ADEQ appreciates the comment. Legislative changes are not required. Arizona Revised Statute 49-203(A)(6) and 49-257.01 gives ADEQ authority to pursue all injection well classes under the UIC program, including Class VI.

Comment 12: Local Government – Applicable Standards

Will National Primary Drinking Water Regulations take priority over existing Aquifer Water Quality Standards, where they pertain to underground injection activities?

ADEQ Response 12:

ADEQ appreciates the comment. All UIC facilities must protect to the primary MCL's. The Aquifer Protection Program will continue to use the Aquifer Water Quality Standards.

Comment 13: Local Government – Underground Storage Facility / Central Arizona Project

Will an Underground Storage Facility (USF) permitted by ADWR, using water other than effluent, need an APP permit under the UIC program? Unless it is Central Arizona Project (CAP) water?

ADEQ Response 13:

ADEQ appreciates the comment. Generally, USF facilities are exempt from APP under A.R.S. § 49-250(B)(12), (13), (14) or (24), unless injecting reclaimed water. The proposed UIC rule at R18-9-A604(E)(1)(f) lists “[r]echarge wells used to replenish water in an aquifer...” as a part of the scope of UIC Class V authorized by rule regulation. This descriptor encompasses USF facilities. In plain terms, USF facilities are subject to UIC Class V regulation which requires an inventory under proposed rule R18-9-I652.

Specifically, USFs permitted by ADWR under A.R.S. title 45, chapter 3.1 and using water other than reclaimed water are exempt from APP under A.R.S. § 49-250(B)(12), but are applicable to UIC Class V authorization by rule regulation under proposed rule R18-9-A604(E)(1)(f). USFs permitted by ADWR under A.R.S. title 45, chapter 3.1, article 6 and using CAP water are exempt from APP under A.R.S. § 49-250(B)(13), but are applicable to UIC Class V authorization by rule regulation under proposed rule R18-9-A604(E)(1)(f).

ADEQ would be happy to meet with any potential applicants to ensure they comply with all applicable environmental programs.

Comment 14: Local Government – Aquifer Storage Recharge Wells

Are dry and Aquifer Storage Recharge (ASR) wells considered class V wells, authorized by rule, for the purposes of the UIC program? Do such wells need to get an individual permit under the UIC program?

ADEQ Response 14:

ADEQ appreciates the comment. Both drywells and ASR wells are subject to UIC Class V regulation, authorized by rule. Generally, ASR facilities are exempt from APP under A.R.S. § 49-250(B)(12), (13),

(14) or (24), unless injecting reclaimed water. ADEQ would be happy to meet with any potential applicants to ensure they comply with all applicable environmental programs.

Comment 15: Local Government

Our ASR wells have USF permits issued by ADWR. These will now require an individual APP under the UIC program, correct? So, these wells will have a USF permit, APP permit and UIC inventory required by rule?

ADEQ Response 15:

ADEQ appreciates the comment. ASR wells will not be required to apply for an individual APP under the UIC program. The APP and UIC programs are separate regulatory programs. Both currently (under the EPA administration) and upon primacy (prospective ADEQ administration), ASR wells in Arizona must:

- inventory under the UIC Class V program (authorized by rule), and
- have an Underground Storage Facility permit.

Also, ASRs may be applicable to APP, depending on whether the operation is exempt from APP under A.R.S. § 49-250(B)(12), (13), (14) or (24). For example, if an ASR well is injecting CAP water, then it is exempt from the APP program per ARS 49-250(B)(13) unless the storage water is blended with reclaimed water. Also of not, Class V wells (other than ASR and geothermal wells) are likely not subject to the APP program.

Comment 16: Law Firm – Tribal Lands

Does EPA retain authority to issue UIC permits on tribal lands?

ADEQ Response 16:

ADEQ appreciates the comment. Arizona's UIC primacy authority will not extend to tribal lands within the state. UIC authority on tribal lands resides with the tribal nation or community (if that tribal nation or community has primacy) or is retained by the EPA otherwise.

Comment 17: Law Firm – Definition of Permit

The federal UIC program's definition of "permit" specifically states that the term does not include Class V wells authorized by rule,

40 CFR 144.3

“Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of this part, parts 145, 146 and 124. ‘Permit’ includes an area permit (§ 144.33) and an emergency permit (§ 144.34). Permit does not include UIC authorization by rule (§ 144.21), or any permit which has not yet been the subject of final agency action, such as a ‘draft permit.’”

ADEQ's proposed definition does not include this language.

Is there a reason for that (i.e., does ADEQ intend any different interpretation of the term "permit")?

R18-9-A601(48)

“‘Permit’ means an authorization issued by the Director pursuant to this Article, including an area permit under R18-9-C624 and an emergency permit under R18-9-C625.”

ADEQ Response 17:

ADEQ appreciates the comment. A.R.S. § 49-201(32) provides the statutory definition for programs authorized within Title 49, Chapter 2 of the Arizona Revised Statutes, unless the context otherwise requires. Article 3.3 of Title 49, Chapter 2 contains the authority to establish a UIC permit program. Therefore, A.R.S. § 49-201(32) applies to the UIC program unless otherwise stated.

A.R.S. § 49-201(32)

“‘Permit’ means a written authorization issued by the director or prescribed by this chapter or in a rule adopted under this chapter stating the conditions and restrictions governing a discharge or governing the construction, operation or modification of a facility...”

A.A.C. R18-9-A601(48) was crafted to conform with A.R.S. § 49-201(32). ADEQ did not intend a different interpretation of the definition of permit for the purposes of the UIC program than that of the Federal analog at 40 CFR 144.3. In response to this comment, ADEQ has adjusted the language to better conform with 40 CFR 144.3 for the final rule.

R18-9-A601(48)

“‘Permit’ means an authorization issued by the Director pursuant to this Article. ‘Permit’ includes an area permit under R18-9-C624 and an emergency permit under R18-9-C625. ‘Permit’ does not include UIC authorization by rule or any permit which has not yet been subject to a final permit decision, such as a ‘draft permit.’”

Comment 18: Government Agency – Regulatory Differences

The following proposed regulations differ from the federal UIC regulations at 40 CFR Parts 124, 144, and 146:

- R18-9-A601.37 (Definitions)
- R18-9-A603.A (Confidentiality of Information)
- R19-9-C616 (Individual Permits; Application for Individual Permits)
- R18-9-C620.D (Public Notice of Permit Actions and Public Comment Period)
- R18-9-C622 (Public Hearing)
- R18-9-C631.B (Modification; Revocation and Reissuance; or Termination of Permits)
- R18-9-D635.17.b. (Conditions Applicable to All Permits)
- R18-9-D636.A.1 (Establishing Permit Conditions)

The entity suggests that ADEQ review the proposed regulations identified above and revise as necessary to ensure that the program is at least as stringent as the federal UIC program.

ADEQ Response 18:

ADEQ appreciates the comment.

R18-9-A601(37)

(Definitions)

Proposed rule R18-9-A601(37) is the definition of “hazardous waste”, in which language differs from the analogous federal definition at 40 CFR 261.3. Despite the difference in language, the proposed rule incorporates the Federal rule by reference in the following manner; R18-9-A601(37) incorporates A.R.S. § 49-921(5) by reference, which incorporates “...any waste identified as hazardous pursuant to section 49-922...” by reference, which incorporates A.A.C. R18-8-261(A) by reference, which incorporates “[a]ll of 40 CFR 261...” by reference. Therefore, despite the difference in language between R18-9-A601(37) and 40 CFR 261.3, the proposed rule is exactly as stringent as its federal analog due to its incorporation by reference.

R18-9-A603(A)

(Confidentiality of Information)

40 CFR 145.11(a) lists the required permitting language a state program must have legal authority to implement in their rule in order for EPA to consider their application for primacy. 40 CFR 145.11(a)(1) requires the Federal language from 40 CFR 144.5(b), but not subsection (a), to be used in a state rule concerning confidential information. Arizona UIC proposed rule, R18-9-A603(B) contains language identical to 40 CFR 144.5(b) while deliberately missing language from 40 CFR 144.5(a). Therefore, even though the language in R18-9-A603(A) differs from 40 CFR 144.5, the fact that the language from 40 CFR 144.5(b) is included in R18-9-A603(B) suffices. Also, R18-9-A603(A) is crafted to meet the state confidentiality requirements in A.R.S. § 49-205.

R18-9-C616

(Individual Permits; Application for Individual Permits)

40 CFR 144.31(d) is the federal rule for application for a permit or authorization by permit. Subsection (d) of 40 CFR 144.31 is entitled “completeness”. This subsection is not included in the proposed Arizona UIC rule analog at R18-9-C616 because application completeness is prescribed elsewhere in the Arizona Administrative Code. Due to the requirements in statute for Arizona agencies who issue licenses to develop licensing time frames (LTF), ADEQ already has an application completeness review rule that would be applicable to the UIC program upon primacy in place (see A.A.C. R18-1-503(A)). 40 CFR 144.31(d) was not included in the proposed UIC rule for this purpose.

R18-9-C620(D)

(Public Notice of Permit Actions and Public Comment Period)

40 CFR 124.10(c)(1) is the federal rule for recipients of a public notice. Arizona’s UIC rule analog at R18-9-C620(D) does not use the federal rule language verbatim. However, 40 CFR 124.10(c)(1)(viii) & (x) are covered under R18-9-C620(D)(1)(b). Also, 40 CFR 124.10(c)(1)(ix)(B) & (C) are covered under the new R18-9-C620(D)(1) list item, C620(D)(1)(e). R18-9-C620(D)(1)(e) was added to meet stringency between the proposed rule submitted and the final rule.

R18-9-C622

(Public Hearing)

40 CFR 124.12 is the federal rule for public hearings. Arizona's proposed UIC rule analog at R18-9-C622 did not use the federal rule language verbatim. A subsection (E) has been added in order to meet stringency requirements for 40 CFR 124.12(d).

R18-9-C631(B)

(Modification; Revocation and Reissuance; or Termination of Permits)

40 CFR 124.5 is the federal rule for modification, revocation and reissuance, or termination of permits. Arizona's proposed UIC rule analog at R18-9-C631 does not use the federal rule language verbatim. The language in R18-9-C631(B) was designed to accommodate a stakeholder's request to be issued a notice of intent to deny when the Director denies a request for a modification or revocation and reissuance. While this language is not mirrored in the federal analog, its inclusion in the proposed UIC rule does not make the rule more or less stringent. The language creates a reasonable right for an applicant whose request for a modification or revocation and reissuance has been denied by the Director.

R18-9-D635(17)(b)

(Conditions Applicable to All Permits)

A stakeholder made ADEQ aware of a pair of incorrect references in R18-9-D635(17)(b). Specifically, in the first sentence, the reference to R18-9-B614 should have been to R18-9-B613. In the third sentence, the reference to R18-9-B613 should have been R18-9-B614. Both corrections have been made in the final rule and are otherwise the same as the analogous Federal rule.

R18-9-D636(A)(1)

(Establishing Permit Conditions)

A stakeholder made ADEQ aware of an incorrect reference in R18-9-D636(A)(1). Specifically, in the fifth sentence, the reference to R18-9-B634 should have been to R18-9-B633. The correction has been made in the final rule and are otherwise the same as the analogous Federal rule.

Comment 19: Interest Group

We understand that ADEQ intends to adopt administration of the USEPA's UIC program. Because this is a State implementation of a Federal program, the State's implementation requires compliance with Federal laws and regulations, including consideration of the effects on historic properties afforded under Section 106 of the National Historic Preservation Act as implemented in 36 C.F.R. Part 800. Compliance with the State's equivalent statute, the Arizona State Historic Preservation Act (A.R.S. 41-861 to 865) would be a reasonable implementation of the intent of Federal law and regulation.

We applaud ADEQ for including the provision of notification of permit actions to the Arizona State Historic Preservation Officer (SHPO) (R18-9-C620.D.1.c), which adequately complies with A.R.S. 41-864 (Review of agency plans), however the proposed rulemaking is not consistent with A.R.S. 41-862 and A.R.S. 41-863, which also would require ADEQ to locate and inventory historic properties affected by agency actions and initiate measures to ensure that historic properties are avoided or mitigated prior to being affected by the state action. We request that the proposed rules be amended to require the permittee to retain a cultural resources (archaeological) consultant to inventory the proposed permit area and submit a report of findings to the SHPO, and that the SHPO be afforded an opportunity to review and respond prior to ADEQ approval of the permit.

ADEQ Response 19:

ADEQ appreciates the comment. ADEQ is required by statute at A.R.S. §§ 49-203(A)(6) and 49-257.01 to adopt, by rule, the Safe Drinking Water Act's Underground Injection Control permit program. The process of transferring administrative authority from EPA to a state is known as primary enforcement authority or primacy. Despite the fact that, upon primacy, ADEQ would administer a program that has its origin in Federal law, ADEQ's permitting actions in administering the UIC program thereafter would not be considered a "federal action". Many Federal laws and regulations are applicable only when a "federal action" is taken, as is the case with Section 106 of the National Historic Preservation Act as implemented in 36 C.F.R. Part 800 (see 40 CFR 800.1(a)).

Concerning the State Historic Preservation Act, A.R.S. § 41-863 requires each state agency to,

"...initiate measures, in consultation with the state historic preservation officer, to assure that if, as a result of state action or assistance given by the agency, historic property is to be substantially altered or demolished, timely steps are taken to make appropriate documentary recordation in accordance with standards which the state historic preservation officer establishes..."

The notice provided to SHPO at R18-9-C620(D)(1)(c) fulfills the obligation to “initiate measures” in A.R.S. § 41-863. Providing such a notice allows SHPO to review a draft permit and determine whether the proposed state action would substantially alter or demolish historic property. If the proposed state action is determined to be an issue, SHPO and ADEQ would consult and develop the appropriate steps necessary to comply with the documentary recordation requirement.

In addition, ADEQ has added a required application component at R18-9-C616(D)(9) and R18-9-J657(B)(21) that reads as follows,

R18-9-C616(D)(9)

“All applicants ... shall provide the following information to the Director, using the application form provided by the Director ... [a] listing of any historic property or potential historic property as defined by R12-8-301.”

R18-9-J657(B)(21)

“Prior to the issuance of a permit for the construction of a new Class VI well ... the Director shall consider the following ... [a] listing of any historic property or potential historic property as defined by R12-8-301.”

ADEQ will consult with SHPO if historic property is identified by the applicant or by SHPO.

Comment 20: Tribal Interest Group

ADEQ must engage in direct government-to-government Tribal consultation with all Arizona Tribes since the proposed UIC program will likely have different and specific impacts on the treaty rights, water resources and traditional, religious, and cultural practices of each tribal nation or community depending on their unique circumstances.

ADEQ Response 20:

ADEQ appreciates the comment. The Agency agrees and is willing to engage in Tribal consultation as requested by each Tribal Nation or Community. ADEQ’s Tribal Consultation Policy outlines the actions that the Agency will take to engage with Tribal Nations and commits to collaborating with each Tribe to develop a consultation procedure that will meet its unique needs:

<http://www.azdeq.gov/substantivepolicy?page=0%2C0>

When ADEQ began pursuing primacy, the agency notified all 22 federally recognized Tribal Nations or Communities about our efforts, offering Tribal consultation. ADEQ held three tribal listening sessions to discuss the UIC program and the agency’s primacy efforts on May 10, 14 and 16th of 2019. The agency also informed at least 7 Tribal leaders about the UIC primacy efforts during other in-person Tribal consultations. Since then, ADEQ has responded to a number of inquiries from Arizona tribes concerning primacy of the UIC program, including the Ak-Chin Indian Community, San Carlos Apache Tribe and the Yavapai-Prescott Indian Tribe, among others.

ADEQ’s proposed rule at R18-9-C620(D)(1)(b) requires the Department to provide public notice to any affected tribal agency or council of government when a draft permit has been prepared or when a hearing has been scheduled. As ADEQ understands ancestral lands to be widespread throughout Arizona, ADEQ plans to implement R18-9-C620(D)(1)(b) by sending each public notice out to all 22 Federally-recognized Tribal Nations or Communities.

ADEQ has also developed a “Permits in Process” (PIP) online web page where the public can view water quality permit applications and their status in application review and permit development in real time. ADEQ anticipates adding the UIC program to the PIP web page.

Lastly, when EPA authorizes ADEQ’s Underground Injection Control program, the program will not apply on tribal land. ADEQ’s UIC program would apply only on lands under the jurisdiction of the State of Arizona.

Comment 21: Tribal Interest Group

The proposed UIC program rules lack needed requirements for engagement and coordination with tribes, the State Historic Preservation Office, and wildlife managers. R18-9-C620(A), R18-9-C620(D)(1)(b) & R18-9-C620(D)(1)(c) represent the extent of relevant notice requirements.

ADEQ Response 21:

ADEQ appreciates the comment. Please see response 20 for reference.

Comment 22: Tribal Interest Group

Waiting until after ADEQ and an applicant have fully negotiated the terms of a UIC permit – which is a process that can take some time – to provide notice to affected Tribes, the SHPO, jurisdictions, and affected wildlife managers deprives ADEQ of real time information that might be in the possession of Tribes, SHPO, jurisdictions, and wildlife managers regarding (1) existing conditions that might be relevant to

ADEQ's consideration of the application and its development of the draft permit; (2) potential adverse impacts that the issuance of a UIC permit might have on cultural resources, the affected environment, wildlife, and the water resources. Certainly, relevant information known to Tribes, the SHPO, local jurisdictions, and wildlife managers should be considered before the draft UIC permit is negotiated and drafted, not after.

ADEQ Response 22:

ADEQ appreciates the comment. Please see response 20 for reference.

Comment 23: Tribal Interest Group

The proposed rules are completely silent as to how ADEQ intends to determine which Tribal governments are or will be "affected" by the issuance of the proposed UIC permit.

ADEQ Response 23:

ADEQ appreciates the comment and understands ancestral lands to be widespread throughout Arizona. With that in mind, ADEQ plans to implement R18-9-C620(D)(1)(b) by sending each public notice out to all 22 Federally-recognized Tribal Nations or Communities.

Comment 24: Tribal Interest Group

An appropriate Tribal Consultation Policy would be the first step towards setting forth a clear standard for how ADEQ might work with Tribes to identify geographic and other areas of interest in Arizona, where the issuance of permits, like a UIC permit, could correspondingly "affect" the interests of a Tribe. Such a policy could also assist ADEQ in its engagement efforts with the SHPO.

ADEQ Response 24:

ADEQ appreciates the comment. Please see responses 20 and 44 for reference.

Comment 25: Tribal Interest Group

Requiring that Tribal notice take place only after both events at R18-9-C620(A) have occurred – and the proverbial "what's done has been done" – and not before, simply treats affected tribal governments like other interested members of the public and ignores the sovereign nature of Tribes and the government-to-government relationship between Arizona's 22 federally recognized Tribes and ADEQ as an agency of the State of Arizona. This is inappropriate.

ADEQ Response 25:

ADEQ appreciates the comment. Please see responses 20 and 44 for reference.

Comment 26: Tribal Interest Group

SHPO is only mentioned at one point in the proposed rulemaking, that is, in the requirement for "public notice" found in R18-9-C620(D)(1)(c). Indeed, ADEQ has no obligation under the proposed rule to coordinate with the SHPO at any point during its application and permit review process to ensure that the UIC permit will comply with Arizona's historic preservation laws. This is in stark contrast to ADEQ's UIC Program Outline, which boldly promises that the SHPO "would be involved in reviewing applications that indicate a threat to historic or archaeological sites." At minimum, this promise should be reflected in the final rulemaking.

ADEQ Response 26:

ADEQ appreciates the comment. Please see responses 19 & 20 above for reference.

Comment 27: Tribal Interest Group

The transfer of UIC Primacy to the State of Arizona could sever the federal nexus for numerous environmental and cultural resource laws that Arizona Tribes rely upon to ensure that Tribal interests and concerns are considered, and Tribal resources are protected. EPA Primacy can sever the United States' trust responsibility to Indian tribes, limit the application of Executive Order No. 13175 and related consultation authorities, remove important requirements under Section 106 of the National Historic Preservation Act (NHPA) – including with regard to the resolution of adverse effects, and limit or cut off obligations under the National Environmental Policy Act (NEPA), and the Endangered Species Act (ESA). This is a matter of particular concern in Arizona, since the state of Arizona does not have any laws (or state programs) that are remotely comparable to Section 106 of the NHPA, NEPA or ESA. Even Arizona's existing historic preservation laws are limited at best, since they do not include an adequate review process, do not require the resolution of adverse effects, and do not provide the SHPO with authority comparable to the authority of the Advisory Council on Historic Preservation.

ADEQ Response 27:

ADEQ appreciates the comment. NEPA, ESA, NHPA, and the other federal statutes impose procedural requirements on actions taken by federal agencies. The procedural requirements do not apply to state actions if there is no federal involvement (such as federal funding). Substantive requirements of the ESA

still apply, including the requirements of permittees (i.e. Section 9 of the ESA prohibits take of threatened and endangered species; the prohibition is not limited to federal agencies). Generally, please see responses 19 and 20 above for reference.

Concerning NEPA, 40 C.F.R. § 124.9(b)(6) provides in pertinent part that,

“all RCRA, UIC and PSD permits are not subject to the environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321.”

This regulation was adopted in response to case law holding that the UIC permitting process is functionally equivalent to NEPA’s environmental impact statement requirements.

Comment 28: Tribal Interest Group

Regarding ESA compliance, the ADEQ UIC Program Outline also asserts that “State UIC permittees would have to comply with the ESA” and that “the Arizona UIC program has developed procedures in its permit process to adhere to the duties required in this law.” UIC Program Outline at 7. This promise is also not reflected in the proposed rulemaking.

ADEQ Response 28:

ADEQ appreciates the comment. Please see response 27 for reference.

Comment 29: Tribal Interest Group

The proposed Licensing Time Frame rules do not explain what is meant by “significantly complicated” versus “not significantly complicated” or how this determination was reached.

ADEQ Response 29:

ADEQ appreciates the comment. The UIC program regulates six classes of injection wells which are based on the characteristics of the fluids injected and the placement of the injectate in relation to Underground Sources of Drinking Water (USDW). Well construction, injection depth, design requirements, and operating techniques vary among well classes. Some wells are used to inject fluids into formations below USDWs, while others involve injection into or above USDWs. The proposed rules set out specific permitting and performance standards for each class of wells. In determining the licensing time frames for the prospective UIC applications, these factors were considered.

ADEQ categorized the prospective UIC applications by class into two categories, “significantly complicated” and “not significantly complicated”. Area, Class I, and Class VI wells are categorized as “significantly complicated”, while Class II, Class III, and Class Vs were determined to be “not significantly complicated”. The following facts were relied upon in distinguishing “significantly complicated” prospective UIC applications from the “not significantly complicated”:

1. Area Permits
 - a. Comprised of multiple injection wells.
 - b. Increased aquifer stresses induced by multiple injection wells.
 - c. Larger Area of Review and zone of endangering influence due to the induced aquifer stress.
 - d. Delineation of the Area of Review would likely require numerical groundwater modeling.
 - e. Area Class III solution mining wells require hydraulic capture of lixiviant and pregnant leachate solution to prevent migration into USDWs.
 - f. Monitoring networks are often a function of the Area of Review and complexity of the hydrogeology.
 - g. Class III Area Permits may require an Aquifer Exemption and subsequent aquifer restoration for closure. This closure strategy will require sophisticated geochemical modeling and long-term closure and post closure monitoring.
2. Class I wells are typically deep wells that inject waste into formations below a USDW.
 - . Class I wells allow injection far below the lowermost USDW (injection zones typically range from 1,700 to more than 10,000 feet in depth).
 - a. The well design for injection is complex due to the depth of the injection, high injection pressures, and often complex geochemical reactions associated with the injectate and formation water.
 - b. In Arizona, Class I wells are authorized to inject non-hazardous industrial waste, municipal wastewater, and radioactive waste. Hazardous waste injection is prohibited in Arizona.
 - c. A Class I well requires a multilayered well design to prevent fluids from entering USDWs.

- d. Operation, monitoring, and testing is critical for ensuring that injected wastewater is fully confined. These functions become more complex at greater well depths.
 - e. Seismic hazards must be thoroughly evaluated due to the deeper injection zone.
3. Class VI wells are used to sequester carbon in deep geologic formations.
- . Although CO₂ is initially captured as a gas, it is compressed into a supercritical fluid (a relatively dense fluid intermediate to a gas and a liquid) before injection and remains in that state due to high pressures in the underground formation.
 - a. The CO₂ is injected through specially designed wells into geologic formations, typically a half a mile or more below the Earth's surface.
 - b. CO₂ can be physically trapped in the pore space, trapped through a chemical reaction of the CO₂ with rock and water, dissolved into the existing fluid within the formation, or absorbed onto organic material or go through other chemical transformations. Geologic sequestration may take place over hundreds of years after injection, ultimately resulting in permanent storage of the CO₂.
 - c. The well design for injection is complex due to the depth of injection, high injection pressures, and often complex geochemical reactions associated with the injectate and formation water.
 - d. Mechanical integrity testing must be performed routinely to verify long-term well stability and operations.
 - e. Complex reservoir modeling must be conducted to determine the long-term storage capacity of a given geologic formation.
 - f. Groundwater monitoring can also be complex due to the longevity of the sequestration operations and area of influence of the injectate.

Comment 30: Tribal Interest Group

Arizona law requires strict compliance with LTFs and issues penalties for exceedances. Additionally, EPA's current guidance (see EPA's informational webpage on Class V wells; see also 40 C.F.R. § 146.5(e); see also 40 C.F.R. 144.81) notes that by regulation, Class V wells can actually be complex under certain circumstances. This should be reflected in ADEQ's UIC Program as well.

ADEQ Response 30:

ADEQ appreciates the comment. Arizona law requires state agencies that issue licenses to comply with licensing time frames (LTFs) (see A.R.S. § 41-1072 et seq.). While there may be complex Class V permits, ADEQ does not feel the additional time that comes with the "complex" category is needed.

Comment 31: Tribal Interest Group

The proposed rules fail to describe the criteria for determining which permit applications would and would not warrant a public hearing for any UIC permit. This is a critical component of the program for stakeholders, permit holders, and the public to understand. This is separate from the provision allowing for the public to request a hearing at a later date, if there is "a significant degree of public interest" (see R18-9-C622).

ADEQ Response 31:

ADEQ appreciates the comment. UIC proposed rule R18-9-C622 provides the requirements of a UIC program public hearing. R18-9-C622 closely follows the federal UIC program rule at 40 CFR 124.12. Subsections A and B of R18-9-C622 require the Director to hold a public hearing whenever they find, on the basis of a request, a significant degree of public interest in a draft permit(s). Furthermore, the rule allows the Director to hold a public hearing at their discretion such as when a hearing might clarify one or more issues involved in the permit decision.

Subsection A gives the Director discretion as to when a significant degree of public interest exists based on a public hearing request. ADEQ does not believe further criteria in determining whether a public hearing is necessary or not is needed.

Comment 32: Tribal Interest Group

ADEQ has stated that it intends for the UIC Program to be almost entirely funded through collected permit fees. For many years, ADEQ has suffered from deficient state funding. ADEQ should not be pursuing UIC Program primacy without asking for sufficient funding from the Arizona Legislature. This is critical, as sufficient funding and adequate ADEQ workforce expertise must be present for ADEQ to fulfill its obligations under this Program, as well as its obligations to Arizona tribes.

ADEQ Response 32:

ADEQ appreciates the comment. The Arizona UIC program is proposed to operate on a fee-for-service model that derives funding from diverse sources of revenue, which includes fixed annual fees, well installation fees, an hourly fee for application and technical review, and an annual work grant from EPA. The Annual Fees (listed in the UIC Licensing Time Frame proposed rules at Tables 3.1 and 3.2, R18-14-104) and the UIC Flat Fees (listed in proposed rule R18-14-111) were determined by considering the necessary revenue needed to support the administration of the program.

Projected revenue will be augmented by an increase in the hourly rate for a UIC water quality protection service associated with a UIC permit, which has been set at \$145 an hour in proposed rule R18-14-102(B). Furthermore, ADEQ has proposed in the Fee rulemaking the periodic review of the revenues collected from the UIC program every three years (see proposed rule R18-14-115). The reviews will ensure that enough revenue is being collected to properly administer the program. The reviews will also ensure that the fees are equitable and not overly burdensome to the stakeholders.

Comment 33: Tribal Interest Group

The rulemakings analysis of economic, small business, and consumer impacts (p.18) focuses heavily on alleviating financial burdens to stakeholders. While this may be an important aspect of an ADEQ UIC Program, ADEQ must also consider its obligations to protect the public health and the environment, and the economic costs of failing to do so, which can be catastrophic.

ADEQ Response 33:

ADEQ appreciates the comment. While alleviating financial burdens to stakeholders is an important attribute of primacy over the UIC program, ADEQ's mission to protect human health and the environment remains priority number one. The UIC program is a robust regulatory program that compliments Arizona's Aquifer Protection Permit program in its focus on injection wells.

Comment 34: Tribal Interest Group - Class V Wells / APP

Through the UIC Program, ADEQ proposes to regulate several types of injection wells across the state of Arizona (Class I through Class VI). Of these, ADEQ notes there are reportedly "many tens of thousands" of Class V injections in Arizona (a closer approximation was not provided). The rulemaking acknowledges further that most of these Class V wells "are used to dispose of wastes into or above" underground sources of drinking water. Indeed, ADEQ acknowledges that "[m]any" of these Class V wells require an Aquifer Protection Permit (APP). However, ADEQ intends to no longer require APP permits if a UIC permit has been issued.

ADEQ Response 34:

ADEQ appreciates the comment. A.R.S. § 49-250(B)(26) exempts all injection wells from the APP program if the facility has been issued an UIC permit. UIC Class V wells are not issued permits under normal circumstances. Such wells are "authorized by rule" under R18-9-I650 et seq. This means that a Class V well will not be exempt from the Aquifer Protection Program. Class V wells "authorized by rule" must inventory under R18-9-I652 and follow a set of criteria to become and remain authorized. These Class V wells are also subject to the APP program, if the well type is applicable. For example, APP regulates specific drywells that are special or pose a significant threat to groundwater (draining hazardous substance loading areas, tracer studies and draining a motor fueling area) (see R18-9-C301, R18-9-C303 and R18-9-C304). These drywells would also require authorization by rule under UIC.

Comment 35: Tribal Interest Group - APP vs. UIC

The UIC Program requires injected fluids to stay within a well or injection zone, and prohibits injection activity "that allows" movement of fluid containing any contaminant into an underground source of drinking water, if it may cause a violation (see proposed R18-9-B608). A complex formula is then proposed with certain assumptions for computing a zone of endangering influence (see proposed R18-9-B612). However, Arizona's APP program goes further than this and provides an additional layer of coverage over underground water resources by addressing discharge more broadly (defined at A.R.S. § 49-201(12) as "the direct or indirect addition of any pollutant to the waters of the state from a facility. For purposes of the aquifer protection permit program prescribed by article 3 of this chapter, discharge means the addition of a pollutant from a facility either directly to an aquifer or to the land surface or the vadose zone in such a manner that there is a reasonable probability that the pollutant will reach an aquifer." The UIC Program, as proposed, does not appear to contemplate the possibility of indirect contamination, or require consideration of the reasonable probability that a pollutant will reach an aquifer. Removal of the APP requirement from UIC activities without incorporating the protections provided by APP into the program does not remove duplicate regulations, as ADEQ suggests. Given the high number of Class V wells already located across Arizona that would be affected by this rule change, it reduces protections to

Arizona's precious underground waters and has the potential to impact Tribal water sources and harm the cultural resources and ancestral lands of Arizona tribes.

ADEQ Response 35:

ADEQ appreciates the comment. ADEQ's efforts to obtain primacy over the UIC program does not include revising the UIC program. ADEQ's statutory authority is to obtain primacy without being more stringent than the federal program. Therefore, concerns about the UIC program considering indirect contamination are not applicable to obtaining primacy over the UIC program. ADEQ notes that many activities and facilities currently regulated by APP will continue to be regulated upon UIC primacy as those activities and facilities will not be regulated under the UIC program. For example, a facility that requires a UIC permit for Class III injection wells, may also require an APP permit for impoundments or other discharging facilities.

In 2021, the Arizona Legislature passed A.R.S. § 49-250(B)(26) which exempts certain UIC wells from APP regulation. The language specifically leaves UIC Class V wells out of the exemption from APP (meaning UIC Class V wells are still applicable to regulation under APP).

Comment 36: Tribal Interest Group - Waiver of Permit Conditions

We are concerned with the wide latitude vested in the ADEQ Director to issue a UIC Permit with less stringent requirements to the extent the Director finds that a "reduction in requirements will not result in an increased risk of movement of fluids" into a USDW. While there may be instances where a waiver of this type might be appropriate, the proposed rulemaking should carefully and specifically outline criteria for the Director to apply when deciding to exercise this authority under the Program. It should not be a broad exemption over all other permit program requirements where a permittee may seek and easily obtain reduced requirements of many critical aspects such as "area of review, construction, mechanical integrity, operation, monitoring, and reporting." (see proposed R18-9-B610)

ADEQ Response 36:

ADEQ appreciates the comment. The Arizona legislature mandated pursuit of the SDWA-UIC program through the passage of the following statutes, A.R.S. §§ 49-203(A)(6) and 49-257.01. In order to achieve primacy, one requirement of a state is to put rules in place for the program to operate through (see 40 Code of Federal Regulations 145.22(a)(5)). These rules must be at least as stringent as the Federal UIC program rules in the SDWA in order for EPA to consider a state's primacy application. The rules must also be no more stringent than the analogous Federal rule, per Arizona state law (see A.R.S. § 49-104(16)). In the case of proposed rule R18-9-B608, ADEQ has used the analogous Federal language at 40 CFR 144.12, verbatim. ADEQ has no ability to develop further criteria for this rule and stay within the parameters of state and Federal law.

Comment 37: Tribal Interest Group - Groundwater Modeling

UIC Permits should not be considered in a vacuum. If insufficient or no information exists about the underground nature of the area, the UIC Program rulemaking may specify circumstances under which a groundwater model would be required. This is not contemplated for any class of well.

ADEQ Response 37:

ADEQ appreciates the comment. Proposed rule R18-9-B612 specifies the methods and, if appropriate, the calculations used to determine the area of review (AOR). This determination includes:

1. The zone of endangering influence based on physical measurements;
2. The zone of endangering influence computation based on the modified Theis equation (analytical groundwater model);
3. A fixed radius not less than 1/4 mile, from the injection well for an individual well permit or for an area permit; or
4. A mathematical (groundwater) model.

* Annotation in parenthesis above added for clarification.

Comment 38: Tribal Interest Group - Area of Review

Restricting review to the "applicable area of review" (see R18-9-B612) may be self-limiting. Impacts to features and aquifers beyond this area may not be detected, because they have already been omitted from review.

ADEQ Response 38:

ADEQ appreciates the comment. The Arizona legislature mandated pursuit of the SDWA-UIC program through the passage of the following statutes, A.R.S. §§ 49-203(A)(6) and 49-257.01. In order to achieve primacy, one requirement of a state is to put rules in place for the program to operate through (see 40 Code of Federal Regulations 145.22(a)(5)). These rules must be at least as stringent as the Federal UIC program

rules in the SDWA in order for EPA to consider a state's primacy application. The rules must also be no more stringent than the analogous Federal rule, per Arizona state law (see A.R.S. § 49-104(16)). In the case of proposed rule R18-9-B612, ADEQ chose to use the analogous Federal language at 40 CFR 144.16, verbatim.

Comment 39: Law Firm - Prohibition on Movement

Change the first phrase in Arizona UIC Proposed Rule R18-9-B608(A) from:

"No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into USDWs..."

-- to --

"No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows or causes the movement of fluid containing any contaminant into USDWs..."

For the following reasons:

1. Account for the possibility that fluids introduced by the injection activity will cause a migration of contaminant-containing fluid already present in the groundwater in the vicinity of the injection activity as a result of previous injection activities or other causes;
2. Correlate to the Arizona statutes that require the Arizona Department of Water Resources ("ADWR") to rely on ADEQ for determinations of whether ADWR's grant of a permit would cause or exacerbate migration of contaminated groundwater, see, e.g., A.R.S. § 45-811.01(C)(5); and
3. On its face, not make the rule more stringent than the federal UIC rules (alternatively, the modification suggested above would not be inappropriate under A.R.S. §§ 41-1052(D)(9) and 49-104(A)(16), given the operation of A.R.S. § 45-811.01(C)(5)).

ADEQ Response 39:

ADEQ appreciates the comment. The Arizona legislature mandated pursuit of the SDWA-UIC program through the passage of the following statutes, A.R.S. §§ 49-203(A)(6) and 49-257.01. In order to achieve primacy, one requirement of a state is to put rules in place for the program to operate through (see 40 Code of Federal Regulations 145.22(a)(5)). These rules must be at least as stringent as the Federal UIC program rules in the SDWA in order for EPA to consider a state's primacy application. The rules must also be no more stringent than the analogous Federal rule, per Arizona state law (see A.R.S. § 49-104(16)). In the case of proposed rule R18-9-B608, ADEQ chose to use the analogous Federal language at 40 CFR 144.12, verbatim. ADEQ has no ability to revise the rule and stay within the parameters of state and Federal law.

Comment 40: Law Firm - Duplicative Regulation

The aquifer protection permit class exemption for UIC Class V wells with an individual UIC permit (proposed A.A.C. R18-9-103(6)) makes sense and should be retained. Requiring both an individual APP and individual UIC permit for a Class V well would be unnecessary and largely duplicative. Arguably, this exemption duplicates the statutory exemption found at A.R.S. § 49-250(B)(26), but the language of that exemption is less clear than it might be, so including the proposed new class exemption in the APP rules serves to clarify any uncertainty. It also is consistent with the mandate in A.R.S. § 49-203(D) to eliminate duplication and dual permitting to the maximum extent practicable.

ADEQ Response 40:

ADEQ appreciates the comment and agrees with the stakeholder's statement.

Comment 41: Law Firm - Tribal Lands

ADEQ clarified at the public hearing that the state UIC program will not apply on tribal lands, and that EPA would still issue UIC permits for injection wells located on those lands. It may be prudent to specify that in the rule. As it stands, proposed A.A.C. R18-9-A602(C) states that injection in the state of Arizona is prohibited unless authorized by ADEQ (or OGCC, if it adopts an approved program), which suggests that only ADEQ or OGC can issue UIC permits in the state.

ADEQ Response 41:

ADEQ appreciates the comment and has addressed the issue accordingly.

The proposed rule at A.A.C. R18-9-A602(C) is as follows,

Underground injection is prohibited in the State of Arizona unless authorized by permit or rule under this Article or authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq. Any injection activity authorized by permit or rule under this Article shall prohibit the movement of fluid containing any contaminant into underground

sources of drinking water (USDWs), where the presence of that contaminant may cause a violation of this Article or may adversely affect the health of persons.

In this proposed final rulemaking, ADEQ has amended the language in A.A.C. R18-9-A602(C) and (D) as follows,

(C) Underground injection is prohibited in lands under the jurisdiction of the State of Arizona unless:

- 1. Authorized by permit or rule under this Article in accordance with 42 U.S.C. 300h et seq.,*
- 2. Authorized by OGCC pursuant to regulations approved by EPA.*

(D) Any injection activity authorized by permit or rule under this Article shall prohibit the movement of fluid containing any contaminant into underground sources of drinking water (USDWs), where the presence of that contaminant may cause a violation of this Article or may adversely affect the health of persons.

The restructuring of A.A.C. R18-9-A602(C) and (D) above distinguishes between lands under the jurisdiction of the State of Arizona and lands that are not (I.E. - Tribal Land).

Due to the restructuring of R18-9-A602(C), what was proposed to be R18-9-A602(D) has become R18-9-A602(E) and so on throughout the subsections.

Comment 42: Law Firm

The definition of “permit” (proposed A.A.C. R18-9-A601(48)) should be clarified to state that it does not include authorization by rule. This is clearly implied by the definition and the wording of other proposed rules, but it should be made explicit to avoid any potential for confusion. The comparable definition of “permit” in the federal UIC regulations (40 C.F.R. § 144.3) specifically states: “Permit does not include UIC authorization by rule” Given that ADEQ clarified at the public hearing that it intended no different interpretation of the term than exists under the federal program, ADEQ should add language tracking the federal definition to the final state definition of “permit.”

ADEQ Response 42:

ADEQ appreciates the comment. Please see response 17 above.

Comment 43: Law Firm

Is the last sentence of proposed A.A.C. R18-9-B608(B) needed? It does not appear in the analogous EPA regulation (40 C.F.R. § 144.12(b)). The sentence refers readers to the section of the proposed rules relating to Class V permits authorized by rule, but proposed A.A.C. R18-9-A608(C) and (D) also seem to apply to all Class V wells, including those authorized by rule. Does the cross-reference to the specific Class V rules add anything that is not encompassed within subsections C and D, especially given that the most pertinent provision of the Class V rules simply refers right back to proposed A.A.C. R18-9-B608 (see A.A.C. R18-9-I650(B)(2)(a))?

ADEQ Response 43:

ADEQ appreciates the comment. ADEQ added the cross references specifically to mirror federal law. The final sentence in proposed rule A.A.C. R18-9-B608(B) is as follows,

“In the case of Class V wells authorized by rule see R18-9-I650 through R18-9-I655 in Part I of this Article.”

The final two sentences of the federal analog at 40 CFR 144.12(b) are as follows,

In the case of wells authorized by rule, see §§ 144.21 through 144.24. For EPA administered programs, such enforcement action shall be taken in accordance with appropriate sections of the SDWA.

The final sentence in 40 CFR 144.12(b) is inapplicable to ADEQ’s prospective state UIC program, given the preface of the sentence, “[f]or EPA administered program...” EPA requires ADEQ to adopt a rule that is at least as stringent as the federal analog. In the case of 40 CFR 144.12(b), the second to last sentence is the last sentence that is required to be in the proposed rule.

Comment 44: Law Firm - Public Notice

With respect to the public notice requirements for permits (proposed A.A.C. R18-9-C620(D)(1)(b)), what constitutes an “affected” federal, state, tribal, or local agency or council of government? Is it simply the government with jurisdiction over the land where the injection occurs? If so, the word “tribal” should be

removed, since ADEQ does not have authority to issue UIC permits on tribal lands. If the notification is intended to be broader, as suggested by the reference to agencies and COGs, ADEQ should provide some explanation of how it will identify the “affected” agencies or governments that will receive notification.

ADEQ Response 44:

ADEQ appreciates the comment. The federal rule unto which A.A.C. R18-9-C620(D)(1)(b) is based on includes the following as a listed recipient of public notice at 40 CFR 124.10(c)(1)(iii),

“...including any affected States (Indian Tribes). (For purposes of this paragraph, and in the context of the Underground Injection Control Program only, the term State includes Indian Tribes treated as States.)”

EPA requires ADEQ to adopt a rule that is at least as stringent as the federal rule equivalent. Therefore, ADEQ effectively adopted the language from the CFR.

Please refer to response 20 as well.

Comment 45: Law Firm

Also in the public notice section (proposed A.A.C. R18-9-C620(D)(1)(c)), notification regarding individual permits must be provided to SHPO and to state and federal agencies with jurisdiction over fish, shellfish and wildlife resources (presumably, AGFD and FWS). ADEQ should make clear in the preamble to the final rules that this notification does not stem from any mandatory consultation requirements that apply to the agency. Consultation requirements under the ESA and NHPA apply only to federal agencies, not state agencies, and the UIC delegation regulations do not require states to adopt requirements associated with the ESA or NHPA.

ADEQ Response 45:

ADEQ appreciates the comment. Please see responses 19 and 27 above.

Comment 46: Law Firm

Proposed A.A.C. R18-9-C629(A)(1) provides that an expiring permit continues in force and effect if a “timely application that is a complete application” for a new permit is submitted. This tracks language in EPA’s UIC regulations for EPA-issued permits (40 C.F.R. § 144.37(a)(1)), but it is not clear what exactly this would require under the state program. Specifically:

- Timely: When will an application need to be submitted in order to be considered “timely”? Is simply submitting the application before the current permit expires timely? If not, how long before an existing permit expires must submission be made in order to be considered timely?
- Complete: ADEQ should clarify that an application will be considered “complete” for purposes of this provision if the application contains the requirements necessary to find administrative completeness (i.e., it contains the information listed in proposed A.A.C. R18-9-C616(D) or, for Class VI wells, the information listed in proposed A.A.C. R18-9-J657(B)). Later requests for additional technical information or analysis made during the substantive review phase should not result in a conclusion that the application was not complete when submitted.

ADEQ Response 46:

ADEQ appreciates the comment and reiterates that the proposed rule A.A.C. R18-9-C629(A)(1) follows the analogous Federal rule at 40 CFR 144.37(a)(1). Under a state UIC program, the term “Timely”, for the purposes of proposed rule R18-9-C629(A), is within a reasonable amount of time before the expiration of the permit term occurs. ADEQ notes CAA & CWA programs define “timely” as 6 to 18 months prior to permit expiration. Also “Complete”, for the purposes of proposed rule R18-9-C629(A), is commensurate with “Administrative completeness” as defined in A.A.C. R18-1-501(1).

Comment 47: Law Firm

For new Class V wells (i.e., those created after the state begins implementing the UIC program), presumably it will be sufficient if the inventory form information specified in proposed A.A.C. R18-9-I652(B) is submitted prior to commencing injection. If that is correct, then ADEQ should so state in the preamble to the final rules.

ADEQ Response 47:

ADEQ appreciates the comment. Submitting an inventory pursuant to R18-9-I652 is a prerequisite to injection. The information has been added to the Preamble for the final rules.

Comment 48: Law Firm

There appears to be an incorrect cross-reference in proposed A.A.C. R18-9-I650(B)(1). That section begins: “With certain exceptions listed in subsection (B) of this Section” The reference presumably should instead be to subsection “(2)” of the section.

ADEQ Response 48:

ADEQ appreciates the comment and the identification of an incorrect cross-reference. The reference in A.A.C. R18-9-I650(B)(1) to subsection (B) has been adjusted to read (B)(2).

Comment 49: Law Firm

ADEQ's authority to require a permit for a Class V well (proposed A.A.C. R18-9-I650(B)(2)(b)) should specifically cross-reference proposed A.A.C. R18-9-I651, which sets out the circumstances in which the Department can require a permit to be obtained. The first sentence of that subsection should read: "The Director specifically requires a Class V permit for the well to operate pursuant to A.A.C. R18-9-I651."

ADEQ Response 49:

ADEQ appreciates the comment and agrees with the stakeholder's concern and suggested revision. The first sentence of A.A.C. R18-9-I650(B)(2)(b) has been amended to align with the language suggested above for the purposes of the final rule.

Comment 50: Law Firm

To avoid ADEQ having unfettered discretion to require Class V wells to obtain an individual permit, the three grounds listed in proposed A.A.C. R18-9-I651 should be identified as the only three grounds for requiring an individual permit. Rather than saying that the grounds for such a decision "include" the three listed, which arguably suggests that there could be additional unlisted grounds, the final rule should indicate that the three listed grounds represent the only bases for requiring an individual permit. For these reasons, proposed A.A.C. R18-9-I651(A) should be modified to read: "The Director may require the owner or operator of any Class V injection well authorized by rule under this Article to apply for and obtain an individual or area UIC permit in any of the following circumstances. ~~Cases where individual or area UIC permits may be required include:~~"

- In the alternative, and recognizing that the analogous EPA regulation (40 C.F.R. § 144.25(A)) also uses the word "include," ADEQ should clarify in the preamble that use of the word "include" in this rule is intended to identify the full universe of grounds for requiring a permit (i.e., it is distinct from the phrase "include but is not limited to," which is used at least once elsewhere in the proposed rules, see proposed A.A.C. R18-9-A604(E)(1)).

ADEQ Response 50:

ADEQ appreciates the comment.

The stakeholder's suggested language would curtail the Director's authority to require a Class V well to obtain an individual permit. Narrowing the breadth of discretion in the rule would also make it less stringent than the federal analog. ADEQ respectfully declines to implement this suggested language in the final rule.

Comment 51: Law Firm

Proposed A.A.C. R18-9-I650(B)(2) states that a Class V well authorized by rule may instead be required to get a permit "if one of any one of the following:" There is clearly excess verbiage in this phrase. The requirement would be more clearly stated if it instead said something like "in the following circumstances."

ADEQ Response 51:

ADEQ appreciates the comment and agrees with the stakeholder's concern. The language has been amended for the final rule and reads as follows,

"A Class V well requires a permit and shall no longer be authorized by rule upon any of the following..."

Comment 52: Law Firm

When Class V wells are plugged and abandoned, the proposed rules require proper disposal of soil, gravel, sludge, liquids or other materials removed from "or adjacent to" the well (proposed A.A.C. R18-9-I650(B)(3)(b) and proposed A.A.C. R18-9-B614(C)). This tracks language in EPA's UIC rules at 40 C.F.R. § 144.82(b). This requirement should not apply to materials that are unrelated to the well but merely happen to be located adjacent to it at the time of well closure. If this interpretation is correct, then ADEQ should so indicate in the preamble. If this interpretation is not correct, then ADEQ should explain in the preamble the intended scope of the requirement.

ADEQ Response 52:

ADEQ appreciates the comment. As stated by the stakeholder, both 40 C.F.R. § 144.82(b) and A.A.C. R18-9-I650(B)(3)(b) contain similar language to the following,

"...you must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to your well in accordance with all applicable Federal, State, and local regulations and requirements."

ADEQ believes the request to make a distinction between materials that are unrelated to the well but merely happen to be located adjacent to the well at the time of well closure and materials that are related to the well is unnecessary. Furthermore, implementing the requested distinction could affect the stringency of ADEQ's proposed rule versus the Federal analog. ADEQ's rules must remain as stringent as EPA's analog rule in the CFR in order for ADEQ to be eligible for primacy.

Comment 53: Law Firm

The language in proposed A.A.C. R18-9-B614(C) and proposed A.A.C. R18-9-I650(B)(3) is virtually identical. This is not inherently problematic, but it is unusual to see the same language repeated twice in a rule package. Are both sections needed? Would a cross-reference in one location suffice?

ADEQ Response 53:

ADEQ appreciates the comment. ADEQ agrees that R18-9-B614(C) and R18-9-I650(B)(3) are quite similar. ADEQ has decided to amend the rules by leaving R18-9-B614(C) as is and changing R18-9-I650(B)(3) to read as follows,

"Prior to abandoning a Class V well, the owner or operator shall meet the plugging requirements in R18-9-B614(C)."

The former R18-9-I650(B)(3)(a) and (b) have been removed.

Comment 54: Law Firm

The proposed rules provide that a discharger may appeal to the Water Quality Appeals Board ADEQ's determination that a permit is needed for a Class V well (proposed A.A.C. R18-9-I651(B)(5)). The proposal also states that authorization by rule for a Class V well ceases if an application for a permit is not submitted as specified by ADEQ, or when a permit is denied (proposed A.A.C. R18-9-I650(B)(2)(b)). To avoid the scenario where a discharger must apply for (and possibly even obtain) a permit that it is challenging the need for, this latter provision should be modified to state that if ADEQ's decision to require a permit for a Class V well is appealed, then authorization by rule continues until that appeal is resolved. This could be accomplished by amending proposed A.A.C. R18-9-I650(B)(2)(b) to read that authorization by rule ceases upon the later of: (1) failure to submit an application in a timely manner as specified in a notice from ADEQ; (2) the effective date of permit denial; or (3) the date of a final administrative decision or other resolution of an appeal filed challenging the Department's decision that a permit is required.

ADEQ Response 54:

ADEQ appreciates the comment and request to amend the rule language, but respectfully declines. ADEQ believes that the rule sufficiently provides the applicant's right to appeal the individual permit requirement in proposed rule R18-9-I651. Proposed rule R18-9-I651 references the Water Quality Appeals Board statutes at Arizona Revised Statutes, Title 49, Chapter 2, Article 7. ADEQ prefers to allow those statutes to delineate any appeals rights an applicant may have upon the Director's decision including any potential stay pending appeal.

Comment 55: Resource Extraction Industry Member

Proposed A601 defines "appropriate Act and regulations" even though that terminology is not employed anywhere else in the proposed rules. ADEQ may wish to delete that definition accordingly.

ADEQ Response 55:

ADEQ appreciates the comment. "Appropriate Act and regulations" can be found in the analogous Federal rule at 40 CFR 144.3. ADEQ will keep the definition in the regulations as the term is used elsewhere in the UIC primacy application, such as the Memorandum of Agreement.

Comment 56: Resource Extraction Industry Member

Proposed A602(A) provides that, "upon the date of the Environmental Protection Agency's approval of the Arizona UIC program," ADEQ shall administer and enforce any UIC permit that "has been previously authorized or issued" in Arizona under the federal UIC program. This leaves unclear the continuing status of legal instruments ancillary to the permit, the implementation of which was and continues to be a condition of EPA's issuance of the permit. In order to address this issue, a sentence should be added at the end of A602(A) more or less as follows:

In addition, the Arizona UIC Memorandum of Agreement shall, under terms and conditions agreed to by the Director and Administrator, provide for the continued force, effect and administration of legal instruments ancillary to such permits, the implementation of which was and continues to be a condition of the Administrator's authorization and issuance of the permit, such as, without limitation, an agreement relating to the permit that was executed and is being

implemented pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, 36 C.F.R. Part 800.

ADEQ Response 56:

ADEQ appreciates the comment, but respectfully declines to add the language suggested. The ancillary matters referred to above and those matters of a like kind will be addressed in the permits themselves and or other documents, like the Memorandum of Agreement.

Comment 57: Resource Extraction Industry Member

Proposed A602(J) should be revised to replace the words "upon the date of primacy" with the words "upon the date of the Environmental Protection Agency's approval of the Arizona UIC program." This change would make A602(J) consistent with proposed A602(A).

ADEQ Response 57:

ADEQ appreciates the comment and will update the final rule to align with the definition in final rule R18-9-A601(21).

Comment 58: Resource Extraction Industry Member

Proposed A605(B)(4) concerning exemption of aquifers makes cross-references to "A606(A)(2)" and "A606(A)(3)." These cross-references appear to be incorrect. Based on the analogous provisions of 40 C.F.R. § 144.7, ADEQ should change these to "A605(B)(2)" and "A605(B)(3)."

ADEQ Response 58:

ADEQ appreciates the comment. After review of the specified cross references above, it was determined that they are correct.

Comment 59: Resource Extraction Industry Member

In proposed A606(2)(a), the word "consider" should be changed to "considering". This change would make (2)(a) consistent with 40 C.F.R. § 146.4(b)(1).

ADEQ Response 59:

ADEQ appreciates the comment and will align the final rule with the recommended language above.

Comment 60: Resource Extraction Industry Member

In proposed C626(A), Class II and III wells are excepted when describing the effect of compliance with a UIC permit. Although this exception language is found in EPA UIC regulations, it is unclear why there is a distinction between different classes of wells and why compliance with a permit for Class II and III wells is not considered compliance with the UIC regulations or the Safe Drinking Water Act. If there is not a satisfactory explanation, we recommend that this language be dropped after appropriate discussions with EPA.

ADEQ Response 60:

ADEQ appreciates the comment. UIC Class II & III wells are excepted from C626(A) because such permits are for the life of the operating facility. Therefore, compliance with a permit goes beyond the "term" and extends to the life of the facility in the case of Classes II & III. Please reference C628(A).

Comment 61: Local Government

The UIC rules require submittal of highly technical information. Will ADEQ have the staff available to review the applications and technical details? All business sectors are experiencing staff shortages. Unless ADEQ is offering competitive salaries, it may be difficult to attract candidates with the necessary expertise.

ADEQ Response 61:

ADEQ appreciates the comment. ADEQ has and will continue to develop the educational background and relevant experience to manage and administer the UIC Program. Upon primacy, ADEQ will utilize existing expertise within the Groundwater Protection Section to manage and administer the UIC program. It should also be noted that the Arizona Legislature appropriated funding for 3.2 full-time-equivalent positions specifically for the UIC program. ADEQ plans on hiring additional qualified staff based on capacity and workload needs. ADEQ salary structure and benefits package is attractive and should not be prohibitive in attracting qualified personnel.

Comment 62: Local Government

How will the Underground Injection Control Program interface with the Aquifer Protection Permit Program?

ADEQ Response 62:

ADEQ appreciates the comment. The UIC program and the APP program will complement each other in the fabric of groundwater protection regulation in Arizona. A.R.S. § 49-250(B)(26) exempts UIC wells from APP regulation for Classes I, II, III, IV and VI. However, Class V wells that are "authorized by rule" (as opposed to being individually permitted) will potentially be applicable to both UIC and APP regulation

if the specific type of UIC Class V well is subject to APP. For example, a drywell that drains a motor fueling area would be required to inventory under UIC Class V regulation and would be required to apply for an APP Type 2.04 General Permit (see R18-9-C304).

Comment 63: Local Government

Typo. Preamble. Subheading: Why is Article 1 being amended? Sentence: Individually Permitted Class V UIC Wells Omit the second "not" in the sentence "ADEQ is concerned that Class V wells "prescribed by rule" may be interpreted to include Class V wells "authorized by rule" and individually permitted Class V wells, which ADEQ does not believe was not the intention of the legislation."

ADEQ Response 63:

ADEQ appreciates the comment and will amend the language in the Preamble in the Notice of Final Rulemaking

Comment 64: Local Government

Will the National Primary Drinking Water Regulations in Table 1 supersede existing Arizona Aquifer Water Quality Standards?

ADEQ Response 64:

ADEQ appreciates the comment. The applicable primary drinking water maximum contaminant levels (MCLs) will be the standards used for the UIC program. EPA requires ADEQ use these standards in order to achieve the stringency in the rule required for EPA to grant ADEQ primacy. Arizona Aquifer Water Quality Standards will still apply for the APP.

Comment 65: Local Government

At R18-9-C616(C)(2), what is a reasonable timeframe? There should be a limitation on time, to ensure expediency.

ADEQ Response 65:

ADEQ appreciates the comment. The language in R18-9-C616(C)(2) makes it incumbent upon a permittee to submit a permit application prior to construction of an injection well. ADEQ recommends using the LTF framework in A.A.C. Title 18, Chapter 1, Article 5 as guidance for project planning and scheduling. The agency works hard to provide quick decisions on permit applications.

Comment 66: Local Government

- At, R18-9-C616(C)(1), add ", but not to exceed L {i.e. 60 days]" after "practicable".
- At, R18-9-C624(A)(2), strike the extraneous word "in".
- At, R18-9-C633(A)(8), add "d" after "an".
- At R18-9-D635(A)(16)(b), strike the "d" in "and".
- At R18-9-F645(B)(2), 3rd sentence, change "suspended" to "suspected".

ADEQ Response 66:

ADEQ appreciates the comments. See response 65 for reference to Bullet 1. Bullets 2 through 5 have been implemented in the final proposed rule.

Comment 67: Federally-Recognized Arizona Tribal Nation or Community

The proposed rule should require ADEQ to fully implement and enforce the provisions of EPA permits transferred to ADEQ. The EPA, in administering any UIC permit (or indeed, undertaking any major action) must comply with a number of statutory requirements that protect Tribal interests, including Section 106 of the National Historic Preservation Act (NHPA). Through the NHPA, EPA consults with Tribes to protect cultural resources and frequently enters into a Programmatic Agreement or Memorandum of Agreement as a condition of permit issuance. These agreements typically impose conditions and requirements that protect Tribal lands, resources, and areas of cultural significance. Here, ADEQ's Proposed Rule is silent regarding the continued implementation and enforcement of such Programmatic Agreements and Memoranda of Agreements associated with EPA-issued permits. For transferred permits, ADEQ's Proposed Rule should include language ensuring that ADEQ implement and enforce the requirements and conditions, under laws such as NHPA, that EPA has imposed on its permittees.

ADEQ Response 67:

ADEQ appreciates the comment. Upon primacy, EPA will transfer the Federal permits to ADEQ for administration. All of the terms in the permit, including NHPA terms, will continue to be enforced jointly between EPA and ADEQ. The joint enforcement will be memorialized in the EPA | ADEQ Memorandum of Agreement (see A.R.S. § 49-203(B)(5)).

Comment 68: Federally-Recognized Arizona Tribal Nation or Community

The proposed rule does not include any requirements for ADEQ to analyze historic and cultural resources as part of UIC permit decision-making. The Community is concerned that the Proposed Rule does not

require specific historic and cultural resource considerations in making UIC permitting decisions. Given the prevalence of Tribal communities within Arizona, including a historic and cultural resource review requirement prior to issuance of any UIC permit is particularly critical to protect and preserve these resources. In addition to considering historic and cultural resources as a prerequisite to issuing any UIC permit under ADEQ's proposed program, ADEQ should require that an applicant demonstrate that avoidance, minimization, and mitigation measures regarding impacts to historic and cultural resources have been demonstrated to ensure maximum protection for these resources.

ADEQ Response 68:

ADEQ appreciates the comment. Please see response 19 for reference.

Comment 69: Federally-Recognized Arizona Tribal Nation or Community

The proposed rule requires clarity around whether and when ADEQ will notify a tribe about permit-related actions. As currently drafted, the Proposed Rule states that public notice of activities, including draft permits and public hearings, shall be delivered to “[a]ny affected federal, state, tribal, or local agency, or council of government.” The Proposed Rule, however, lacks any parameters around what “affected” means in this context, thus providing no certainty that Tribal Governments whose resources or environments may be affected by a UIC permit will receive notice. Further, without proper notice to Tribal Governments, ADEQ may not realize the extent to which a proposed permit action could impact Tribal communities, their environment, and cultural and historic resources during the decision-making process. To clarify this vague language in the Proposed Rule, we recommend defining “affected” based upon objective criteria, such as when a permitted activity may be located in the same watershed or aquifer where a Tribe is located, located within a set radius of Tribal lands, or could impact cultural resources.

ADEQ Response 69:

ADEQ appreciates the comment. Please see responses 20 and 44 for reference.

Comment 70: Federally-Recognized Arizona Tribal Nation or Community

The proposed rule requires that the State Historic Preservation Office (SHPO) be notified regarding permit-related actions but lacks such notification requirements for Tribal Historic Preservation Offices (THPOs). ADEQ's Proposed Rule requires notification to the SHPO for permit-related actions but does not include the same requirement for any THPO. Because UIC permit activities, regardless of the proximity to a particular Tribe's lands, could impact cultural resources, the Proposed Rule should include requirements to notify THPOs in appropriate circumstances.

ADEQ Response 70:

ADEQ appreciates the comment. Please see responses 19 and 20 for reference.

Comment 71: Federally-Recognized Arizona Tribal Nation or Community

The commenter believes that there will be a number of other issues that ADEQ and EPA must address—in ADEQ's UIC Program regulations and/or in the Arizona UIC Memorandum of Agreement—to protect Tribal interests and the environment. These include: (i) the requirement for ADEQ to engage in meaningful consultations with Tribes regarding proposed UIC permits; (ii) confirmation of ADEQ's authority to consider and impose conditions to protect historic and cultural resources in ADEQ's UIC Program permit decision-making; and (iii) the adequacy of ADEQ resources, staff, and budgets to implement the UIC Program.

ADEQ Response 71:

ADEQ appreciates the comment. Please see responses 19 and 20 for reference.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

The following statutes contain therein prescribed matters applicable to the rules in this rulemaking: A.R.S. §§ 49-203(A)(6) and (9); 49-257; 49-257.01.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The UIC program will require permits. General permits are not used because issuance of a general permit would not meet the applicable statutory requirements to adopt a permit program for underground injection control required in 40 CFR Part 145. 40 CFR Part 145 requires states to adopt the UIC program through primacy, meeting a stringency level that is at least as stringent as the federal program. Any deviation in the individual permits that are issued for most UIC wells would result in a less stringent program. EPA would

not approve primacy if ADEQ proposed a set of rules that used general permits in place of individual permits. However, the one exception is that the UIC Class V wells are regulated in a manner similar to general permits in that they are “authorized by rule.” This means that such UIC wells are automatically authorized under the program as long as such wells are inventoried and follow a delineated set of criteria.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is applicable to UIC. UIC is a program authorized under the SDWA (see 42 U.S.C. § 300h et seq.), originally administered by EPA. The UIC program administration can be transferred from EPA to a state through a delineated process known as Primacy (see 42 U.S.C. § 300h-1).

The rule is more stringent than Federal law in two circumstances in order to align with the following, existing state law:

- R18-9-B609(A) – Prohibition of hazardous waste injection, and
- R18-9-I654 – Prohibition of cesspools.

R18-9-B609(A)

R18-9-B609(A) reflects Arizona’s prohibition on hazardous waste injection in the Hazardous Waste Permit Program rules at A.A.C. R18-8-270(B)(2)(b). Statutory authority for the R18-9-B609(A) prohibition is found in A.R.S. § 49-203(A)(8), which states that the ADEQ Director shall adopt by rule standards and conditions as reasonable and necessary to carry out the permit programs and regulatory duties described in paragraphs 2 through 5 of this subsection. Paragraphs 5 and 6 of the subsection (A.R.S. § 49-203(A)) concern the adoption of the APP program and the UIC program. ADEQ interprets A.R.S. § 49-203(A)(8) to allow the Director to adopt a UIC rule and standard for the prohibition of hazardous waste injection because adopting the rule or standard is reasonable and necessary in order to carry out the APP program and the regulatory duties to protect groundwater in the APP and UIC programs. Adopting this prohibition also aligns the UIC program with the existing prohibition in the Hazardous Waste Permit Program at A.A.C. R18-8-270(B)(2)(b).

R18-9-I654

R18-9-I654 reflects the prohibition on cesspools found in the Aquifer Protection Permits program at A.A.C. R18-9-A309(A)(4). Statutory authority for this prohibition is found in A.R.S. § 49-104(B)(13) which mandates the ADEQ Director to prescribe reasonable rules regarding sewage disposal. Statutory authority can also be found in A.R.S. § 49-104(B)(14), which mandates the ADEQ Director to prescribe reasonably necessary rules regarding excreta disposal.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

No comparative analyses were submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

No material was incorporated by reference in this rulemaking under A.R.S. § 41-1028, nor otherwise.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL**

ARTICLE 1. AQUIFER PROTECTION PERMITS – GENERAL PROVISIONS

Section

R18-9-103. Class Exemptions

ARTICLE 6. REPEALED UNDERGROUND INJECTION CONTROL
PART A. GENERAL PROVISIONS

Section

R18-9-A601. Definitions

R18-9-A602. Applicability

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R18-9-103. Class Exemptions

Class exemptions. In addition to the classes or categories of facilities listed in A.R.S. § 49-250(B), the following classes or categories of facilities are exempt from the Aquifer Protection Permit requirements in Articles 1, 2, and 3 of this Chapter:

1. Facilities that treat, store, or dispose of hazardous waste and have been issued a permit or have interim status, under the Resource Conservation and Recovery Act (P.L. 94580; 90 Stat. 2796; 42 U.S.C. 6901 et seq., as amended), or have been issued a permit according to the hazardous waste management rules adopted under 18 A.A.C. 8, Article 2;
2. Underground storage tanks that contain a regulated substance as defined in A.R.S. § 49-1001;
3. Facilities for the disposal of solid waste, as defined in A.R.S. § 49-701.01, that are located in unincorporated areas and receive solid waste from four or fewer households;
4. Land application of biosolids in compliance with 18 A.A.C. 9, Articles 9 and 10; ~~and~~
5. CCR Units regulated by 40 C.F.R. 257, Subpart D or by a permit in effect under a Department program approved by the United States Environmental Protection Agency in accordance with 42 U.S.C. § 6945(d)(1); Units that were in existence as of January 1, 2019, and which are governed by 40 C.F.R. Part 257, Subpart D. This exemption for CCR Units shall only extend until such time as both of the following are met, as applicable to a given CCR Unit:
 - a. ~~Regulations are approved by the U.S. Environmental Protection Agency, in accordance with 42 U.S.C. § 6945(d)(1), for the issuance of permits governing CCR Units, and~~
 - b. ~~The Director issues a permit to a given CCR Unit, which incorporates terms at least as protective as 40 C.F.R. Part 257, Subpart D.~~
6. Underground Injection Control Class V injection wells regulated under an area or individual permit per 18 A.A.C. 9, Article 6, Part I.

ARTICLE 6. UNDERGROUND INJECTION CONTROL

PART A. GENERAL PROVISIONS

R18-9-A601. Definitions

The following terms apply to this Article:

1. “Abandoned well” means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.
2. “Administrator” means the Administrator of the United States Environmental Protection Agency (EPA), or an authorized representative.
3. “Application” means the ADEQ prescribed method, such as a form, for applying for a permit, including any additions, revisions or modifications thereof.
4. “Appropriate Act and regulations” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA); or Safe Drinking Water Act (SDWA), whichever is applicable; and applicable regulations promulgated under those statutes.
5. “Aquifer” means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.
6. “Area of review” means the area surrounding an injection well described according to the criteria set forth in R18-9-B612 or in the case of an area permit, the project area plus a circumscribing area the width of which is either 1/4 of a mile or a number calculated according to the criteria set forth in R18-9-B612.
7. “Arizona UIC Memorandum of Agreement” means the agreement between the Administrator and the Director that coordinates EPA and ADEQ activities, responsibilities, and programs under the Arizona UIC Program.
8. “Arizona UIC Program” means the UIC program administered by the Director and approved by EPA according to 42 U.S.C. § 300h-1.
9. “Casing” means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling to support the sides of the hole and prevent the walls from caving; to prevent loss of drilling mud into porous ground; or to prevent water, gas, or other fluid from entering or leaving the hole.
10. “Catastrophic collapse” means the sudden and utter failure of overlying strata caused by removal of underlying materials.

11. “Cementing” means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.
12. “Cesspool” means a drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.
13. “Confining zone” means a geological formation, group of formations, or parts of a formation that is capable of limiting fluid movement above an injection zone.
14. “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.
15. “Conventional mine” means an open pit or underground excavation for the production of minerals.
16. “Director” means the Director of the Arizona Department of Environmental Quality or the Director’s designee.
17. “Disposal well” means a well that is used for the disposal of waste into a subsurface stratum.
18. “Draft permit” means a document prepared under R18-9-C618 indicating the Director’s tentative decision to issue, renew, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in R18-9-C631 are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, of a permit is not a draft permit, except as discussed in R18-9-C631(B).
19. “Drilling mud” means a heavy suspension used in drilling an injection well, introduced down the drill pipe and through the drill bit.
20. “Drywell” means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.
21. “Effective date of the Arizona UIC Program” means the date that the Arizona UIC Program is approved or established by the Administrator.
22. “Emergency permit” means a UIC permit issued in accordance with R18-9-C625.
23. “Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency.
24. “Exempted aquifer” means an aquifer or its portion that meets the criteria in the definition of underground source of drinking water (USDW) but has been exempted according to the procedures in R18-9-A605.
25. “Existing injection well” means an injection well other than a new injection well.
26. “Experimental technology” means a technology which has not been proven feasible under the conditions in which it is being tested.
27. “Facility” or “activity” means any UIC injection well subject to regulation under this Article.
28. “Fault” means a surface or zone of rock fracture along which there has been displacement.
29. “Final permit decision” means the Director’s decision to issue, renew, modify, revoke and reissue, deny or terminate a permit as described in R18-9-C627.
30. “Flow rate” means the volume per time unit given the flow of gases or other fluid substance which emerges from an orifice, pump, turbine, or passes along a conduit or channel.
31. “Fluid” means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.
32. “Formation” means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth’s surface or traceable in the subsurface.
33. “Formation fluid” means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.
34. “Generator” means any person, by site location, whose act or process produces hazardous waste identified or listed in A.A.C. Title 18, Chapter 8 (Hazardous Waste Management).
35. “Geologic sequestration” means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.
36. “Ground water” means water below the land surface in a zone of saturation.
37. “Hazardous waste” means a hazardous waste as defined in A.R.S. § 49-921.
38. “Improved sinkhole” means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.
39. “Indian lands” means Indian country as defined in 18 U.S.C. 1151.
40. “Indian Tribe” means any Indian Tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over a defined area.
41. “Injection well” means a well into which fluids are being injected.

42. “Injection zone” means a geological formation group of formations, or part of a formation receiving fluids through a well.
43. “Lithology” means the description of rocks on the basis of their physical and chemical characteristics.
44. “Major facility” means any UIC facility or activity classified as such by the Administrator in conjunction with the Director.
45. “New injection wells” means an injection well which began injection after the effective date of the Arizona UIC Program.
46. “Owner” or “operator” means the owner or operator of any facility or activity subject to regulation under the Arizona UIC program.
47. “Packer” means a device lowered into a well to produce a fluid-tight seal.
48. “Permit” means an authorization issued by the Director pursuant to this Article. ‘Permit’ includes an area permit under R18-9-C624 and an emergency permit under R18-9-C625. ‘Permit’ does not include UIC authorization by rule or any permit which has not yet been subject to a final permit decision, such as a ‘draft permit.’”
49. “Person” means an individual, employee, officer, managing body, trust, firm, joint-stock company, consortium, public or private corporation, Partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body, Tribal agency, or other entity.
50. “Plugging” means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.
51. “Plugging record” means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.
52. “Pressure” means the total load or force per unit area acting on a surface.
53. “Project” means a group of wells in a single operation.
54. “Radioactive Waste” means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR part 20, appendix B, table II column 2.
55. “RCRA” means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, Pub. L. 96-510, 42 U.S.C. 6901 et seq.).
56. “Sanitary waste” means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.
57. “Schedule of compliance” means a schedule of remedial measures included in a permit including an enforceable sequence of interim requirements leading to compliance with this Article.
58. “SDWA” or “Safe Drinking Water Act” means the Safe Drinking Water Act (Pub. L. 93-523, as amended; 42 U.S.C. 300f et seq.).
59. “Septic system” means a well that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.
60. “Site” means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
61. “Stratum” means a single sedimentary bed or layer, or series of layers that consists of generally the same kind of rock material regardless of thickness. The plural of stratum is strata.
62. “Subsidence” means the lowering of the natural land surface in response to earth movements; lowering fluid pressures; removal of underlying support material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting; oxidation of organic matter in soils; or added load on the land surface.
63. “Subsurface fluid distribution system” means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.
64. “Surface casing” means the first string of well casing to be installed in the well.

65. “Total dissolved solids” or “TDS” means the total dissolved (filterable) solids as determined by use of the method specified in A.A.C. R9-14-610 or R9-14-611.
66. “Transferee” means the owner or operator receiving ownership and/or operational control of the well.
67. “Transferor” means the owner or operator transferring ownership and/or operational control of the well.
68. “Underground injection” means a well injection; which excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.
69. “Underground Injection Control” or “UIC” means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including the Arizona UIC Program.
70. “USDW,” “USDWs,” or “Underground source of drinking water” means an aquifer(s) or its portion that:
 - a. Supplies any public water system; or
 - b. Contains a sufficient quantity of ground water to supply a public water system; and
 - i. Currently supplies drinking water for human consumption; or
 - ii. Contains fewer than 10,000 mg/l total dissolved solids; and
 - c. Is not an exempted aquifer.
71. “Well” means a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or a subsurface fluid distribution system.
72. “Well injection” means the subsurface emplacement of fluids through a well.
73. “Well plug” means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.
74. “Well monitoring” means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.
75. “Well stimulation” means several processes used to clean the well bore, enlarge channels and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation and includes surging, jetting, blasting, acidizing, or hydraulic fracturing.

R18-9-A602. Applicability

- A.** This Article becomes effective upon the date of the Environmental Protection Agency’s approval of the Arizona UIC Program. Upon that date, the Department shall, under A.R.S. Title 49, Chapter 2, Articles 3.3, 4 and Article 6 of this Chapter, administer and enforce any permit which has been previously authorized or issued in this state under the Federal UIC program.
- B.** This Article and 40 CFR Part 145, Subpart C provide the minimum requirements of the State of Arizona’s Underground Injection Control (UIC) program under A.R.S. Title 49, Chapter 2, Article 3.3 (Underground Injection Control Permit Program) and pursuant to Part C of the Safe Drinking Water Act (SDWA) (Pub. L. 93-523, as amended; 42 U.S.C. 300h et seq.).
- C.** Underground injection is prohibited in lands under the jurisdiction of the State of Arizona unless:
 1. Authorized by permit or rule under this Article in accordance with 42 U.S.C. 300h et seq., or
 2. Authorized by OGCC pursuant to regulations approved by EPA.
- D.** Any injection activity authorized by permit or rule under this Article shall prohibit the movement of fluid containing any contaminant into underground sources of drinking water (USDWs), where the presence of that contaminant may cause a violation of this Article or may adversely affect the health of persons.
- E.** Injection wells regulated under this Article are categorized into six classes based on characteristics of the injection well activity. Owners or operators of injection wells regulated under all six classes must be authorized by permit (all classes) or rule (Class V only if no permit is required) pursuant to the requirements of this Article.
- F.** Specific inclusions. The following wells are included among those types of injection activities which are covered by the UIC regulations in this Article. (This list is not intended to be exclusive but is for clarification only.)
 1. Any injection well located on a drilling platform inside the State's territorial waters.
 2. Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids.
 3. Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

4. Any septic tank, cesspool, or other well used by a multiple dwelling, or community, or other large system for the injection of wastes.

G. Specific exclusions. The following are not covered by these regulations:

1. Septic systems or similar waste disposal systems if such systems:
 - a. Are used solely for the disposal of sanitary waste, and
 - b. Have a design capacity of less than 3,000 gallons per day.
2. Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.
3. Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.
4. Injection wells authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq.

H. Safe Drinking Water Act exemptions.

1. The following activities are exempt from the Arizona UIC Program:
 - a. The underground injection of natural gas for purposes of storage.
 - b. The underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

I. The Director may identify aquifers and portions of aquifers which are actual or potential sources of drinking water, to assist in carrying out the Director's duty pursuant to this Article. Any aquifer meeting the criteria under R18-9-A601(70) shall be protected as an USDW, even if it has not been explicitly identified pursuant to this Section.

J. The Director may also designate aquifers or portions of aquifers as exempt from the program using the criteria in R18-9-A605 and R18-9-A606, subject to EPA approval. Any aquifer or portion thereof within the State that has previously been designated exempt by EPA pursuant to 40 CFR § 144.7 shall be part of the Arizona UIC program upon the effective date of the Arizona UIC program.

R18-9-A603. Confidentiality of Information

A. In accordance with A.R.S. § 49-205, any information submitted to the Director pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Director may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in A.R.S. § 49-205 (Availability of information to the public).

B. Claims of confidentiality for the following information will be denied:

1. The name and address of any permit applicant or permittee.
2. Information which deals with the existence, absence, or level of contaminants in drinking water.

R18-9-A604. Classification of Wells

A. Class I wells are:

1. Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation that contains, within one-quarter mile of the well bore, an USDW.
2. Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation that contains, within one-quarter mile of the well bore, an USDW.
3. Radioactive waste disposal wells which inject fluids beneath the lowermost formation that contains, within one-quarter mile of the well bore, an USDW.

B. Class II wells are injection wells that inject fluids:

1. That are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.
2. For enhanced recovery of oil or natural gas.
3. For storage of hydrocarbons which are liquid at standard temperatures and pressure.

C. Class III wells are injection wells used for the extraction of minerals, including:

1. Sulfur mining by the Frasch process.

2. In-situ production of uranium or other metals from those ore bodies not conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.
3. Solution mining of salts or potash.

D. Class IV wells are injection wells that either:

1. Inject hazardous or radioactive wastes into or above a formation with an USDW located within one-quarter mile of the well bore, or
2. Inject hazardous wastes and cannot be classified under subsection (A)(1), or (D)(1) (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been previously exempted or exempted pursuant to R18-9-A606).

E. Class V wells are injection wells not included in Class I, II, III, IV, or VI.

1. Class V wells include but are not limited to:

- a. Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump.
- b. Cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day.
- c. Cooling water return flow wells used to inject water previously used for cooling.
- d. Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation.
- e. Dry wells used for the injection of wastes into a subsurface formation.
- f. Recharge wells used to replenish the water in an aquifer.
- g. Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water.
- h. Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines, except for radioactive wastes.
- i. Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank.
- j. Subsidence control wells, other than those used in oil or natural gas production, that inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with freshwater overdraft.
- k. Injection wells associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power.
- l. Wells used for solution mining of conventional mines such as stopes leaching.
- m. Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts.
- n. Injection wells used in experimental technologies.
- o. Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.

2. Class V wells do not include:

- a. Single-family residential septic system wells or non-residential septic system wells used solely for the disposal of sanitary waste with a design capacity of less than 3,000 gallons per day.

F. Class VI wells are:

1. Not experimental in nature that are used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW;
2. Wells used for geologic sequestration of carbon dioxide that have been granted a waiver of the injection depth requirements pursuant to requirements at R18-9-J670; or
3. Wells used for geologic sequestration of carbon dioxide that have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to R18-9-A605 of this Chapter and R18-9-A604.

R18-9-A605. Identification of Underground Sources of Drinking Water and Exempt Aquifers

A. The Director may identify, by narrative description, illustration, maps, or other means, and shall protect as USDWs, all aquifers and parts of aquifers that meet the definition of USDW in R18-9-A601(70) except to the extent there is an applicable aquifer exemption under subsection (B) of this Section or an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration under subsection (D) of this Section. Other than EPA-approved aquifer exemption expansions that meet the criteria set forth in R18-9-A606(4), new aquifer

exemptions shall not be issued for Class VI injection wells. Even if an aquifer has not been specifically identified by the Director, it is an USDW if it meets the definition in R18-9-A601(70).

B. Aquifer exemptions procedure:

1. The Director may identify, by narrative description, illustrations, maps, or other means, and describe in geographic and/or geometric terms, such as vertical and lateral limits and gradient, that are clear and definite, all aquifers or parts thereof that the Director proposes to designate as exempted aquifers using the criteria in R18-9-A606.
2. No designation of an exempted aquifer submitted as part of Arizona's UIC program shall be final until approved by EPA as part of the Arizona UIC Program. No designation of an expansion to the areal extent of a Class II enhanced oil recovery or enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration shall be final until approved by the EPA as a substantial revision of the Arizona UIC Program in accordance with 40 CFR 145.32.
3. Subsequent to the program approval or promulgation, the Director may, after notice and opportunity for public hearing, identify additional exempted aquifers.
4. Exemption of aquifers identified:
 - a. Under R18-9-A606(2) shall be treated as a program revision under 40 CFR 145.32;
 - b. Under R18-9-A606(3) shall become final if the Director submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days.

C. Additional aquifer exemption requirements:

1. For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption under R18-9-A606(2)(a) to furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a time-table of planned development of the mining zone shall be considered by the Director in addition to the information required by R18-9-C616(D).
2. For Class II wells, a demonstration of commercial producibility shall be made as follows:
 - a. For a Class II well to be used for enhanced oil recovery processes in a field or project containing aquifers from which hydrocarbons were previously produced, commercial producibility shall be presumed by the Director upon a demonstration by the applicant of historical production having occurred in the project area or field.
 - b. For Class II wells not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.

D. Owners or operators of Class II enhanced oil recovery or enhanced gas recovery wells may request that the Director approve an expansion to the areal extent of an aquifer exemption already in place for a Class II enhanced oil recovery or enhanced gas recovery well for the exclusive purpose of Class VI injection for geologic sequestration. Such requests must be treated as a substantial program revision to the Arizona UIC program under 40 CFR 145.32 and will not be final until approved by EPA.

1. The owner or operator of a Class II enhanced oil recovery or enhanced gas recovery well that requests an expansion of the areal extent of an existing aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration must define, by narrative description, illustrations, maps or other means, and describe in geographic and/or geometric terms, such as vertical and lateral limits and gradient, that are clear and definite, all aquifers or parts thereof that are requested to be designated as exempted using the criteria in R18-9-A606.
2. In evaluating a request to expand the areal extent of an aquifer exemption of a Class II enhanced oil recovery or enhanced gas recovery well for the purpose of Class VI injection, the Director must determine that the request meets the criteria for exemptions in R18-9-A606. In making the determination, the Director shall consider:
 - a. Current and potential future use of the USDWs to be exempted as drinking water resources;
 - b. The predicted extent of the injected carbon dioxide plume, and any mobilized fluids that may result in degradation of water quality, over the lifetime of the geologic sequestration project, as informed by computational modeling performed pursuant to R18-9-J659(C)(1), in order to ensure that the proposed injection operation will not at any time endanger USDWs including non-exempted portions of the injection formation;

- c. Whether the areal extent of the expanded aquifer exemption is of sufficient size to account for any possible revisions to the computational model during reevaluation of the area of review, pursuant to R18-9-J659(E) and
- d. Any information submitted to support a waiver request made by the owner or operator under R18-9-J670 if appropriate.

R18-9-A606. Criteria for Exempted Aquifers

An aquifer or a portion thereof which meets the criteria for an “USDW” in R18-9-A601(70) may be determined under R18-9-A605 to be an “exempted aquifer” for Class I-V wells if it meets the criteria in subsections (A)(1) through (A)(3) of this Section. Class VI wells must meet the criteria under subsection (A)(4) of this Section.

- 1. It does not currently serve as a source of drinking water; and
- 2. It cannot now and will not in the future serve as a source of drinking water because:
 - a. It is mineral hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or Class III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible;
 - b. It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technically impractical;
 - c. It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
 - d. It is located over a Class III well mining area subject to subsidence or catastrophic collapse; or
- 3. The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.
- 4. The areal extent of an aquifer exemption for a Class II enhanced oil recovery or enhanced gas recovery well may be expanded for the exclusive purpose of Class VI injection for geologic sequestration under R18-9-A605(D) if it meets the following criteria:
 - a. It does not currently serve as a source of drinking water; and
 - b. The total dissolved solids content of the ground water is more than 3,000 mg/l and less than 10,000 mg/l; and
 - c. It is not reasonably expected to supply a public water system.

PART A. GENERAL PROGRAM REQUIREMENTS

R18-9-B607. Prohibition of Unauthorized Injection

Any underground injection, except into a well authorized by rule or authorized by permit under the Arizona UIC program, is prohibited. The construction of any well required to have a permit is prohibited until the permit has been issued.

R18-9-B608. Prohibition of Movement of Fluid into Underground Sources of Drinking Water

- A.** No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of any primary drinking water regulation under this Article, as shown in Table 1, or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this subsection are met.
- B.** For Class I, II, III, and VI wells, if any water quality monitoring of an USDW indicates the movement of any contaminant into the USDW, except as authorized under this Article, the Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with R18-9-C632 or the permit may be terminated under R18-9-C634 if cause exists, or appropriate enforcement action may be taken if the permit has been violated. In the case of Class V wells authorized by rule see R18-9-I650 through R18-9-I655 in Part I of this Article.
- C.** For Class V wells, if at any time the Director learns that a Class V well may cause a violation of primary drinking water regulations under this Article, they shall:
 - 1. Require the injector to obtain an individual permit;
 - 2. Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation; or

3. Take enforcement action.

- D.** Whenever the Director learns that a Class V well may be otherwise adversely affecting the health of persons, they may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection (C) of this Section.
- E.** Notwithstanding any other provision of this Section, the Director may take emergency action upon receipt of information that a contaminant which is present in or likely to enter a public water system or USDW may present an imminent and substantial endangerment to the health of persons.

R18-9-B609. Prohibition of Hazardous Waste Injection and Class IV Wells

A. Hazardous Waste Injection.

1. The following are prohibited, except as provided in subsection (B)(3):
 - a. The construction of any well for the purpose of hazardous waste injection.
 - b. The operation of any well for the purpose of hazardous waste injection.
2. The owner or operator of a well for the purpose of hazardous waste injection shall close the well in accordance with this subsection.
3. The owner or operator of a well for the purpose of hazardous waste injection shall comply with the following requirements regarding closure of the well.
 - a. Prior to abandoning any well for the purpose of hazardous waste injection, the owner or operator shall plug or otherwise close the well in a manner acceptable to the Director.
 - b. The owner or operator of a well for the purpose of hazardous waste injection must notify the Director of intent to abandon the well at least 30 days prior to abandonment.

B. Class IV.

1. The following are prohibited, except as provided in subsection (B)(3) of this Section:
 - a. The construction of any Class IV well.
 - b. The operation or maintenance of any Class IV well.
2. The owner or operator of a Class IV well shall comply with the requirements of R18-9-H649 regarding closure of Class IV wells.
3. Wells used to inject contaminated groundwater that has been treated and is being reinjected into the same formation that it was drawn are not prohibited by this Section if such injection is approved by the Administrator or the Director pursuant to subsections (a), (b) or (c) below:
 - a. Provisions for cleanup of releases under CERCLA, or
 - b. The requirements and provisions under RCRA, or
 - c. The requirements and provisions under other applicable state laws for corrective and remedial action.

R18-9-B610. Waiver of Requirement by Director

- A.** When injection does not occur into, through, or above an USDW, the Director may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required under this Article or R18-9-D636 to the extent that reduction in requirements will not result in an increased risk of movement of fluids into an USDW.
- B.** When injection occurs through or above an USDW, but the radius of endangering influence when computed under R18-9-B612(A) is smaller or equal to the radius of the well, the Director may authorize a well or project with less stringent requirements for operation, monitoring, and reporting than required under R18-9-D636 to the extent that a reduction in requirements will not result in an increased risk of movement of fluids into an USDW.
- C.** When reducing requirements under this Section, the Director shall prepare a fact sheet under R18-9-C619 explaining the reasons for the action.

R18-9-B611. Records

The Director 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 this Article and Part C of the SDWA or its implementing regulations.

R18-9-B612. Area of Review

- A.** The area of review for each injection well or each field, project or area of the State shall be determined according to this Section. The Director may solicit input from the owners or operators of injection wells within the State as to which method is most appropriate for each geographic area or field.

B. Where the area of review is determined according to the zone of endangering influence:

1. The zone of endangering influence shall be:
 - a. In the case of application(s) for well permit(s) under R18-9-C616 that area the radius of which is the lateral distance in which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an USDW; or
 - b. In the case of an application for an area permit under R18-9-C624, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an USDW.
2. Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified Theis equation illustrates one form which the mathematical model may take.

$$r = \left(\frac{2.25KHt}{S10^x} \right)^{1/2}$$

where:

$$X = \frac{4\pi KH(h_w - h_{bo} \times S_p G_b)}{2.3Q}$$

r = Radius of endangering influence from injection well (length)

K = Hydraulic conductivity of the injection zone (length/time)

H = Thickness of the injection zone (length)

t = Time of injection (time)

S = Storage coefficient (dimensionless)

Q = Injection rate (volume/time)

h_{bo} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost USDW

h_w = Hydrostatic head of USDW (length) measured from the base of the lowest USDW

S_p G_b = Specific gravity of fluid in the injection zone (dimensionless)

π = 3.142 (dimensionless)

The above equation is based on the following assumptions:

1. The injection zone is homogenous and isotropic;
 2. The injection zone has infinite area extent;
 3. The injection well penetrates the entire thickness of the injection zone;
 4. The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and
 5. The emplacement of fluid into the injection zone creates instantaneous increase in pressure.
- C.** Where Fixed Radius is used, the following shall apply:
1. In the case of application(s) for well permit(s) under R18-9-C616 a fixed radius around the well of not less than one-quarter mile may be used.
 2. In the case of an application for an area permit under R18-9-C624, a fixed radius width of not less than one-quarter mile for circumscribing area may be used.
 3. In determining the fixed radius, the following factors shall be taken into consideration: Chemistry of injected and formation fluids; hydrogeology; population and ground-water use and dependence; and historical practices in the area.
- D.** If the area of review is determined by a mathematical model pursuant to subsections (B) of this Section, the permissible radius is the result of such calculation even if it is less than one-fourth mile.

R18-9-B613. Mechanical Integrity

A. An injection well has mechanical integrity if:

1. There is no significant leak in the casing, tubing or packer; and
2. There is no significant fluid movement into an USDW through vertical channels adjacent to the injection well bore.

B. One of the following methods must be used to evaluate the absence of significant leaks under subsection (A)(1) of this Section:

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;
 2. Pressure test with liquid or gas; or
 3. Records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following Class II enhanced recovery wells:
 - a. Existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or
 - b. Existing wells constructed without a long string casing, but with surface casing which terminates at the base of fresh water provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the Director shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.
- C.** One of the following methods must be used to determine the absence of significant fluid movement under subsection (A)(2) of this Section:
1. The results of a temperature or noise log;
 2. For Class II only, cementing records demonstrating the presence of adequate cement to prevent such migration;
 3. For Class III wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (C)(1) of this Section, cementing records demonstrating the presence of adequate cement to prevent such migration; or
 4. For Class III wells where the Director elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by R18-9-G647(B) shall be designed to verify the absence of significant fluid movement.
- D.** The Director may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (B) and (C)(2) of this Section with the written approval of the Administrator.
- E.** In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Director, the owner or operator and the Director shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, they shall include a description of the test(s) and the method(s) used. In making the evaluation, the Director shall review monitoring and other test data submitted since the previous evaluation.
- F.** The Director may require additional or alternative tests if the results presented by the owner or operator under subsection (E) of this Section are not satisfactory to the Director to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

R18-9-B614. Plugging and Abandoning Class I, II, III, IV, and V Wells

- A.** Requirements for Class I, II and III wells.
1. Prior to abandoning Class I, II and III wells, the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between USDWs. The Director may allow Class III wells to use other plugging materials if the Director is satisfied that such materials will prevent movement of fluids into or between USDWs.
 2. Placement of the cement plugs shall be accomplished by one of the following:
 - a. The Balance method;
 - b. The Dump Bailer method;
 - c. The Two-Plug method; or
 - d. An alternative method approved by the Director, which will reliably provide a comparable level of protection to USDWs.
 3. The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Director, prior to the placement of the cement plug(s).
 4. The plugging and abandonment plan required under R18-9-D635(15) and R18-9-D636(A)(5) shall, in the case of a Class III project which underlies or is in an aquifer which has been exempted under R18-9-A606, also demonstrate adequate protection of USDWs. The Director shall prescribe aquifer cleanup and monitoring where it is deemed necessary and feasible to insure adequate protection of USDWs.

- B.** Requirements for Class IV wells. Prior to abandoning a Class IV well, the owner or operator shall close the well in accordance with R18-9-H649.
- C.** Requirements for Class V wells.
1. Prior to abandoning a Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an USDW, if the presence of that contaminant may cause a violation of any primary drinking water regulation under Table 1 of this Article or may otherwise adversely affect the health of persons.
 2. The owner or operator shall dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.

R18-9-B615. Transitioning from Class II to Class VI Injection Well

- A.** Owners and operators that are injecting carbon dioxide for the primary purpose of long-term storage into an oil and gas reservoir must apply for and obtain a Class VI geologic sequestration permit when there is an increased risk to the USDWs compared to Class II operations. In determining if there is an increased risk to USDWs, the owner or operator must consider the factors specified in subsection (B) of this Section.
- B.** The Director shall determine when there is an increased risk to USDWs compared to Class II operations and a Class VI permit is required. In order to make this determination the Director shall consider the following:
1. Increase in reservoir pressure within the injection zone(s);
 2. Increase in carbon dioxide injection rates;
 3. Decrease in reservoir production rates;
 4. Distance between the injection zone(s) and USDWs;
 5. Suitability of the Class II area of review delineation;
 6. Quality of abandoned well plugs within the area of review;
 7. The owner's or operator's plan for recovery of carbon dioxide at the cessation of injection;
 8. The source and properties of injected carbon dioxide; and
 9. Any additional site-specific factors as determined by the Director.

PART C. AUTHORIZATION BY PERMIT FOR UNDERGROUND INJECTION

R18-9-C616. Individual Permits; Application for Individual Permits

- A.** Unless an underground injection well is authorized by rule under R18-9-I650, all injection activities including construction of an injection well are prohibited until the owner or operator is authorized by permit. Authorization by rule for a well or project that has submitted a permit application 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 under R18-9-C625.
- B.** When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.
- C.** Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Director in accordance with the Arizona UIC program as follows:
1. For existing wells, as expeditiously as practicable.
 2. For new injection wells, except new wells authorized by an existing area permit under R18-9-C624(C), at a reasonable time before construction is expected to begin.
- D.** All applicants for Class I, II, III, and V permits shall provide the following information to the Director, using the application form provided by the Director. Applicants for Class VI permits shall follow the criteria provided in R18-9-J657.
1. Activities conducted by the applicant which require a permit;
 2. Name, mailing address, and location of the facility for which the application is submitted;
 3. Up to four NAICS codes which best reflect the principal products or services provided by the facility;
 4. The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity;
 5. A listing of all state and federal environmental permits or construction approvals received or applied for and other relevant environmental permits;
 6. A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the

facility are injected underground; and those wells, springs, and other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within a quarter mile of the facility property boundary;

7. A brief description of the nature of the business;
8. A plugging and abandonment plan that meets the requirements of R18-9-B614 and is acceptable to the Director;
9. A listing of any historic property or potential historic property as defined by R12-8-301.

E. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this Section for a period of at least three years from the date the application is signed.

R18-9-C617. Signatories

A. All permit applications, except those submitted for Class II wells, shall be signed as follows:

1. For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a Partnership or sole proprietorship: by a general Partner or the proprietor, respectively; or
3. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency; or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

B. All reports required by permits, other information requested by the Director, and all permit applications submitted for Class II wells under R18-9-C616 shall be signed by a person described in subsection (A) of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in subsection (A) of this Section;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility; and
3. The written authorization is submitted to the Director.

C. If an authorization under subsection (B) of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (B) of this Section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

D. Any person signing a document under subsection (A) or (B) of this Section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

R18-9-C618. Draft Permits

A. Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

B. If the Director tentatively decides to deny the permit application, they shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. If the Director's final decision is that the tentative decision to deny

the permit application was incorrect, they shall withdraw the notice of intent to deny and proceed to prepare a draft permit under subsection (D) of this section.

C. If the Director decides to prepare a draft permit, it shall contain the following information, to the extent applicable:

1. All conditions under R18-9-D635;
2. All compliance schedules under R18-9-D637;
3. All monitoring requirements under R18-9-D638; and
4. Permit conditions under R18-9-D636.

D. All draft permits prepared under this Section shall be accompanied by a brief summary of the basis for the draft permit conditions or the intent to deny, including references to applicable statutory or regulatory provisions and a fact sheet pursuant to R18-9-C619. The Director shall provide the applicant with the draft permit and the fact sheet and allow reasonable time for informal comment by the applicant prior to publicly noticing the draft permit and fact sheet. The Director shall give notice of opportunity for a public hearing and public comment, issue a final permit decision, and respond to comments.

R18-9-C619. Fact Sheet

A. A fact sheet shall be prepared for every draft permit for a UIC facility or activity. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Director shall send the fact sheet to the applicant and, on request, to any other person.

B. The fact sheet shall include, when applicable:

1. A brief description of the type of facility or activity that is the subject of the draft permit.
2. The type and quantity of wastes, fluids, or pollutants that are proposed to be or are being injected.
3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record.
4. Reasons why any requested variance or alternatives to required standards do or do not appear justified.
5. A description of the procedures for reaching a final decision on the draft permit, including:
 - a. The beginning and ending dates of the comment period under R18-9-C620 and the address where comments will be received;
 - b. Procedures for requesting a hearing and the nature of that hearing; and
 - c. Any other procedures by which the public may Participate in the final decision.
6. The name and telephone number of a person to contact for additional information.

R18-9-C620. Public Notice of Permit Actions and Public Comment Period

A. The Director shall give public notice that the following actions have occurred:

1. A draft permit that has been prepared under R18-9-C618 and
2. A hearing has been scheduled under R18-9-C622.

B. Public notices may describe more than one permit or permit action.

C. Public notice of the preparation of a draft permit required under subsection (A) of this Section:

1. Shall allow at least 30 days for public comment; and
2. Shall be given at least 30 days before the hearing date.

D. Public notice of activities described in subsection (A) of this Section shall be given by the following methods:

1. Delivery of a copy of the notice to:
 - a. The applicant;
 - b. Any affected federal, state, tribal, or local agency, or council of government;
 - c. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, and the State Historic Preservation Office;
 - d. Any person who requested, in writing, notification of the activity;
 - e. Any persons on a contact list developed from past permit proceedings and public outreach; and
 - f. Class VI injection well UIC permits, mailing or e-mailing a notice to State and local oil and gas regulatory agencies and State agencies regulating mineral exploration and recovery and all agencies that oversee injection wells in the State.

2. For Major Facilities only, newspaper publication in accordance with A.A.C. R18-1-401(A)(1).

E. All public notices issued under this Part shall contain the following information:

1. Name and address of the Department;

2. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
 3. A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;
 4. Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, fact sheet, and the application;
 5. A brief description of the comment procedures, the time and place of any hearing, including a statement of procedures to request a hearing, unless a hearing has already been scheduled, and other procedures that the public may use to participate in the final permit decision; and
 6. Any additional information considered necessary to the permit decision.
- F.** In addition to the general public notice described in subsection (E) of this Section, the public notice of hearing under R18-9-C622 shall contain the following information:
1. Reference to the date of previous public notices relating to the permit;
 2. Date, time, and place of the hearing; and
 3. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.
- G.** In addition to the general public notice described in subsection (E) of this Section, the Director shall deliver a copy of the fact sheet, permit application, and draft permit to all persons identified in subsections (D)(1)(a), (D)(1)(b), and (D)(1)(c).

R18-9-C621. Public Comments and Requests for Public Hearings

During the public comment period provided under R18-9-C620, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in R18-9-C623.

R18-9-C622. Public Hearings

- A.** The Director shall hold a public hearing whenever they find, on the basis of a request, a significant degree of public interest in a draft permit(s).
- B.** The Director may also hold a public hearing at their discretion such as when a hearing might clarify one or more issues involved in the permit decision. The Director may designate a presiding officer if a hearing is held.
- C.** Public notice of the hearing shall be given as specified in R18-9-C620.
- D.** Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under R18-9-C620 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.
- E.** An audio recording or written transcript of the hearing shall be made available to the public upon request.

R18-9-C623. Response to Comments

- A.** At the time that any final permit is issued under R18-9-C627, the Director shall issue a response to comments. This response shall:
 1. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
 2. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.
- B.** The response to comments shall be available to the public.

R18-9-C624. Area Permits

- A.** The Director may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:
 1. Described and identified by location in permit application(s) if they are existing wells, except that the Director may accept a single description of wells with substantially the same characteristics;
 2. Within the same well field, facility site, reservoir, project, or similar unit located in Arizona;
 3. Operated by a single owner or operator;
 4. Used to inject fluids other than hazardous waste; and

5. Other than Class VI wells.

B. Area permits shall specify:

1. The area within which underground injections are authorized; and
2. The requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.

C. The area permit may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided:

1. The permittee notifies the Director at such time as the permit requires;
2. The additional well satisfies the criteria in subsection (A) of this Section and meets the requirements specified in the permit under subsection (B) of this Section; and
3. The cumulative effects of drilling and operation of additional injection wells are considered by the Director during evaluation of the area permit application and are acceptable to the Director.

D. If the Director determines any well that is constructed pursuant to subsection (C) of this Section does not satisfy any of the requirements of subsections (C)(1) and (2) of this Section the Director may modify the permit under R18-9-C632, terminate under R18-9-C634, or take enforcement action. If the Director determines that cumulative effects are unacceptable, the permit may be modified under R18-9-C632.

R18-9-C625. Emergency Permits

A. Notwithstanding any other provision of this Article, the Director may temporarily permit a specific underground injection if:

1. An imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted; or
2. A substantial and irretrievable loss of oil or gas resources will occur unless a temporary emergency permit is granted to a Class II well; and
 - a. Timely application for a permit could not practicably have been made; and
 - b. The injection will not result in the movement of fluids into USDWs; or
3. A substantial delay in production of oil or gas resources will occur unless a temporary emergency permit is granted to a new Class II well and the temporary authorization will not result in the movement of fluids into an USDW.

B. Requirements for issuance.

1. Any temporary permit under subsection (A)(1) of this Section shall be for no longer term than required to prevent the hazard.
2. Any temporary permit under subsection (A)(2) of this Section shall be for no longer than 90 days, except that if a permit application has been submitted prior to the expiration of the 90-day period, the Director may extend the temporary permit until final action on the application.
3. Any temporary permit under subsection (A)(3) of this Section shall be issued only after a complete permit application has been submitted and shall be effective until final action on the application.
4. Notice of any temporary permit under this Section shall be published in accordance with R18-9-C621 within ten days of the issuance of the permit.
5. The temporary permit under this Section may be either oral or written. If oral, it must be followed within five calendar days by a written temporary emergency permit.
6. The Director shall condition the temporary permit in any manner they determine is necessary to ensure that the injection will not result in the movement of fluids into an USDW.

R18-9-C626. Effect of a Permit

A. Except for Class II and III wells, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with this Article and Part C of the SDWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in R18-9-C632 and R18-9-C634.

B. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

C. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

R18-9-C627. Final Permit Decision and Notification

A. Issuance of a final permit decision by the Director shall be accompanied by the permit and an updated fact sheet per R18-9-C619, if applicable, and a notification to the applicant and each person who has submitted written

comments or requested notice of the final permit decision. The notice and hearing procedures are subject to either Title 41, Chapter 6, Article 10, or Title 49, Chapter 2, Article 7 of the A.R.S.

B. The notice shall include:

1. If applicable, the reasons for the denial, revocation or termination, including reference to the statutes or rules on which the decision is based.
2. A description of the party's right to request a hearing and a reference to the procedures for appealing the final permit decision, including the number of days within which an appeal may be filed and the name and telephone number of the Department contact person who can answer questions regarding the appeals process.
3. A reference to the applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06.

C. If the final permit decision is based on a determination by the Director that the applicable criteria under R18-9-A606 are not satisfied, then that determination may be included as part of the appeal.

D. The final permit decision shall take effect 30 days after its issuance in accordance with the notification requirements of subsection A of this Section unless stayed pursuant to Title 41, Chapter 6, Article 10, or Title 49, Chapter 2, Article 7 of the A.R.S.

E. If, under this Article, the issuance, modification, or revocation and reissuance of a permit necessitates a new aquifer exemption or enlargement of a previously approved aquifer exemption, then the issuance, modification, or revocation and reissuance of the permit is appealable, but shall not become effective unless the new aquifer exemption or enlargement of the previously approved aquifer exemption has been approved by the Administrator.

F. If, under this Article, the issuance, modification, or revocation and reissuance of a permit necessitates an injection depth waiver pursuant to R18-9-J670 of this Article then the issuance, modification, or revocation and reissuance of the permit is appealable, but shall not become effective until the Director is in receipt of written concurrence from the Administrator.

R18-9-C628. Permit Duration

A. Permits for Class I and Class V wells shall be effective for a fixed term not to exceed ten years. UIC permits for Class II and III wells shall be issued for a period up to the operating life of the facility. UIC permits for Class VI wells shall be issued for the operating life of the facility and the post-injection site care period. The Director shall review each issued Class II, III, and VI well UIC permit at least once every five years to determine whether it should be modified, revoked and reissued, terminated, or a minor modification made as provided in R18-9-C632.

B. Except as provided in R18-9-C629, the term of a permit shall not be extended by modification beyond the maximum duration specified in this Section.

C. The Director may issue any permit for a duration that is less than the full allowable term under this Section.

R18-9-C629. Continuation of Expiring Permits

A. The conditions of an expiring permit continue in force under A.R.S. § 41-1092.11(A) until the effective date of a new permit if:

1. The permittee has submitted a timely application that is a complete application for a new permit; and
2. The Director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the prior permit.

B. Permits continued under this Section remain fully effective and enforceable.

C. When the permittee is not in compliance with the conditions of the expiring or expired permits the Director may choose to do any or all of the following:

1. Initiate enforcement action based upon the permit that has been continued;
2. Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
3. Issue a new permit under this Article with appropriate conditions; or
4. Take other action as authorized under this Article.

D. Upon the effective date of EPA's approval of Arizona's UIC program, the Department shall administer any permit authorized or issued under the EPA UIC program in the state of Arizona, excluding Indian lands. The

Director may continue expired or expiring EPA-issued UIC permits until the effective date of a new state-issued UIC permit.

R18-9-C630. Permit Transfer

- A.** Except as provided in subsection (B) of this Section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under R18-9-C632(F)(2), or a minor modification made under R18-9-C633(4), to identify the new permittee and incorporate such other requirements as may be necessary under this Article the Safe Drinking Water Act.
- B.** As an alternative to transfers under subsection (A) of this Section, any UIC permit for a well not injecting hazardous waste or injecting carbon dioxide for geological sequestration may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date referred to in subsection (B)(2) of this Section;
 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer or permit responsibility, coverage, and liability between them, and the notice demonstrates that the financial responsibility requirements of R18-9-D636(A)(6) will be met by the new permittee; and
 3. The Director does not notify the existing permittee and the proposed new permittee of the Director's intent to modify or revoke and reissue the permit. A modification under this Section may also be a minor modification under R18-9-C633. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (B)(2) of this Section.

R18-9-C631. Modification; Revocation and Reissuance; or Termination of Permits

- A.** Permits may only be modified or revoked and reissued pursuant to R18-9-C632 or terminated pursuant to R18-9-C634 either at the request of any interested person, including the permittee, or upon the Director's initiative. All requests shall be made in writing and shall contain facts or reasons supporting the request.
- B.** If the Director decides a request to modify, revoke and reissue, or terminate is not justified, they shall send the requestor a brief written response giving a reason for the decision. Denial of a request to terminate does not require a notice of intent to deny. Denial of a request for modification or revocation and reissuance requires a notice of intent to deny only when the request is made by the permittee, the scope of the request has not previously been requested and denied and the request is not for a minor modification. A notice of intent to deny is a type of draft permit which shall follow the same procedures as any draft permit prepared pursuant to R18-9-C618.
- C.** If the Director preliminarily decides to modify or revoke and reissue a permit under R18-9-C632, they shall prepare a draft permit under R18-9-C618 incorporating the proposed changes and notify the permittee in writing of the reason for the preliminary decision to modify or revoke and reissue a permit with reference to the statute or rule on which the decision is based. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. The Director shall require the submission of a new application in the case of revoked and reissued permits.
- D.** In a permit modification under this Section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this Section, the entire permit is reopened just as if the permit had expired and was being reissued. During any modification or revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is issued.
- E.** Minor modifications pursuant to R18-9-C633 are not subject to the requirements of this Section.
- F.** If the Director preliminarily decides to terminate under R18-9-C634(A)(1), (2) or (3), the Director shall issue a notice of intent to terminate that identifies the reason for the preliminary decision to terminate with reference to the statute or rule on which the decision is based. A notice of intent to terminate is not required when a permittee requests termination under R18-9-C634(A)(4). A notice of intent to terminate is a type of draft permit which shall follow the same procedures as any draft permit prepared pursuant to R18-9-C618.

R18-9-C632. Modification; Revocation and Reissuance of Permits

- A.** When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under R18-9-C631, or conducts a review of the permit file) they may determine whether or not one or more of

the causes listed in subsections (E) and (F) of this Section for modification or revocation and reissuance or both exist.

- B.** If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of subsection (G) of this Section, and may request an updated application if necessary.
- C.** If cause does not exist under this Section or R18-9-C633, the Director shall not modify or revoke and reissue the permit.
- D.** If a permit modification satisfies the criteria in R18-9-C633 for “minor modifications” the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures under this Article must be followed.
- E.** For Class II, Class III or Class VI wells the following may be causes for revocation and reissuance as well as modification; and for all other wells the following may be cause for revocation or reissuance as well as modification when the permittee requests or agrees:
1. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 2. Permits other than for Class II and III wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance, other than revised regulations, guidance, or test methods, and would have justified the application of different permit conditions at the time of issuance. For UIC area permits under R18-9-C624, this cause shall include any information indicating that cumulative effects on the environment are unacceptable.
 3. The standards or regulations on which the permit was based have been changed by promulgation of new regulations or by judicial decision after the permit was issued. Permits other than those for Class II, Class III or Class VI wells may be modified during their permit terms for this cause only as follows:
 - a. For promulgation of amended standards or regulations, when:
 - i. The permit condition requested to be modified was based on a regulation promulgated under this Article;
 - ii. ADEQ has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based, and
 - iii. A permittee requests modification in accordance with R18-9-C631 within 90 days after *Arizona Administrative Register* notice of the ADEQ action on which the request is based.
 - b. For judicial decisions, a court of competent jurisdiction has remanded and stayed ADEQ promulgated regulations if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee in accordance with R18-9-C631 within 90 days of judicial remand.
 4. The Director determines if good cause exists for modification of a compliance schedule. Good cause includes unforeseen circumstances, like a strike, a flood, a materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. See also R18-9-C633 (minor modifications).
 5. Additionally, for Class VI wells, whenever the Director determines that permit changes are necessary based on:
 - a. Area of review reevaluations under R18-9-J659(E)(1);
 - b. Any amendments to the testing and monitoring plan under R18-9-J665(10);
 - c. Any amendments to the injection well plugging plan under R18-9-J667(C);
 - d. Any amendments to the post-injection site care and site closure plan under R18-9-J668(A)(3);
 - e. Any amendments to the emergency and remedial response plan under R18-9-J669(D); or
 - f. A review of monitoring and/or testing results conducted in accordance with permit requirements.
- F.** The following are causes to modify or, alternatively, revoke and reissue a permit:
1. Cause exists for termination under R18-9-C634, and the Director determines that modification or revocation and reissuance is appropriate.
 2. The Director has received notification of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer under R18-9-C630(B) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.
 3. A determination that the waste being injected is a hazardous waste as defined in A.R.S. § 49-921 either because the definition has been revised, or because a previous determination has been changed.

- G.** Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

R18-9-C633. Minor Modifications of Permits

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of this Article. Any permit modification not processed as a minor modification under this Section must be made for cause and with a draft permit and public notice as required by R18-9-C632. Minor modifications may only:

1. Correct typographical errors;
2. Require more frequent monitoring or reporting by the permittee;
3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
4. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director;
5. Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Director, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification;
6. Change construction requirements approved by the Director pursuant to R18-9-D636(A)(1), provided that any such alteration shall comply with the requirements of this Article;
7. Amend a plugging and abandonment plan that has been updated under R18-9-D636(A)(5); or
8. Amend a Class VI injection well testing and monitoring plan, plugging plan, post-injection site care and site closure plan, or emergency and remedial response plan where the modifications merely clarify or correct the plan, as determined by the Director.

R18-9-C634. Termination of Permits

A. The Director may terminate a permit during its term, or deny a permit renewal application for the following causes:

1. Noncompliance by the permittee with any condition of the permit;
2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
4. The permittee has requested termination of their permit due to the completion of the terms and conditions therein, including proper abandonment or plugging pursuant to R18-9-B614.

B. The Director shall follow the applicable procedures as required under R18-9-C631(F) in terminating any permit under this Section.

PART D: PERMIT CONDITIONS FOR UNDERGROUND INJECTION

R18-9-D635. Conditions Applicable to All Permits

The following conditions apply to all UIC permits. All conditions applicable to all permits shall be incorporated into the permits issued under this Article, either expressly or referenced by specific citation. If incorporated by reference, a specific citation to this Section must be given in the permit.

1. The permittee must comply with all conditions of any permit issued under this Article. Any permit noncompliance constitutes a violation of this Article and is grounds for enforcement action; for permit modification, revocation and reissuance, or termination; or for denial of a permit renewal application unless otherwise authorized in an emergency permit under R18-9-C625.
2. If the permittee wishes to continue any activity regulated by permit under this Article after the expiration date of this permit, the permittee must apply for and obtain a new permit.
3. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
4. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

5. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and related appurtenances, that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.
6. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
7. This permit does not convey property rights of any sort, or any exclusive privilege.
8. The permittee shall furnish to the Director, within a time specified, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
9. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by this Article the SDWA, any substances or parameters at any location.
10. Monitoring and records.
 - a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - b. The permittee shall retain records of all monitoring information, including the following:
 - i. Calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time; and
 - ii. The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under R18-9-D636(A)(5), or under this Article as appropriate. The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period.
 - c. Records of monitoring information shall include:
 - i. The date, exact place, and time of sampling or measurements;
 - ii. The individual(s) who performed the sampling or measurements;
 - iii. The date(s) analyses were performed;
 - iv. The individual(s) who performed the analyses;
 - v. The analytical techniques or methods used; and
 - vi. The results of such analyses.
 - d. Owners or operators of Class VI wells shall retain records as specified in Part J of this Article, including R18-9-J659(G), R18-9-J666(6), R18-9-J667(D), R18-9-J668(F), and R18-9-J668(H).
11. All applications, reports, or information submitted to the Director shall be signed and certified as required under R18-9-C617.
12. Reporting requirements.
 - a. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.
 - b. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.
 - c. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under this Article.

- d. Monitoring results shall be reported at the intervals specified in this permit.
 - e. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 30 days following each schedule date.
 - f. The permittee shall report any noncompliance that may endanger health or the environment within 24 hours, including:
 - i. Any monitoring or other information that indicates any contaminant may cause an endangerment to a USDW; or
 - ii. Any noncompliance with a permit condition or malfunction of the injection system that may cause fluid migration into or between USDWs.

Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - g. The permittee shall report all instances of noncompliance not reported under subsections (A)(12)(a), (A)(12)(d), (A)(12)(e), and (A)(12)(f) of this Section, at the time monitoring reports are submitted. The reports shall contain the information listed in subsection (A)(12)(f) of this Section.
 - h. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
13. Except for all new wells authorized by an area permit under R18-9-C624(C), a new injection well may not commence injection until construction is complete; and:
- a. The permittee has submitted notice of completion of construction to the Director; and
 - b. Either of the following apply:
 - i. The Director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or
 - ii. The permittee has not received notice from the Director of the intent to inspect or otherwise review the new injection well within 13 days of the date of the notice under subsection (A)(13)(a) of this Section, in which case prior inspection or review is waived and the permittee may commence injection. The Director shall include in the notice a reasonable time period in which the well shall be inspected.
14. The permittee shall notify the Director at such times as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.
15. A Class I, II, or III permit shall include, and a Class V permit may include, conditions that meet the requirements of R18-9-B614 to ensure 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 R18-9-B614, the Director shall incorporate the plan 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 subsection, or deny the permit. A Class VI permit shall include conditions that meet the requirements set forth in R18-9-J667. Where the plan meets the requirements of R18-9-J667, the Director shall incorporate it into the permit as a permit condition. For purposes of this subsection, temporary or intermittent cessation of injection operations is not abandonment.
16. Within 60 days after plugging a well or at the time of the next quarterly report, whichever is less, the owner or operator shall submit a report to the Director. If the quarterly report is due less than 15 days before completion of plugging, then the report shall be submitted within 60 days. The report shall be certified as accurate by the person who performed the plugging operation. Such report shall consist of either:
- a. A statement that the well was plugged in accordance with the plan previously submitted to the Director; or
 - b. Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Director, specifying the differences.
17. Duty to establish and maintain mechanical integrity.

- a. The owner or operator of a Class I, II, III or VI well permitted under this Article shall establish mechanical integrity prior to commencing injection or on a schedule determined by the Director. Thereafter the owner or operator of Class I, II, and III wells must maintain mechanical integrity as defined in R18-9-B613 and the owner or operator of Class VI wells must maintain mechanical integrity as defined in R18-9-J664.
- b. When the Director determines that a Class I, II, III or VI well lacks mechanical integrity pursuant to R18-9-B613 or R18-9-J664 for Class VI, written notice of the determination will be given 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 R18-9-B614 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 R18-9-B613.
- c. The Director may allow the owner or operator of a well that lacks mechanical integrity pursuant to R18-9-B613(A)(1) 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.

R18-9-D636. Establishing Permit Conditions

- A.** In addition to conditions required in R18-9-D635, the Director shall establish conditions, as required on a case-by-case basis under R18-9-C628 (Permit Duration), R18-9-D637 (Schedules of Compliance), and R18-9-D638 (Requirements for Recording and Reporting Monitoring Results). Permits for owners or operators of Class VI injection wells shall include conditions meeting the requirements of Part J of this Article. Permits for other wells shall contain the following requirements, when applicable.
1. Construction requirements as set forth in this Article. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements. New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Director as minor modifications as defined under R18-9-C633. No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Director.
 2. Corrective action as set forth in R18-9-D639 and R18-9-J659.
 3. Operation requirements as set forth in this Article; the permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any USDW, that formation fluids are not displaced into any USDW, and to assure compliance with the operating requirements under this Article.
 4. Monitoring and reporting requirements as set forth in this Article. The permittee shall be required to identify types of tests and methods used to generate the monitoring data. Monitoring of the nature of injected fluids shall comply with an analytical method prescribed in A.A.C. R9-14-610, or an alternative analytical method approved under A.A.C. R9-14-610(C), or as approved by the Director. A test result from a sample taken to determine compliance with a national primary drinking water standard is valid only if the sample is analyzed by a laboratory that is licensed by the Arizona Department of Health Services, an out-of-state laboratory licensed under A.R.S. § 36-495.14, or a laboratory exempted under A.R.S. § 36-495.02, for the analysis performed.
 5. After a cessation of operations for two years the owner or operator shall plug and abandon the well in accordance with the plan unless they:
 - a. Provide notice to the Director; and
 - b. Describe actions or procedures, satisfactory to the Director, that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the Director.
 6. Financial responsibility.

- a. 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:
 - i. The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to R18-9-D635(15), R18-9-B614, and R18-9-J667, and submitted a plugging and abandonment report pursuant to R18-9-D635(16); or
 - ii. The well has been converted in compliance with the requirements of R18-9-D635(14); or
 - iii. 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.
- b. 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 Class VI wells, the permittee shall show evidence of such financial responsibility to the Director by the submission of a qualifying instrument, such as a financial statement or other materials acceptable to the Director. The owner or operator of a Class VI well must comply with the financial responsibility requirements set forth in R18-9-J660.
- 7. A permit for any Class I, II, III or VI well or injection project that lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Director under R18-9-B613 or R18-9-J664 of this Chapter for Class VI, that the well has mechanical integrity.
- 8. The Director shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into USDWs.
- B.** In addition to conditions required in all permits, the Director shall establish conditions in permits as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of this Article.
 - 1. Applicable requirements include, but are not limited to:
 - a. State statutory or regulatory requirements in effect prior to final administrative disposition of a permit; or
 - b. Any requirement in effect prior to the modification or revocation and reissuance of a permit, to the extent allowed under R18-9-C632.
- C.** New or reissued permits, and to the extent allowed under R18-9-C632 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this Section.
- D.** All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.
- E.** Permits shall provide language on duration, expiration and termination.

R18-9-D637. Compliance Schedule

- A.** A permit may, when appropriate, specify a schedule for compliance with this Article.
 - 1. Any compliance schedules shall require compliance as soon as possible, and in no case later than three years after the effective date of the permit.
 - 2. Except as provided in subsection (B)(1)(b) of this Section, if a permit establishes a compliance schedule that exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.
 - a. The time between interim dates shall not exceed one year.
 - b. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.
 - 3. The permit shall be written to require that if subsection (A)(1) of this Section is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.
- B.** A permit applicant or permittee may cease conducting regulated activities at a given time by plugging and abandonment rather than continue to operate and meet permit requirements as follows:
 - 1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:
 - a. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

- b. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
- 2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination that will ensure timely compliance with the applicable requirements.
- 3. If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:
 - a. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
 - b. One schedule shall lead to timely compliance with applicable requirements;
 - c. The second schedule shall lead to cessation of the regulated activities by a date that ensures timely compliance with applicable requirements; and
 - d. Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under subsection (B)(3)(a) of this Section it shall follow the schedule leading to compliance if the decision is to continue conducting the regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
- 4. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as a resolution of the board of Directors of a corporation.

R18-9-D638. Requirements for Recording and Reporting Monitoring Results

All permits shall specify:

- 1. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods, including biological monitoring methods when appropriate;
- 2. Required monitoring including type, intervals, and frequency sufficient to yield data that are representative of the monitored activity including when appropriate, continuous monitoring; and
- 3. Applicable reporting requirements based upon the impact of the regulated activity and as specified under this Article. Reporting shall be no less frequent than specified in the above regulations.

R18-9-D639. Corrective Action

- A.** Applicants for Class I, II, or III injection well permits shall identify the location of all known wells within the injection well's area of review that penetrates the injection zone, or in the case of Class II wells operating over the fracture pressure of the injection formation, all known wells within the area of review penetrating formations affected by the increase in pressure. For such wells that are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into USDWs. Where the plan is adequate, the Director shall incorporate it into the permit as a condition. Where the Director's review of an application indicates that the permittee's plan is inadequate, the Director shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subsection (B) through (E) of this Section, or deny the application. The Director may disregard the provisions of R18-9-B612 and this Section when reviewing an application to permit an existing Class II well.
- B.** Any permit issued for an existing injection well, other than Class II wells, requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under subsection (A) of this Section to be completed as soon as possible.
- C.** No owner or operator of a new injection well may begin injection until all required corrective action has been taken.
- D.** The Director may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.
- E.** When setting corrective action requirements for Class III wells, the Director shall consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made

that corrective action is not necessary based on the determinations above, the monitoring program required in R18-9-G647(B) shall be designed to verify the validity of such determinations.

F. In determining the adequacy of corrective action proposed by the applicant under this Section and in determining the additional steps needed to prevent fluid movement into USDWs, the following criteria and factors shall be considered by the Director:

1. Nature and volume of injected fluid;
2. Nature of native fluids or by-products of injection;
3. Potentially affected population;
4. Geology;
5. Hydrology;
6. History of the injection operation;
7. Completion and plugging records;
8. Abandonment procedures in effect at the time the well was abandoned; and
9. Hydraulic connections with USDWs.

PART E: CLASS I INJECTION WELL REQUIREMENTS

R18-9-E640. Class I: Construction Requirements

A. All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the lowermost formation containing, within one-quarter mile of the well bore, an USDW.

B. All Class I wells shall be cased and cemented to prevent the movement of fluids into or between USDWs. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

1. Depth to the injection zone;
2. Injection pressure, external pressure, internal pressure, and axial loading;
3. Hole size;
4. Size and grade of all casing strings, such as wall thickness, diameter, nominal weight, length, joint Specification, and construction material;
5. Corrosiveness of injected fluid, formation fluids, and temperatures;
6. Lithology of injection and confining intervals; and
7. Type or grade of cement.

C. All Class I injection wells, except those municipal wells injecting non-corrosive wastes, shall inject fluids through tubing with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.

1. The use of other alternatives to a packer may be allowed with the written approval of the Director. To obtain approval, the operator shall submit a written request to the Director, which shall set forth the proposed alternative and all technical data supporting its use. The Director shall approve the request if the alternative method will reliably provide a comparable level of protection to USDWs. The Director may approve an alternative method solely for an individual well or for general use.
2. In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:
 - a. Depth of setting;
 - b. Characteristics of injection fluid such as chemical content, corrosiveness, and density;
 - c. Injection pressure;
 - d. Annular pressure;
 - e. Rate, temperature and volume of injected fluid; and
 - f. Size of casing.

D. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Director. At a minimum, such logs and tests shall include:

1. Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
2. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from

time to time as the construction of the well progresses. In determining which logs and tests shall be required, the following logs shall be considered for use in the following situations:

- a. For surface casing intended to protect USDWs:
 - i. Resistivity, spontaneous potential, and caliper logs before the casing is installed; and
 - ii. A cement bond, temperature, or density log after the casing is set and cemented.
- b. For intermediate and long strings of casing intended to facilitate injection:
 - i. Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;
 - ii. Fracture finder logs; and
 - iii. A cement bond, temperature, or density log after the casing is set and cemented.

E. At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class I wells:

1. Fluid pressure;
2. Temperature;
3. Fracture pressure;
4. Other physical and chemical characteristics of the injection matrix; and
5. Physical and chemical characteristics of the formation fluids.

R18-9-E641. Class I; Operating, Monitoring, and Reporting Requirements

A. Operating requirements shall, at a minimum, specify that:

1. Except during stimulation injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an USDW.
2. Injection between the outermost casing protecting USDWs and the well bore is prohibited.
3. Unless an alternative to a packer has been approved under R18-9-E640(C), the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Director and a pressure, also approved by the Director, shall be maintained on the annulus.

B. Monitoring requirements shall, at a minimum, include:

1. The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;
2. Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;
3. A demonstration of mechanical integrity pursuant to R18-9-B613 at least once every five years during the life of the well; and
4. The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the USDWs, the parameters to be measured and the frequency of monitoring.

C. Reporting requirements shall, at a minimum, include:

1. Quarterly reports to the Director on:
 - a. The physical, chemical and other relevant characteristics of injection fluids;
 - b. Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and
 - c. The results of monitoring prescribed under subsection (B)(4) of this Section.
2. Reporting the results, with the first quarterly report after the completion, of:
 - a. Periodic tests of mechanical integrity;
 - b. Any other test of the injection well conducted by the permittee if required by the Director; and
 - c. Any well work over.

D. Ambient monitoring.

1. Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Director shall require the owner or operator to develop a monitoring program. At a minimum, the Director shall require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.
2. When prescribing a monitoring system the Director may also require:
 - a. Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator shall, on a quarterly basis, sample the aquifer and analyze for constituents specified by the Director;

- b. The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by the Director, or to provide other site specific data;
- c. Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;
- d. Periodic monitoring of the ground water quality in the lowermost USDW; and
- e. Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

R18-9-E642. Class I; Information to be Considered by the Director

- A.** This Section sets forth the information which must be considered by the Director in authorizing Class I wells.
- 1. For an existing or converted new Class I well the Director may rely on the existing permit file for those items of information listed in subsections (B), (C) & (D) which are current and accurate in the file.
 - 2. For a newly drilled Class I well, the Director shall require the submission of all the information listed in subsections (B), (C) & (D) which are current and accurate in the file.
 - 3. For both existing and new Class I wells certain maps, cross sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily available to the Director and sufficiently identified to be retrieved.
- B.** Prior to the issuance of a permit for an existing Class I well to operate or the construction or conversion of a new Class I well the Director shall consider the following:
- 1. Information required in R18-9-C616;
 - 2. A map showing the injection well(s) for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines, quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
 - 3. A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require;
 - 4. Maps and cross sections indicating the general vertical and lateral limits of all USDWs within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each USDW which may be affected by the proposed injection;
 - 5. Maps and cross sections detailing the geologic structure of the local area;
 - 6. Generalized maps and cross sections illustrating the regional geologic setting;
 - 7. Proposed operating data:
 - a. Average and maximum daily rate and volume of the fluid to be injected;
 - b. Average and maximum injection pressure; and
 - c. Source and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids;
 - 8. Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;
 - 9. Proposed stimulation program;
 - 10. Proposed injection procedure;
 - 11. Schematic or other appropriate drawings of the surface and subsurface construction details of the well.
 - 12. Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any USDW;
 - 13. Plans, including maps, for meeting the monitoring requirements in R18-9-E641(B);
 - 14. For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under R18-9-D639;
 - 15. Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and
 - 16. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by R18-9-D636(A)(6).
- C.** Prior to granting approval for the operation of a Class I well the Director shall consider the following information:
- 1. All available logging and testing program data on the well;
 - 2. A demonstration of mechanical integrity pursuant to R18-9-B613;
 - 3. The anticipated maximum pressure and flow rate at which the permittee will operate;

4. The results of the formation testing program;
5. The actual injection procedure;
6. The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and
7. The status of corrective action on defective wells in the area of review.

D. Prior to granting approval for the plugging and abandonment of a Class I well the Director shall consider the following information:

1. The type and number of plugs to be used;
2. The placement of each plug including the elevation of the top and bottom;
3. The type and grade and quantity of cement to be used;
4. The method for placement of the plugs; and
5. The procedure to be used to meet the requirements of R18-9-B614(C).

PART F: CLASS II INJECTION WELL REQUIREMENTS

R18-9-F643. Class II; Construction Requirements

A. All new Class II wells shall be sited in such a fashion that they inject into a formation which is separated from any USDW by a confining zone that is free of known open faults or fractures within the area of review.

B. All Class II injection wells:

1. Shall be cased and cemented to prevent movement of fluids into or between USDWs. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:
 - a. Depth to the injection zone;
 - b. Depth to the bottom of all USDWs; and
 - c. Estimated maximum and average injection pressures.
2. In addition the Director may consider information on:
 - a. Nature of formation fluids;
 - b. Lithology of injection and confining zones;
 - c. External pressure, internal pressure, and axial loading;
 - d. Hole size;
 - e. Size and grade of all casing strings; and
 - f. Class of cement.

C. The requirements in subsection (B) of this Section need not apply to existing or newly converted Class II wells located in existing fields if:

1. Regulatory controls for casing and cementing existed for those wells at the time of drilling and those wells are in compliance with those controls; and
2. Well injection will not result in the movement of fluids into an USDW so as to create a significant risk to the health of persons.

D. The requirements in subsection (B) of this Section need not apply to newly drilled wells in existing fields if:

1. They meet the requirements of the State for casing and cementing applicable to that field at the time of submission of the State program to the Administrator; and
2. Well injection will not result in the movement of fluids into an USDW so as to create a significant risk to the health of persons.

E. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class II wells. A descriptive report interpreting the results of that portion of those logs and tests which specifically relate to (1) an USDW and the confining zone adjacent to it, and (2) the injection and adjacent formations shall be prepared by a knowledgeable log analyst and submitted to the Director. At a minimum, these logs and tests shall include:

1. Deviation checks on all holes constructed by first drilling a pilot hole and then enlarging the pilot hole, by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling.
2. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. In determining which logs and tests shall be required the following shall be considered by the Director in setting logging and testing requirements:

- a. For surface casing intended to protect USDWs in areas where the lithology has not been determined:
 - i. Electric and caliper logs before casing is installed; and
 - ii. A cement bond, temperature, or density log after the casing is set and cemented.
 - b. For intermediate and long strings of casing intended to facilitate injection:
 - i. Electric, porosity and gamma ray logs before the casing is installed;
 - ii. Fracture finder logs; and
 - iii. A cement bond, temperature, or density log after the casing is set and cemented.
- F.** At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class II wells or projects:
- 1. Fluid pressure;
 - 2. Estimated fracture pressure; and
 - 3. Physical and chemical characteristics of the injection zone.

R18-9-F644. Class II: Operating, Monitoring, and Reporting Requirements

- A.** Operating requirements shall, at a minimum, specify that:
- 1. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to the USDWs. In no case shall injection pressure cause the movement of injection or formation fluids into an USDW.
 - 2. Injection between the outermost casing protecting USDWs and the well bore shall be prohibited.
- B.** Monitoring requirements shall, at a minimum, include:
- 1. Monitoring of the nature of injected fluids at time intervals sufficiently frequent to yield data representative of their characteristics;
 - 2. Observation of injection pressure, flow rate, and cumulative volume at least with the following frequencies:
 - a. Weekly for produced fluid disposal operations;
 - b. Monthly for enhanced recovery operations;
 - c. Daily during the injection of liquid hydrocarbons and injection for withdrawal of stored hydrocarbons; and
 - d. Daily during the injection phase of cyclic steam operations; and
 - e. Record one observation of injection pressure, flow rate and cumulative volume at reasonable intervals no greater than 30 days;
 - 3. A demonstration of mechanical integrity pursuant to R18-9-B613 at least once every five years during the life of the injection well;
 - 4. Maintenance of the results of all monitoring until the next permit review; and
 - 5. Hydrocarbon storage and enhanced recovery may be monitored on a field or project basis rather than on an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner/operator demonstrates that manifold monitoring is comparable to individual well monitoring.
- C.** Reporting requirements.
- 1. Reporting requirements shall at a minimum include an annual report to the Director summarizing the results of monitoring required under subsection (B) of this Section. Such summary shall include monthly records of injected fluids, and any major changes in characteristics or sources of injected fluid. Previously submitted information may be included by reference.
 - 2. Owners or operators of hydrocarbon storage and enhanced recovery projects may report on a field or project basis rather than an individual well basis where manifold monitoring is used.

R18-9-F645. Class II: Information to be Considered by the Director

- A.** This Section sets forth the information which must be considered by the Director in authorizing Class II wells. Certain maps, cross sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Director and sufficiently identified to be retrieved.
- B.** Prior to the issuance of a permit for an existing Class II well to operate or the construction or conversion of a new Class II well the Director shall consider the following:
- 1. Information required in R18-9-C616.

2. A map showing the injection well or project area for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, and water wells. The map may also show surface bodies of waters, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or suspended. Only information of public record and pertinent information known to the applicant is required to be included on this map. This requirement does not apply to existing Class II wells.
3. A tabulation of data reasonably available from public records or otherwise known to the applicant on all wells within the area of review included on the map required under subsection (B)(2) of this Section which penetrate the proposed injection zone or, in the case of Class II wells operating over the fracture pressure of the injection formation, all known wells within the area of review which penetrate formations affected by the increase in pressure. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Director may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Director may elect to only require data on a representative number of wells. This requirement does not apply to existing Class II wells.
4. Proposed operating data:
 - a. Average and maximum daily rate and volume of fluids to be injected;
 - b. Average and maximum injection pressure; and
 - c. Source and an appropriate analysis of the chemical and physical characteristics of the injection fluid.
5. Appropriate geological data on the injection zone and confining zone including lithologic description, geological name, thickness and depth.
6. Geologic name and depth to bottom of all USDWs which may be affected by the injection.
7. Schematic or other appropriate drawings of the surface and subsurface construction details of the well.
8. In the case of new injection wells the corrective action proposed to be taken by the applicant under R18-9-D639.
9. A certificate that the applicant has assured through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by R18-9-D636(A)(6).

C. In addition the Director may consider the following:

1. Proposed formation testing program to obtain the information required by R18-9-F643(F);
2. Proposed stimulation program;
3. Proposed injection procedure;
4. Proposed contingency plans, if any, to cope with well failures so as to prevent migration of contaminating fluids into an USDW;
5. Plans for meeting the monitoring requirements of R18-9-F644(B).

D. Prior to granting approval for the operation of a Class II well the Director shall consider the following information:

1. All available logging and testing program data on the well;
2. A demonstration of mechanical integrity pursuant to R18-9-B613;
3. The anticipated maximum pressure and flow rate at which the permittee will operate;
4. The results of the formation testing program;
5. The actual injection procedure; and
6. For new wells the status of corrective action on defective wells in the area of review.

E. Prior to granting approval for the plugging and abandonment of a Class II well the Director shall consider the following information:

1. The type, and number of plugs to be used;
2. The placement of each plug including the elevation of top and bottom;
3. The type, grade, and quantity of cement to be used;
4. The method of placement of the plugs; and
5. The procedure to be used to meet the requirements of R18-9-B614(A).

PART G: CLASS III INJECTION WELL REQUIREMENTS

R18-9-G646. Class III; Construction Requirements

- A.** All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between USDWs. The Director may waive the cementing requirement for new wells in existing projects or portions of existing projects where they have substantial evidence that no contamination of USDWs would result. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:
1. Depth to the injection zone;
 2. Injection pressure, external pressure, internal pressure, axial loading, etc.;
 3. Hole size;
 4. Size and grade of all casing strings, such as wall thickness, diameter, nominal weight, length, joint specification, and construction material;
 5. Corrosiveness of injected fluids and formation fluids;
 6. Lithology of injection and confining zones; and
 7. Type and grade of cement.
- B.** Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Director. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks shall be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they shall be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
- C.** Where the injection zone is a formation which is naturally water-bearing the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:
1. Fluid pressure;
 2. Fracture pressure; and
 3. Physical and chemical characteristics of the formation fluids.
- D.** Where the injection formation is not a water-bearing formation, the information in subsection (C)(2) of this Section must be submitted.
- E.** Where injection is into a formation which contains water with less than 10,000 mg/l TDS monitoring wells shall be completed into the injection zone and into any USDWs above the injection zone which could be affected by the mining operation. These wells shall be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse the monitoring wells shall be located so that they will not be physically affected.
- F.** Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, no monitoring wells are necessary in the injection stratum.
- G.** Where the injection wells penetrate an USDW in an area subject to subsidence or catastrophic collapse an adequate number of monitoring wells shall be completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.
- H.** In determining the number, location, construction and frequency of monitoring of the monitoring wells the following criteria shall be considered:
1. The population relying on the USDW affected or potentially affected by the injection operation;
 2. The proximity of the injection operation to points of withdrawal of drinking water;
 3. The local geology and hydrology;
 4. The operating pressures and whether a negative pressure gradient is being maintained;
 5. The nature and volume of the injected fluid, the formation water, and the process by-products; and
 6. The injection well density.

R18-9-G647. Class III; Operating, Monitoring, and Reporting Requirements

- A.** Operating requirements prescribed shall, at a minimum, specify that:
1. Except during well stimulation, injection pressure at the wellhead shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing

fractures in the injection zone. In no case, shall injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an USDW.

2. Injection between the outermost casing protecting USDWs and the well bore is prohibited.

B. Monitoring requirements shall, at a minimum, specify:

1. Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by R18-9-G648(B)(7)(c) is incorrect or incomplete, a new analysis as required by R18-9-G648(B)(7)(c) shall be provided to the Director.
2. Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate.
3. Demonstration of mechanical integrity pursuant to R18-9-B613 at least once every five years during the life of the well for salt solution mining.
4. Monitoring of the fluid level in the injection zone semi-monthly, where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells required by R18-9-G646(E), semi-monthly.
5. Quarterly monitoring of wells required by R18-9-G646(G).
6. All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner/operator demonstrates that manifold monitoring is comparable to individual well monitoring.

C. Reporting requirements shall, at a minimum, include:

1. Quarterly reporting to the Director on required monitoring;
2. Results of mechanical integrity and any other periodic test required by the Director reported with the first regular quarterly report after the completion of the test; and
3. Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

R18-9-G648. Class III; Information to be Considered by the Director

A. This Section sets forth the information which must be considered by the Director in authorizing Class III wells. Certain maps, cross sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Director and sufficiently identified to be retrieved.

B. Prior to the issuance of a permit for an existing Class III well or area to operate or the construction of a new Class III well the Director shall consider the following:

1. Information required in R18-9-C616.
2. A map showing the injection well or project area for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, public water systems and water wells. The map may also show surface bodies of waters, mines (surface and subsurface) quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map.
3. A tabulation of data reasonably available from public records or otherwise known to the applicant on wells within the area of review included on the map required under subsection (B)(2) of this Section which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Director may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Director may elect to only require data on a representative number of wells.
4. Maps and cross sections indicating the vertical limits of all USDWs within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every USDW which may be affected by the proposed injection;
5. Maps and cross sections detailing the geologic structure of the local area;
6. Generalized map and cross sections illustrating the regional geologic setting;
7. Proposed operating data:
 - a. Average and maximum daily rate and volume of fluid to be injected;

- b. Average and maximum injection pressure; and
- c. Qualitative analysis and ranges in concentrations of all constituents of injected fluids. If the information is confidential pursuant to R18-9-A603 an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations which shall not be exceeded. In such a case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the Director as part of any enforcement investigation.
- 8. Proposed formation testing program to obtain the information required by R18-9-G646(C).
- 9. Proposed stimulation program;
- 10. Proposed injection procedure;
- 11. Schematic or other appropriate drawings of the surface and subsurface construction details of the well;
- 12. Plans (including maps) for meeting the monitoring requirements of R18-9-G647(B);
- 13. Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;
- 14. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into USDWs;
- 15. A certificate that the applicant has assured, through a performance bond, or other appropriate means, the resources necessary to close, plug, or abandon the well as required by R18-9-D636(A)(5); and
- 16. The corrective action proposed to be taken under R18-9-D639.
- C.** Prior to granting approval for the operation of a Class III well the Director shall consider the following information:
 - 1. All available logging and testing data on the well;
 - 2. A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution wells pursuant to R18-9-B613;
 - 3. The anticipated maximum pressure and flow rate at which the permittee will operate;
 - 4. The results of the formation testing program;
 - 5. The actual injection procedures; and
 - 6. The status of corrective action on defective wells in the area of review.
- D.** Prior to granting approval for the plugging and abandonment of a Class III well the Director shall consider the following information:
 - 1. The type and number of plugs to be used;
 - 2. The placement of each plug including the elevation of the top and bottom;
 - 3. The type, grade and quantity of cement to be used;
 - 4. The method of placement of the plugs; and
 - 5. The procedure to be used to meet the requirements of R18-9-B614(A).

PART H: CLASS IV INJECTION WELL REQUIREMENTS

R18-9-H649. Class IV; Closure Requirements and Remediation

- A.** Closure.
 - 1. Prior to abandoning any Class IV well, the owner or operator shall plug or otherwise close the well in a manner acceptable to the Director.
 - 2. The owner or operator of a Class IV well must notify the Director of intent to abandon the well at least 30 days prior to abandonment.
- B.** Remediation.
 - 1. Injection wells used to inject contaminated groundwater that has been treated and is being injected into the same formation from which it was drawn are authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by the Administrator or the Director pursuant to subsections (a), (b) or (c) below:
 - a. Provisions for cleanup of releases under CERCLA, or
 - b. The requirements and provisions under RCRA, or
 - c. The requirements and provisions under other applicable state laws for corrective and remedial action.

PART I: CLASS V INJECTION WELL REQUIREMENTS

R18-9-I650. Class V; General Requirements

- A.** The following requirements apply to Class V Wells authorized by rule:

1. A Class V Injection well is authorized by rule subject to the conditions under this Section.
2. Well authorization under this Section expires upon the effective date of a permit issued pursuant to R18-9-I651, R18-9-C616, R18-9-C624, R18-9-C625, or upon proper closure of the well.
3. An owner or operator of a well that is authorized by rule pursuant to this Section is prohibited from injecting into the well:
 - a. Upon the effective date of an applicable permit denial;
 - b. Upon failure to submit a permit application in a timely manner pursuant to R18-9-I651 or R18-9-C616;
 - c. Upon failure to submit inventory information in a timely manner pursuant to R18-9-I652; or
 - d. Upon failure to comply with a request for information in a timely manner pursuant to R18-9-I653.
4. Submission of the following is required in order to transfer ownership of a well that is authorized by rule pursuant to this Section:
 - a. An inventory, and
 - b. A Class V authorized by rule transfer fee pursuant to R18-14-111(3).

B. The following requirements apply for all Class V Wells:

1. With certain exceptions listed in subsection (B)(2) of this Section, Class V injection activity is “authorized by rule,” meaning owners and operators must comply with all the requirements of this Article but do not have to get an individual permit. Well authorization expires once the injection well has been properly closed.
2. A Class V well requires a permit and shall no longer be authorized by rule upon any of the following:
 - a. Failure to comply with the prohibition of movement standard in R18-9-B608(A).
 - b. The Director specifically requires a Class V permit for the well to operate pursuant to R18-9-I651. In which case rule authorization expires upon the effective date of the permit issued, or you are prohibited from injecting into your well upon:
 - i. Failure to submit a permit application in a timely manner as specified in a notice from the Director; or
 - ii. Upon the effective date of permit denial.
 - c. Failure to submit inventory information as required under R18-9-I652.
 - d. Failure to comply with the Director’s request for additional information under R18-9-I653 in a timely manner.
3. Prior to abandoning a Class V well, the owner or operator shall meet the plugging requirements in R18-9-B614(C).
4. In limited cases, the Director may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if: all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and, injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.

R18-9-I651. Class V; Requiring a Permit

A. The Director may require the owner or operator of any Class V injection well authorized by rule under this Article to apply for and obtain an individual or area UIC permit. Cases where individual or area UIC permits may be required include:

1. The injection well is not in compliance with any requirement under this Article or A.R.S. Title 49, Chapter 2, Article 3.3;
2. The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule; or
3. The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, which are not contained in the rule.

B. If an individual or area UIC permit is required, the Director shall notify the discharger in writing of the decision. The notice shall include:

1. A brief statement of the reasons for the decision.
2. An application form.
3. A statement setting a deadline to file the application.
4. A statement that on the effective date of issuance or denial of the individual or area UIC permit, coverage by rule will automatically terminate.

5. The applicant's right to appeal the individual permit requirement under A.R.S. § 49-323 and the name and telephone number of the Department contact person who can answer questions regarding the appeals process.

C. An owner or operator of a well authorized by rule may request to be excluded from the coverage of this Section by applying for an individual or area UIC permit. The owner or operator shall submit an application under R18-9-C616 with reasons supporting the request to the Director. The Director may grant any such requests.

R18-9-I652. Class V; Inventory Requirements for Class V Wells Authorized by Rule

A. The owner or operator of an injection well authorized by rule under R18-9-I650 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 timeframe specified in subsection (D) of this Section.

B. As part of the inventory, the Director shall require and the owner/operator shall provide at least the following information:

1. Facility name and location;
2. Name and address of legal contact;
3. Ownership of facility;
4. Nature and type of injection well; and
5. Operating status of injection well.

C. Upon approval of the Arizona UIC Program, the Director shall notify all known owners or operators of injection wells of their duty to submit inventory information in the manner specified by the Director.

D. The owner or operator of an injection well shall submit inventory information no later than one year after the effective date of the Arizona UIC program. The Director need not require inventory information from any facility with interim status under RCRA.

R18-9-I653. Class V; Requiring Other Information

A. In addition to the inventory requirements under R18-9-I652, the Director may require the owner or operator of any well authorized by rule under this Article to submit information as deemed necessary by the Director to determine whether a well may be endangering an USDW in violation of R18-9-B608 of this Part.

B. Such information requirements may include, but are not limited to:

1. Performance of ground-water monitoring and the periodic submission of reports of such monitoring;
2. An analysis of injected fluids, including periodic submission of such analyses; and
3. A description of the geologic strata through and into which injection is taking place.

C. Any request for information under this Section shall be made in writing, and include a brief statement of the reasons for requiring the information. An owner and operator shall submit the information within the time period(s) provided in the notice.

D. An owner or operator of an injection well authorized by rule under this Part 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 subsection (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 R18-9-I651; R18-9-C616, R18-9-C624, or R18-9-C625.

R18-9-I654. Class V; Prohibition of Class V Cesspools and Motor Vehicle Waste Disposal Wells

The construction and operation of cesspools and motor vehicle waste disposal wells are prohibited.

R18-9-I655. Class V; Prohibition of Non-Experimental Class V Wells for Geologic Sequestration

The construction, operation or maintenance of any non-experimental Class V geologic sequestration well is prohibited.

PART J: CLASS VI INJECTION WELL REQUIREMENTS

R18-9-J656. Class VI; Applicability

A. This Part establishes criteria and standards for underground injection control programs to regulate any Class VI carbon dioxide geologic sequestration injection wells.

B. This Part applies to any well used to inject carbon dioxide specifically for the purpose of geologic sequestration.

C. This Part also applies to owners or operators of permit- or rule-authorized Class V experimental carbon dioxide injection projects who seek to apply for Class VI geologic sequestration permit for their well or wells. Owners

or operators seeking to convert existing Class I, Class II, or Class V experimental wells to Class VI geologic sequestration wells must demonstrate to the Director that the wells were engineered and constructed to meet the requirements of R18-9-J661 and ensure protection of USDWs, in lieu of requirements at R18-9-J661 and R18-9-J662. A converted well must still meet all other requirements under Part F of this Article.

D. The following definitions apply to this Part and govern for Class VI wells to the extent that these definitions conflict with those in R18-9-A601:

1. “Area of review” means the region surrounding the geologic sequestration project where USDWs may be endangered by the injection activity. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and displaced fluids, and is based on available site characterization, monitoring, and operational data as set forth in R18-9-J659.
2. “Carbon dioxide plume” means the extent underground, in three dimensions, of an injected carbon dioxide stream.
3. “Carbon dioxide stream” means carbon dioxide that has been captured from an emission source, plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This Part does not apply to any carbon dioxide stream that meets the definition of a hazardous waste under A.R.S. § 49-921.
4. “Confining zone” means a geologic formation, group of formations, or part of a formation stratigraphically overlying the injection zone(s) that acts as barrier to fluid movement. For Class VI wells operating under an injection depth waiver, confining zone means a geologic formation, group of formations, or part of a formation stratigraphically overlying and underlying the injection zone(s).
5. “Corrective action” means the use of Director-approved methods to ensure that wells within the area of review do not serve as conduits for the movement of fluids into USDWs.
6. “Geologic sequestration” means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.
7. “Geologic sequestration project” means an injection well or wells used to emplace a carbon dioxide stream beneath the lowermost formation containing a USDW; or, wells used for geologic sequestration of carbon dioxide that have been granted a waiver of the injection depth requirements pursuant to requirements at R18-9-J670; or, wells used for geologic sequestration of carbon dioxide that have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to R18-9-A605 and R18-9-A606. It includes the subsurface three-dimensional extent of the carbon dioxide plume, associated area of elevated pressure, and displaced fluids, as well as the surface area above that delineated region.
8. “Injection zone” means a geologic formation, group of formations, or part of a formation that is of sufficient areal extent, thickness, porosity, and permeability to receive carbon dioxide through a well or wells associated with a geologic sequestration project.
9. “Post-injection site care” means appropriate monitoring and other actions, including corrective action, needed following cessation of injection to ensure that USDWs are not endangered, as required under R18-9-J668.
10. “Pressure front” means the zone of elevated pressure that is created by the injection of carbon dioxide into the subsurface. For the purposes of this Part, the pressure front of a carbon dioxide plume refers to a zone where there is a pressure differential sufficient to cause the movement of injected fluids or formation fluids into a USDW.
11. “Site closure” means the point/time, as determined by the Director following the requirements under R18-9-J668, at which the owner or operator of a geologic sequestration site is released from post-injection site care responsibilities.
12. “Transmissive fault” or “fracture” means a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

R18-9-J657. Class VI; Required Permit Information

- A.** This Section sets forth the information which must be considered by the Director in authorizing Class VI wells. For converted Class I, Class II, or Class V experimental wells, certain maps, cross sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily available to the Director, and sufficiently identified to be retrieved.

- B.** Prior to the issuance of a permit for the construction of a new Class VI well or the conversion of an existing Class I, Class II, or Class V well to a Class VI well, the owner or operator shall submit, pursuant to R18-9-J666, and the Director shall consider the following:
1. Information required in R18-9-C616(D)(1) through (9);
 2. A map showing the injection well for which a permit is sought and the applicable area of review consistent with R18-9-J659. Within the area of review, the map must show the number or name, and location of all injection wells, producing wells, abandoned wells, plugged wells or dry holes, deep stratigraphic boreholes, State- or EPA-approved subsurface cleanup sites, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, other pertinent surface features including structures intended for human occupancy, State, Tribal, and Territory boundaries, and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
 3. Information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, including:
 - a. Maps and cross sections of the area of review;
 - b. The location, orientation, and properties of known or suspected faults and fractures that may transect the confining zone(s) in the area of review and a determination that they would not interfere with containment;
 - c. Data on the depth, areal extent, thickness, mineralogy, porosity, permeability, and capillary pressure of the injection and confining zone(s); including geology/facies changes based on field data which may include geologic cores, outcrop data, seismic surveys, well logs, and names and lithologic descriptions;
 - d. Geomechanical information on fractures, stress, ductility, rock strength, and in situ fluid pressures within the confining zone(s);
 - e. Information on the seismic history including the presence and depth of seismic sources and a determination that the seismicity would not interfere with containment; and
 - f. Geologic and topographic maps and cross sections illustrating regional geology, hydrogeology, and the geologic structure of the local area.
 4. A tabulation of all wells within the area of review which penetrate the injection or confining zone(s). Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require;
 5. Maps and stratigraphic cross sections indicating the general vertical and lateral limits of all USDWs, water wells and springs within the area of review, their positions relative to the injection zone(s), and the direction of water movement, where known;
 6. Baseline geochemical data on subsurface formations, including all USDWs in the area of review;
 7. Proposed operating data for the proposed geologic sequestration site:
 - a. Average and maximum daily rate and volume and/or mass and total anticipated volume and/or mass of the carbon dioxide stream;
 - b. Average and maximum injection pressure;
 - c. The source(s) of the carbon dioxide stream; and
 - d. An analysis of the chemical and physical characteristics of the carbon dioxide stream.
 8. Proposed pre-operational formation testing program to obtain an analysis of the chemical and physical characteristics of the injection zone(s) and confining zone(s) and that meets the requirements at R18-9-J662;
 9. Proposed stimulation program, a description of stimulation fluids to be used and a determination that stimulation will not interfere with containment;
 10. Proposed procedure to outline steps necessary to conduct injection operation;
 11. Schematics or other appropriate drawings of the surface and subsurface construction details of the well;
 12. Injection well construction procedures that meet the requirements of R18-9-J661;
 13. Proposed area of review and corrective action plan that meets the requirements under R18-9-J659;
 14. A demonstration, satisfactory to the Director, that the applicant has met the financial responsibility requirements under R18-9-J660;
 15. Proposed testing and monitoring plan required by R18-9-J665;
 16. Proposed injection well plugging plan required by R18-9-J667(B);
 17. Proposed post-injection site care and site closure plan required by R18-9-J668(A);

18. At the Director's discretion, a demonstration of an alternative post-injection site care timeframe required by R18-9-J668(C);
19. Proposed emergency and remedial response plan required by R18-9-J669;
20. A list of contacts, submitted to the Director, for those States, Tribes, and Territories identified to be within the area of review of the Class VI project based on information provided in subsection (B)(2) of this Section;
21. A listing of any historic property or potential historic property as defined by R12-8-301, and
22. Any other information requested by the Director.

C. The Director shall notify, in writing, any States, Tribes, or Territories within the area of review of the Class VI project based on information provided in subsections (B)(2) and (B)(20) of this Section of the permit application.

D. Prior to granting approval for the operation of a Class VI well, the Director shall consider the following information:

1. The final area of review based on modeling, using data obtained during logging and testing of the well and the formation as required by subsections (D)(2), (3), (4), (6), (7), and (10) of this Section;
2. Any relevant updates, based on data obtained during logging and testing of the well and the formation as required by subsections (D)(3), (4), (6), (7), and (10) of this Section, to the information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, submitted to satisfy the requirements of subsection (B)(3) of this Section;
3. Information on the compatibility of the carbon dioxide stream with fluids in the injection zone(s) and minerals in both the injection and the confining zone(s), based on the results of the formation testing program, and with the materials used to construct the well;
4. The results of the formation testing program required at subsection (B)(8) of this Section;
5. Final injection well construction procedures that meet the requirements of R18-9-J661;
6. The status of corrective action on wells in the area of review;
7. All available logging and testing program data on the well required by R18-9-J662;
8. A demonstration of mechanical integrity pursuant to R18-9-J664;
9. Any updates to the proposed area of review and corrective action plan, testing and monitoring plan, injection well plugging plan, post-injection site care and site closure plan, or the emergency and remedial response plan submitted under subsection (B) of this Section, which are necessary to address new information collected during logging and testing of the well and the formation as required by all subsections of this Section, and any updates to the alternative post-injection site care timeframe demonstration submitted under subsection (B) of this Section, which are necessary to address new information collected during the logging and testing of the well and the formation as required by all subsections of this Section; and
10. Any other information requested by the Director.

E. Owners or operators seeking a waiver of the requirement to inject below the lowermost USDW must also refer to R18-9-J670 and submit a supplemental report, as required at R18-9-J670. The supplemental report is not part of the permit application.

R18-9-J658. Class VI; Minimum Criteria for Siting

A. Owners or operators of Class VI wells must demonstrate to the satisfaction of the Director that the wells will be sited in areas with a suitable geologic system. The owners or operators must demonstrate that the geologic system comprises:

1. An injection zone(s) of sufficient areal extent, thickness, porosity, and permeability to receive the total anticipated volume of the carbon dioxide stream.
2. Confining zone(s) free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected carbon dioxide stream and displaced formation fluids and allow injection at proposed maximum pressures and volumes without initiating or propagating fractures in the confining zone(s).

B. The Director may require owners or operators of Class VI wells to identify and characterize additional zones that will impede vertical fluid movement, are free of faults and fractures that may interfere with containment, allow for pressure dissipation, and provide additional opportunities for monitoring, mitigation, and remediation.

R18-9-J659. Class VI; Area of Review and Corrective Action

A. The area of review is the region surrounding the geologic sequestration project where USDWs may be endangered by the injection activity. The area of review is delineated using computational modeling that

accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and is based on available site characterization, monitoring, and operational data.

- B.** The owner or operator of a Class VI well must prepare, maintain, and comply with a plan to delineate the area of review for a proposed geologic sequestration project, periodically reevaluate the delineation, and perform corrective action that meets the requirements of this Section and is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the permit application for approval by the Director, the owner or operator must submit an area of review and corrective action plan that includes the following information:
1. The method for delineating the area of review that meets the requirements of subsection (C) of this Section, including the model to be used, assumptions that will be made, and the site characterization data on which the model will be based.
 2. A description of:
 - a. The minimum fixed frequency, not to exceed five years, at which the owner or operator proposes to reevaluate the area of review;
 - b. The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation as determined by the minimum fixed frequency established in subsection (B)(2)(a) of this Section.
 - c. How monitoring and operational data will be used to inform an area of review reevaluation; and
 - d. How corrective action will be conducted to meet the requirements of subsection (D) of this Section, including what corrective action will be performed prior to injection and what, if any, portions of the area of review will have corrective action addressed on a phased basis and how the phasing will be determined; how corrective action will be adjusted if there are changes in the area of review; and how site access will be guaranteed for future corrective action.
- C.** Owners or operators of Class VI wells must perform the following actions to delineate the area of review and identify all wells that require corrective action:
1. Predict, using existing site characterization, monitoring and operational data, and computational modeling, the projected lateral and vertical migration of the carbon dioxide plume and formation fluids in the subsurface from the commencement of injection activities until the plume movement ceases, until pressure differentials sufficient to cause the movement of injected fluids or formation fluids into a USDW are no longer present, or until the end of a fixed time period as determined by the Director. The model must:
 - a. Be based on detailed geologic data collected to characterize the injection zone(s), confining zone(s) and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the geologic sequestration project;
 - b. Take into account any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions; and
 - c. Consider potential migration through faults, fractures, and artificial penetrations.
 2. Using methods approved by the Director, identify all penetrations, including active and abandoned wells and underground mines, in the area of review that may penetrate the confining zone(s). Provide a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require; and
 3. Determine which abandoned wells in the area of review have been plugged in a manner that prevents the movement of carbon dioxide or other fluids that may endanger USDWs, including use of materials compatible with the carbon dioxide stream.
- D.** Owners or operators of Class VI wells must perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of fluid into or between USDWs, including use of materials compatible with the carbon dioxide stream, where appropriate.
- E.** At the minimum fixed frequency, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, owners or operators must:
1. Reevaluate the area of review in the same manner specified in subsection (C)(1) of this Section;
 2. Identify all wells in the reevaluated area of review that require corrective action in the same manner specified in subsection (C) of this Section;
 3. Perform corrective action on wells requiring corrective action in the reevaluated area of review in the same manner specified in subsection (C) of this Section; and
 4. Submit an amended area of review and corrective action plan or demonstrate to the Director through monitoring data and modeling results that no amendment to the area of review and corrective action plan is needed. Any amendments to the area of review and corrective action plan must be approved by the

Director, must be incorporated into the permit, and are subject to the permit modification requirements under R18-9-C632 or R18-9-C633, as appropriate.

- F.** The emergency and remedial response plan and the demonstration of financial responsibility must account for the area of review delineated as specified in subsection (C)(1) of this Section or the most recently evaluated area of review delineated under subsection (E) of this Section, regardless of whether or not corrective action in the area of review is phased.
- G.** All modeling inputs and data used to support area of review reevaluations under subsection (E) of this Section shall be retained for ten years.

R18-9-J660. Class VI; Financial Responsibility

- A.** The owner or operator must demonstrate and maintain financial responsibility as determined by the Director that meets the following conditions:
 - 1. The financial responsibility instrument(s) used must be from the following list of qualifying instruments:
 - a. Trust Funds.
 - b. Surety Bonds.
 - c. Letter of Credit.
 - d. Insurance.
 - e. Self Insurance (i.e., Financial Test and Corporate Guarantee).
 - f. Escrow Account.
 - g. Any other instrument(s) satisfactory to the Director.
 - 2. The qualifying instrument(s) must be sufficient to cover the cost of:
 - a. Corrective action under R18-9-J659;
 - b. Injection well plugging under R18-9-J667;
 - c. Post injection site care and site closure under R18-9-J668; and
 - d. Emergency and remedial response under R18-9-J669.
 - 3. The financial responsibility instrument(s) must be sufficient to address endangerment of USDWs.
 - 4. The qualifying financial responsibility instrument(s) must comprise protective conditions of coverage.
 - a. Protective conditions of coverage must include at a minimum cancellation, renewal, and continuation provisions, specifications on when the provider becomes liable following a notice of cancellation if there is a failure to renew with a new qualifying financial instrument, and requirements for the provider to meet a minimum rating, minimum capitalization, and ability to pass the bond rating when applicable.
 - i. Cancellation--for purposes of this Part, an owner or operator must provide that their financial mechanism may not cancel, terminate or fail to renew except for failure to pay such financial instrument. If there is a failure to pay the financial instrument, the financial institution may elect to cancel, terminate, or fail to renew the instrument by sending notice by certified mail to the owner or operator and the Director. The cancellation must not be final for 120 days after receipt of cancellation notice. The owner or operator must provide an alternate financial responsibility demonstration within 60 days of notice of cancellation, and if an alternate financial responsibility demonstration is not acceptable (or possible), any funds from the instrument being cancelled must be released within 60 days of notification by the Director.
 - ii. Renewal--for purposes of this Part, owners or operators must renew all financial instruments, if an instrument expires, for the entire term of the geologic sequestration project. The instrument may be automatically renewed as long as the owner or operator has the option of renewal at the face amount of the expiring instrument. The automatic renewal of the instrument must, at a minimum, provide the holder with the option of renewal at the face amount of the expiring financial instrument.
 - iii. Cancellation, termination, or failure to renew may not occur and the financial instrument will remain in full force and effect in the event that on or before the date of expiration: The Director deems the facility abandoned; or the permit is terminated or revoked or a new permit is denied; or closure is ordered by the Director or a U.S. district court or other court of competent jurisdiction; or the owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or the amount due is paid.
 - 5. The qualifying financial responsibility instrument(s) must be approved by the Director.
 - a. The Director shall consider and approve the financial responsibility demonstration for all the phases of the geologic sequestration project prior to issue a Class VI permit under R18-9-J657.

- b. The owner or operator must provide any updated information related to their financial responsibility instrument(s) on an annual basis and if there are any changes, the Director must evaluate, within a reasonable time, the financial responsibility demonstration to confirm that the instrument(s) used remain adequate for use. The owner or operator must maintain financial responsibility requirements regardless of the status of the Director's review of the financial responsibility demonstration.
 - c. The Director may disapprove the use of a financial instrument if they determine that it is not sufficient to meet the requirements of this Section.
6. The owner or operator may demonstrate financial responsibility by using one or multiple qualifying financial instruments for specific phases of the geologic sequestration project.
- a. In the event that the owner or operator combines more than one instrument for a specific geologic sequestration phase such combination must be limited to instruments that are not based on financial strength or performance, for example trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, escrow account, and insurance. In this case, it is the combination of mechanisms, rather than the single mechanism, which must provide financial responsibility for an amount at least equal to the current cost estimate.
 - b. When using a third-party instrument to demonstrate financial responsibility, the owner or operator must provide a proof that the third-party providers either have passed financial strength requirements based on credit ratings; or has met a minimum rating, minimum capitalization, and ability to pass the bond rating when applicable.
 - c. An owner or operator using certain types of third-party instruments must establish a standby trust to enable ADEQ to be party to the financial responsibility agreement without ADEQ being the beneficiary of any funds. The standby trust fund must be used along with other financial responsibility instruments (e.g., surety bonds, letters of credit, or escrow accounts) to provide a location to place funds if needed.
 - d. An owner or operator may deposit money to an escrow account to cover financial responsibility requirements; this account must segregate funds sufficient to cover estimated costs for Class VI (geologic sequestration) financial responsibility from other accounts and uses.
 - e. An owner or operator or its guarantor may use self insurance to demonstrate financial responsibility for geologic sequestration projects. In order to satisfy this requirement the owner or operator must meet a Tangible Net Worth of an amount approved by the Director, have a Net working capital and tangible net worth each at least six times the sum of the current well plugging, post injection site care and site closure cost, have assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current well plugging, post injection site care and site closure cost, and must submit a report of its bond rating and financial information annually. In addition the owner or operator must either: Have a bond rating test of AAA, AA, A, or BBB as issued by Standard & Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or meet all of the following five financial ratio thresholds: A ratio of total liabilities to net worth less than 2.0; a ratio of current assets to current liabilities greater than 1.5; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; A ratio of current assets minus current liabilities to total assets greater than -0.1; and a net profit (revenues minus expenses) greater than 0.
 - f. An owner or operator who is not able to meet corporate financial test criteria may arrange a corporate guarantee by demonstrating that its corporate parent meets the financial test requirements on its behalf. The parent's demonstration that it meets the financial test requirement is insufficient if it has not also guaranteed to fulfill the obligations for the owner or operator.
 - g. An owner or operator may obtain an insurance policy to cover the estimated costs of geologic sequestration activities requiring financial responsibility. This insurance policy must be obtained from a third party provider.
- B.** The requirement to maintain adequate financial responsibility and resources is directly enforceable regardless of whether the requirement is a condition of the permit.
- 1. The owner or operator must maintain financial responsibility and resources until:
 - a. The Director receives and approves the completed post-injection site care and site closure plan; and
 - b. The Director approves site closure.
 - 2. The owner or operator may be released from a financial instrument in the following circumstances:
 - a. The owner or operator has completed the phase of the geologic sequestration project for which the financial instrument was required and has fulfilled all its financial obligations as determined by the

- Director, including obtaining financial responsibility for the next phase of the geologic sequestration project, if required; or
- b. The owner or operator has submitted a replacement financial instrument and received written approval from the Director accepting the new financial instrument and releasing the owner or operator from the previous financial instrument.
- C.** The owner or operator must have a detailed written estimate, in current dollars, of the cost of performing corrective action on wells in the area of review, plugging the injection well(s), post-injection site care and site closure, and emergency and remedial response.
1. The cost estimate must be performed for each phase separately and must be based on the costs to the regulatory agency of hiring a third party to perform the required activities. A third party is a party who is not within the corporate structure of the owner or operator.
 2. During the active life of the geologic sequestration project, the owner or operator must adjust the cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (A) of this Section and provide this adjustment to the Director. The owner or operator must also provide to the Director written updates of adjustments to the cost estimate within 60 days of any amendments to the area of review and corrective action plan as required under R18-9-J659, the injection well plugging plan under R18-9-J667, the post-injection site care and site closure plan as required under R18-9-J668, and the emergency and remedial response plan as required under R18-9-J669.
 3. The Director must approve any decrease or increase to the initial cost estimate. During the active life of the geologic sequestration project, the owner or operator must revise the cost estimate no later than 60 days after the Director has approved the request to modify the area of review and corrective action plan as required under R18-9-J659, the injection well plugging plan under R18-9-J667, the post-injection site care and site closure plan as required under R18-9-J668, and the emergency and response plan as required under R18-9-J669, if the change in the plan increases the cost. If the change to the plans decreases the cost, any withdrawal of funds must be approved by the Director. Any decrease to the value of the financial assurance instrument must first be approved by the Director. The revised cost estimate must be adjusted for inflation as specified at subsection (C)(2) of this Section.
 4. Whenever the current cost estimate increases to an amount greater than the face amount of a financial instrument currently in use, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Director, or obtain other financial responsibility instruments to cover the increase. Whenever the current cost estimate decreases, the face amount of the financial assurance instrument may be reduced to the amount of the current cost estimate only after the owner or operator has received written approval from the Director.
- D.** The owner or operator must notify the Director by certified mail of adverse financial conditions such as bankruptcy that may affect the ability to carry out injection well plugging and post-injection site care and site closure.
1. In the event that the owner or operator or the third party provider of a financial responsibility instrument is going through a bankruptcy, the owner or operator must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding.
 2. A guarantor of a corporate guarantee must make such a notification to the Director if they are named as debtor, as required under the terms of the corporate guarantee.
 3. An owner or operator who fulfills the requirements of subsection (A) of this Section by obtaining a trust fund, surety bond, letter of credit, escrow account, or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee of the institution issuing the trust fund, surety bond, letter of credit, escrow account, or insurance policy. The owner or operator must establish other financial assurance within 60 days after such an event.
- E.** The owner or operator must provide an adjustment of the cost estimate to the Director within 60 days of notification by the Director, if the Director determines during the annual evaluation of the qualifying financial responsibility instrument(s) that the most recent demonstration is no longer adequate to cover the cost of corrective action as required under R18-9-J659, injection well plugging under R18-9-J667, post-injection site care and site closure as required under R18-9-J668, and emergency and remedial response as required under R18-9-J669.

F. The Director must approve the use and length of pay-in-periods for trust funds or escrow accounts.

R18-9-J661. Class VI; Injection Well Construction Requirements

A. The owner or operator must ensure that all Class VI wells are constructed and completed to:

1. Prevent the movement of fluids into or between USDWs or into any unauthorized zones;
2. Permit the use of appropriate testing devices and workover tools; and
3. Permit continuous monitoring of the annulus space between the injection tubing and long string casing.

B. Casing and Cementing of Class VI Wells.

1. Casing and cement or other materials used in the construction of each Class VI well must have sufficient structural strength and be designed for the life of the geologic sequestration project. All well materials must be compatible with fluids with which the materials may be expected to come into contact and must meet or exceed standards developed for such materials by the American Petroleum Institute, ASTM International, or comparable standards acceptable to the Director. The casing and cementing program must be designed to prevent the movement of fluids into or between USDWs. In order to allow the Director to determine and specify casing and cementing requirements, the owner or operator must provide the following information:
 - a. Depth to the injection zone(s);
 - b. Injection pressure, external pressure, internal pressure, and axial loading;
 - c. Hole size;
 - d. Size and grade of all casing strings (wall thickness, external diameter, nominal weight, length, joint specification, and construction material);
 - e. Corrosiveness of the carbon dioxide stream and formation fluids;
 - f. Down-hole temperatures;
 - g. Lithology of injection and confining zone(s);
 - h. Type or grade of cement and cement additives; and
 - i. Quantity, chemical composition, and temperature of the carbon dioxide stream.
2. Surface casing must extend through the base of the lowermost USDW and be cemented to the surface through the use of a single or multiple strings of casing and cement.
3. At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages.
4. Circulation of cement may be accomplished by staging. The Director may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement does not allow fluid movement behind the well bore.
5. Cement and cement additives must be compatible with the carbon dioxide stream and formation fluids and of sufficient quality and quantity to maintain integrity over the design life of the geologic sequestration project. The integrity and location of the cement shall be verified using technology capable of evaluating cement quality radially and identifying the location of channels to ensure that USDWs are not endangered.

C. Tubing and packer.

1. Tubing and packer materials used in the construction of each Class VI well must be compatible with fluids with which the materials may be expected to come into contact and must meet or exceed standards developed for such materials by the American Petroleum Institute, ASTM International, or comparable standards acceptable to the Director.
2. All owners or operators of Class VI wells must inject fluids through tubing with a packer set at a depth opposite a cemented interval at the location approved by the Director.
3. In order for the Director to determine and specify requirements for tubing and packer, the owner or operator must submit the following information:
 - a. Depth of setting;
 - b. Characteristics of the carbon dioxide stream (chemical content, corrosiveness, temperature, and density) and formation fluids;
 - c. Maximum proposed injection pressure;
 - d. Maximum proposed annular pressure;
 - e. Proposed injection rate (intermittent or continuous) and volume and/or mass of the carbon dioxide stream;
 - f. Size of tubing and casing; and
 - g. Tubing tensile, burst, and collapse strengths.

R18-9-J662. Class VI; Logging, Sampling, and Testing Prior to Well Operation

- A.** During the drilling and construction of a Class VI injection well, the owner or operator must run appropriate logs, surveys and tests to determine or verify the depth, thickness, porosity, permeability, and lithology of, and the salinity of any formation fluids in all relevant geologic formations to ensure conformance with the injection well construction requirements under R18-9-J661 and to establish accurate baseline data against which future measurements may be compared. The owner or operator must submit to the Director a descriptive report prepared by a knowledgeable log analyst that includes an interpretation of the results of such logs and tests. At a minimum, such logs and tests must include:
1. Deviation checks during drilling on all holes constructed by drilling a pilot hole which is enlarged by reaming or another method. Such checks must be at sufficiently frequent intervals to determine the location of the borehole and to ensure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and
 2. Before and upon installation of the surface casing:
 - a. Resistivity, spontaneous potential, and caliper logs before the casing is installed; and
 - b. A cement bond and variable density log to evaluate cement quality radially, and a temperature log after the casing is set and cemented.
 3. Before and upon installation of the long string casing:
 - a. Resistivity, spontaneous potential, porosity, caliper, gamma ray, fracture finder logs, and any other logs the Director requires for the given geology before the casing is installed; and
 - b. A cement bond and variable density log, and a temperature log after the casing is set and cemented.
 4. A series of tests designed to demonstrate the internal and external mechanical integrity of injection wells, which may include:
 - a. A pressure test with liquid or gas;
 - b. A tracer survey such as oxygen-activation logging;
 - c. A temperature or noise log;
 - d. A casing inspection log; and
 5. Any alternative methods that provide equivalent or better information and that are required by and/or approved of by the Director.
- B.** The owner or operator must take whole cores or sidewall cores of the injection zone and confining system and formation fluid samples from the injection zone(s), and must submit to the Director a detailed report prepared by a log analyst that includes: Well log analyses (including well logs), core analyses, and formation fluid sample information. The Director may accept information on cores from nearby wells if the owner or operator can demonstrate that core retrieval is not possible and that such cores are representative of conditions at the well. The Director may require the owner or operator to core other formations in the borehole.
- C.** The owner or operator must record the fluid temperature, pH, conductivity, reservoir pressure, and static fluid level of the injection zone(s).
- D.** At a minimum, the owner or operator must determine or calculate the following information concerning the injection and confining zone(s):
1. Fracture pressure;
 2. Other physical and chemical characteristics of the injection and confining zone(s); and
 3. Physical and chemical characteristics of the formation fluids in the injection zone(s).
- E.** Upon completion, but prior to operation, the owner or operator must conduct the following tests to verify hydrogeologic characteristics of the injection zone(s):
1. A pressure fall-off test; and
 2. A pump test; or
 3. Injectivity tests.
- F.** The owner or operator must provide the Director with the opportunity to witness all logging and testing by this Part. The owner or operator must submit a schedule of such activities to the Director 30 days prior to conducting the first test and submit any changes to the schedule 30 days prior to the next scheduled test.

R18-9-J663. Class VI; Injection Well Operating Requirements

- A.** Except during stimulation, the owner or operator must ensure that injection pressure does not exceed 90 percent of the fracture pressure of the injection zone(s) so as to ensure that the injection does not initiate new fractures or propagate existing fractures in the injection zone(s). In no case may injection pressure initiate fractures in the confining zone(s) or cause the movement of injection or formation fluids that endangers a USDW. Pursuant to

requirements at R18-9-J657(B)(9), all stimulation programs must be approved by the Director as part of the permit application and incorporated into the permit.

- B.** Injection between the outermost casing protecting USDWs and the well bore is prohibited.
- C.** The owner or operator must fill the annulus between the tubing and the long string casing with a non-corrosive fluid approved by the Director. The owner or operator must maintain on the annulus a pressure that exceeds the operating injection pressure, unless the Director determines that such requirement might harm the integrity of the well or endanger USDWs.
- D.** Other than during periods of well workover (maintenance) approved by the Director in which the sealed tubing-casing annulus is disassembled for maintenance or corrective procedures, the owner or operator must maintain mechanical integrity of the injection well at all times.
- E.** The owner or operator must install and use:
 - 1. Continuous recording devices to monitor: The injection pressure; the rate, volume and/or mass, and temperature of the carbon dioxide stream; and the pressure on the annulus between the tubing and the long string casing and annulus fluid volume; and
 - 2. Alarms and automatic surface shut-off systems or, at the discretion of the Director, down-hole shut-off systems for onshore wells or, other mechanical devices that provide equivalent protection.
- F.** If a shutdown (such as down-hole or at the surface) is triggered or a loss of mechanical integrity is discovered, the owner or operator must immediately investigate and identify as expeditiously as possible the cause of the shutoff. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under subsection (E) of this Section otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must:
 - 1. Immediately cease injection;
 - 2. Take all steps reasonably necessary to determine whether there may have been a release of the injected carbon dioxide stream or formation fluids into any unauthorized zone;
 - 3. Notify the Director within 24 hours;
 - 4. Restore and demonstrate mechanical integrity to the satisfaction of the Director prior to resuming injection; and
 - 5. Notify the Director when injection can be expected to resume.

R18-9-J664. Class VI; Mechanical Integrity

- A.** A Class VI well has mechanical integrity if:
 - 1. There is no significant leak in the casing, tubing, or packer; and
 - 2. There is no significant fluid movement into a USDW through channels adjacent to the injection well bore.
- B.** To evaluate the absence of significant leaks under subsection (A)(1) of this Section, owners or operators must, following an initial annulus pressure test, continuously monitor injection pressure, rate, injected volumes; pressure on the annulus between tubing and long-string casing; and annulus fluid volume as specified in R18-9-J663;
- C.** At least once per year, the owner or operator must use one of the following methods to determine the absence of significant fluid movement under subsection (A)(2) of this Section:
 - 1. An approved tracer survey such as an oxygen-activation log; or
 - 2. A temperature or noise log.
- D.** If required by the Director, at a frequency specified in the testing and monitoring plan required at R18-9-J665, the owner or operator must run a casing inspection log to determine the presence or absence of corrosion in the long-string casing.
- E.** The Director may require any other test to evaluate mechanical integrity under subsections (A)(1) or (A)(2) of this Section. Also, the Director may allow the use of a test to demonstrate mechanical integrity other than those listed above with the written approval of the Administrator. To obtain approval for a new mechanical integrity test, the Director must submit a written request to the Administrator setting forth the proposed test and all technical data supporting its use.
- F.** In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Director, the owner or operator and the Director must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, they shall include a description of the test(s) and the method(s) used. In making his/her evaluation, the Director must review monitoring and other test data submitted since the previous evaluation.

- G.** The Director may require additional or alternative tests if the results presented by the owner or operator under subsections (A) through (F) of this Section are not satisfactory to the Director to demonstrate that there is no significant leak in the casing, tubing, or packer, or to demonstrate that there is no significant movement of fluid into a USDW resulting from the injection activity as stated in subsections (A)(1) and (A)(2) of this Section.

R18-9-J665. Class VI; Testing and Monitoring Requirements

The owner or operator of a Class VI well must prepare, maintain, and comply with a testing and monitoring plan to verify that the geologic sequestration project is operating as permitted and is not endangering USDWs. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The testing and monitoring plan must be submitted with the permit application, for Director approval, and must include a description of how the owner or operator will meet the requirements of this Section, including accessing sites for all necessary monitoring and testing during the life of the project. Testing and monitoring associated with geologic sequestration projects must, at a minimum, include:

1. Analysis of the carbon dioxide stream with sufficient frequency to yield data representative of its chemical and physical characteristics;
2. Installation and use, except during well workovers as defined in R18-9-J663, of continuous recording devices to monitor injection pressure, rate, and volume; the pressure on the annulus between the tubing and the long string casing; and the annulus fluid volume added;
3. Corrosion monitoring of the well materials for loss of mass, thickness, cracking, pitting, and other signs of corrosion, which must be performed on a quarterly basis to ensure that the well components meet the minimum standards for material strength and performance set forth in R18-9-J661, by:
 - a. Analyzing coupons of the well construction materials placed in contact with the carbon dioxide stream; or
 - b. Routing the carbon dioxide stream through a loop constructed with the material used in the well and inspecting the materials in the loop; or
 - c. Using an alternative method approved by the Director;
4. Periodic monitoring of the ground water quality and geochemical changes above the confining zone(s) that may be a result of carbon dioxide movement through the confining zone(s) or additional identified zones including:
 - a. The location and number of monitoring wells based on specific information about the geologic sequestration project, including injection rate and volume, geology, the presence of artificial penetrations, and other factors; and
 - b. The monitoring frequency and spatial distribution of monitoring wells based on baseline geochemical data that has been collected under R18-9-J657 and on any modeling results in the area of review evaluation required by R18-9-J659(C).
5. A demonstration of external mechanical integrity pursuant to R18-9-J664(C) at least once per year until the injection well is plugged; and, if required by the Director, a casing inspection log pursuant to requirements under R18-9-J664(D) at a frequency established in the testing and monitoring plan;
6. A pressure fall-off test at least once every five years unless more frequent testing is required by the Director based on site-specific information;
7. Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (e.g., the pressure front) by using:
 - a. Direct methods in the injection zone(s); and
 - b. Indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys and/or down-hole carbon dioxide detection tools), unless the Director determines, based on site-specific geology, that such methods are not appropriate;
8. The Director may require surface air monitoring and/or soil gas monitoring to detect movement of carbon dioxide that could endanger a USDW.
 - a. Design of Class VI surface air and/or soil gas monitoring must be based on potential risks to USDWs within the area of review;
 - b. The monitoring frequency and spatial distribution of surface air monitoring and/or soil gas monitoring must be decided using baseline data, and the monitoring plan must describe how the proposed monitoring will yield useful information on the area of review delineation and/or compliance with standards under R18-9-B608;
 - c. If an owner or operator demonstrates that monitoring employed under 40 CFR §§ 98.440 to 98.449 (Clean Air Act, 42 U.S.C. 7401 et seq.) accomplishes the goals of subsections (A)(8)(a) and (b) of this

Section, and meets the requirements pursuant to R18-9-J666(3)(e), a Director that requires surface air/soil gas monitoring must approve the use of monitoring employed under 40 CFR §§ 98.440 to 98.449. Compliance with 40 CFR §§ 98.440 to 98.449 pursuant to this provision is considered a condition of the Class VI permit;

9. Any additional monitoring, as required by the Director, necessary to support, upgrade, and improve computational modeling of the area of review evaluation required under R18-9-J659(C) and to determine compliance with standards under R18-9-B608;
10. The owner or operator shall periodically review the testing and monitoring plan to incorporate monitoring data collected under this Part, operational data collected under R18-9-J663, and the most recent area of review reevaluation performed under R18-9-J659(E). In no case shall the owner or operator review the testing and monitoring plan less often than once every five years. Based on this review, the owner or operator shall submit an amended testing and monitoring plan or demonstrate to the Director that no amendment to the testing and monitoring plan is needed. Any amendments to the testing and monitoring plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements under R18-9-C632 or R18-9-C633, as appropriate. Amended plans or demonstrations shall be submitted to the Director as follows:
 - a. Within one year of an area of review reevaluation;
 - b. Following any significant changes to the facility, such as addition of monitoring wells or newly permitted injection wells within the area of review, on a schedule determined by the Director; or
 - c. When required by the Director.
11. A quality assurance and surveillance plan for all testing and monitoring requirements.

R18-9-J666. Class VI; Reporting Requirements

The owner or operator must provide at a minimum, the following reports to the Director, and as specified in subsection (A)(5) of this Section to EPA, for each permitted Class VI well:

1. Semi-annual reports containing:
 - a. Any changes to the physical, chemical, and other relevant characteristics of the carbon dioxide stream from the proposed operating data;
 - b. Monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure;
 - c. A description of any event that exceeds operating parameters for annulus pressure or injection pressure specified in the permit;
 - d. A description of any event which triggers a shut-off device required pursuant to R18-9-J663(E) and the response taken;
 - e. The monthly volume and/or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project;
 - f. Monthly annulus fluid volume added; and
 - g. The results of monitoring prescribed under R18-9-J665.
2. Report, within 30 days, the results of:
 - a. Periodic tests of mechanical integrity;
 - b. Any well workover; and,
 - c. Any other test of the injection well conducted by the permittee if required by the Director.
3. Report, within 24 hours:
 - a. Any evidence that the injected carbon dioxide stream or associated pressure front may cause an endangerment to a USDW;
 - b. Any noncompliance with a permit condition, or malfunction of the injection system, which may cause fluid migration into or between USDWs;
 - c. Any triggering of a shut-off system (i.e., down-hole or at the surface);
 - d. Any failure to maintain mechanical integrity; or
 - e. Pursuant to compliance with the requirement at R18-9-J665(8) for surface air/soil gas monitoring or other monitoring technologies, if required by the Director, any release of carbon dioxide to the atmosphere or biosphere.
4. Owners or operators must notify the Director in writing 30 days in advance of:
 - a. Any planned well workover;
 - b. Any planned stimulation activities, other than stimulation for formation testing conducted under R18-9-J657; and

- c. Any other planned test of the injection well conducted by the permittee.
- 5. Owners or operators must submit all required reports, submittals, and notifications under Part J of this Article to EPA in an electronic format approved by EPA.
- 6. Records shall be retained by the owner or operator as follows:
 - a. All data collected under R18-9-J657 for Class VI permit applications shall be retained throughout the life of the geologic sequestration project and for ten years following site closure.
 - b. Data on the nature and composition of all injected fluids collected pursuant to R18-9-J665(1) shall be retained until ten years after site closure. The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period.
 - c. Monitoring data collected pursuant to R18-9-J665(2) through (9) shall be retained for ten years after it is collected.
 - d. Well plugging reports, post-injection site care data, including, if appropriate, data and information used to develop the demonstration of the alternative post-injection site care timeframe, and the site closure report collected pursuant to requirements at R18-9-J668(F) and (H) shall be retained for ten years following site closure.
 - e. The Director has authority to require the owner or operator to retain any records required in this Part for longer than ten years after site closure.

R18-9-J667. Class VI; Injection Well Plugging

- A.** Prior to the well plugging, the owner or operator must flush each Class VI injection well with a buffer fluid, determine bottomhole reservoir pressure, and perform a final external mechanical integrity test.
- B.** The owner or operator of a Class VI well must prepare, maintain, and comply with a plan that is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The well plugging plan must be submitted as part of the permit application and must include the following information:
 - 1. Appropriate tests or measures for determining bottomhole reservoir pressure;
 - 2. Appropriate testing methods to ensure external mechanical integrity as specified in R18-9-J664;
 - 3. The type and number of plugs to be used;
 - 4. The placement of each plug, including the elevation of the top and bottom of each plug;
 - 5. The type, grade, and quantity of material to be used in plugging. The material must be compatible with the carbon dioxide stream; and
 - 6. The method of placement of the plugs.
- C.** The owner or operator must notify the Director in writing pursuant to R18-9-J666(5), at least 60 days before plugging of a well. At this time, if any changes have been made to the original well plugging plan, the owner or operator must also provide the revised well plugging plan. The Director may allow for a shorter notice period. Any amendments to the injection well plugging plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements at R18-9-C632 or R18-9-C633, as appropriate.
- D.** Within 60 days after plugging, the owner or operator must submit, pursuant to R18-9-J666(5), a plugging report to the Director. The report must be certified as accurate by the owner or operator and by the person who performed the plugging operation, if other than the owner or operator. The owner or operator shall retain the well plugging report for ten years following site closure.

R18-9-J668. Class VI; Post-Injection Site Care and Site Closure

- A.** The owner or operator of a Class VI well must prepare, maintain, and comply with a plan for post-injection site care and site closure that meets the requirements of subsection (A)(2) of this Section and is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
 - 1. The owner or operator must submit the post-injection site care and site closure plan as a part of the permit application to be approved by the Director.
 - 2. The post-injection site care and site closure plan must include the following information:
 - a. The pressure differential between pre-injection and predicted post-injection pressures in the injection zone(s);
 - b. The predicted position of the carbon dioxide plume and associated pressure front at site closure as demonstrated in the area of review evaluation required under R18-9-J659(C)(1);
 - c. A description of post-injection monitoring location, methods, and proposed frequency;

- d. A proposed schedule for submitting post-injection site care monitoring results to the Director pursuant to R18-9-J666(5); and
 - e. The duration of the post-injection site care timeframe and, if approved by the Director, the demonstration of the alternative post-injection site care timeframe that ensures non-endangerment of USDWs.
3. Upon cessation of injection, owners or operators of Class VI wells must either submit an amended post-injection site care and site closure plan or demonstrate to the Director through monitoring data and modeling results that no amendment to the plan is needed. Any amendments to the post-injection site care and site closure plan must be approved by the Director, be incorporated into the permit, and are subject to the permit modification requirements at R18-9-C632 or R18-9-C633, as appropriate.
 4. At any time during the life of the geologic sequestration project, the owner or operator may modify and resubmit the post-injection site care and site closure plan for the Director's approval within 30 days of such change.
- B.** The owner or operator shall monitor the site following the cessation of injection to show the position of the carbon dioxide plume and pressure front and demonstrate that USDWs are not being endangered.
1. Following the cessation of injection, the owner or operator shall continue to conduct monitoring as specified in the Director-approved post-injection site care and site closure plan for at least 50 years or for the duration of the alternative timeframe approved by the Director pursuant to requirements in subsection (C) of this Section, unless they make a demonstration under subsection (B)(2) of this Section. The monitoring must continue until the geologic sequestration project no longer poses an endangerment to USDWs and the demonstration under subsection (B)(2) of this Section is submitted and approved by the Director.
 2. If the owner or operator can demonstrate to the satisfaction of the Director before 50 years or prior to the end of the approved alternative timeframe based on monitoring and other site-specific data, that the geologic sequestration project no longer poses an endangerment to USDWs, the Director may approve an amendment to the post-injection site care and site closure plan to reduce the frequency of monitoring or may authorize site closure before the end of the 50-year period or prior to the end of the approved alternative timeframe, where they have substantial evidence that the geologic sequestration project no longer poses a risk of endangerment to USDWs.
 3. Prior to authorization for site closure, the owner or operator must submit to the Director for review and approval a demonstration, based on monitoring and other site-specific data, that no additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to USDWs.
 4. If the demonstration in subsection (B)(3) of this Section cannot be made at the end of the 50-year period or at the end of the approved alternative timeframe, or if the Director does not approve the demonstration, the owner or operator must submit to the Director a plan to continue post-injection site care until a demonstration can be made and approved by the Director.
- C.** At the Director's discretion, the Director may approve, in consultation with EPA, an alternative post-injection site care timeframe other than the 50-year default, if an owner or operator can demonstrate during the permitting process that an alternative post-injection site care timeframe is appropriate and ensures non-endangerment of USDWs. The demonstration must be based on significant, site-specific data and information including all data and information collected pursuant to R18-9-J657 or R18-9-J658, and must contain substantial evidence that the geologic sequestration project will no longer pose a risk of endangerment to USDWs at the end of the alternative post-injection site care timeframe.
1. A demonstration of an alternative post-injection site care timeframe must include consideration and documentation of:
 - a. The results of computational modeling performed pursuant to delineation of the area of review under R18-9-J659;
 - b. The predicted timeframe for pressure decline within the injection zone, and any other zones, such that formation fluids may not be forced into any USDWs; and/or the timeframe for pressure decline to pre-injection pressures;
 - c. The predicted rate of carbon dioxide plume migration within the injection zone, and the predicted timeframe for the cessation of migration;
 - d. A description of the site-specific processes that will result in carbon dioxide trapping including immobilization by capillary trapping, dissolution, and mineralization at the site;
 - e. The predicted rate of carbon dioxide trapping in the immobile capillary phase, dissolved phase, and/or mineral phase;

- f. The results of laboratory analyses, research studies, and/or field or site-specific studies to verify the information required in subsection (C)(1)(d) and (C)(1)(e) of this Section;
 - g. A characterization of the confining zone(s) including a demonstration that it is free of transmissive faults, fractures, and micro-fractures and of appropriate thickness, permeability, and integrity to impede fluid movement, such as carbon dioxide and formation fluids;
 - h. The presence of potential conduits for fluid movement including planned injection wells and project monitoring wells associated with the proposed geologic sequestration project or any other projects in proximity to the predicted/modeled, final extent of the carbon dioxide plume and area of elevated pressure;
 - i. A description of the well construction and an assessment of the quality of plugs of all abandoned wells within the area of review;
 - j. The distance between the injection zone and the nearest USDWs above and/or below the injection zone; and
 - k. Any additional site-specific factors required by the Director.
2. Information submitted to support the demonstration in subsection (C)(1) of this Section must meet the following criteria:
- a. All analyses and tests performed to support the demonstration must be accurate, reproducible, and performed in accordance with the established quality assurance standards;
 - b. Estimation techniques must be appropriate and EPA-certified test protocols must be used where available;
 - c. Predictive models must be appropriate and tailored to the site conditions, composition of the carbon dioxide stream and injection and site conditions over the life of the geologic sequestration project;
 - d. Predictive models must be calibrated using existing information where sufficient data are available;
 - e. Reasonably conservative values and modeling assumptions must be used and disclosed to the Director whenever values are estimated on the basis of known, historical information instead of site-specific measurements;
 - f. An analysis must be performed to identify and assess aspects of the alternative post-injection site care timeframe demonstration that contribute significantly to uncertainty. The owner or operator must conduct sensitivity analyses to determine the effect that significant uncertainty may contribute to the modeling demonstration;
 - g. An approved quality assurance and quality control plan must address all aspects of the demonstration; and
 - h. Any additional criteria required by the Director.
- D.** The owner or operator must notify the Director in writing at least 120 days before site closure. At this time, if any changes have been made to the original post-injection site care and site closure plan, the owner or operator must also provide the revised plan. The Director may allow for a shorter notice period.
- E.** After the Director has authorized site closure, the owner or operator must plug all monitoring wells in a manner which will not allow movement of injection or formation fluids that endangers a USDW.
- F.** The owner or operator must submit a site closure report to the Director within 90 days of site closure, which must thereafter be retained at a location designated by the Director for ten years. The report must include:
- 1. Documentation of appropriate injection and monitoring well plugging as specified in R18-9-J667 and subsection (E) of this Section. The owner or operator must provide a copy of a survey plat which has been submitted to the local zoning authority designated by the Director. The plat must indicate the location of the injection well relative to permanently surveyed benchmarks. The owner or operator must also submit a copy of the plat to the Administrator of EPA Region 9;
 - 2. Documentation of appropriate notification and information to such State, local and Tribal authorities that have authority over drilling activities to enable such State, local, and Tribal authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the injection and confining zone(s); and
 - 3. Records reflecting the nature, composition, and volume of the carbon dioxide stream.
- G.** Each owner or operator of a Class VI injection well must record a notation on the deed to the facility property or any other document that is normally examined during Title search that will in perpetuity provide any potential purchaser of the property the following information:
- 1. The fact that land has been used to sequester carbon dioxide;
 - 2. The name of the State agency, local authority, and/or Tribe with which the survey plat was filed, as well as the address of the Environmental Protection Agency Regional Office to which it was submitted; and

3. The volume of fluid injected, the injection zone or zones into which it was injected, and the period over which injection occurred.

H. The owner or operator must retain for ten years following site closure, records collected during the post-injection site care period. The owner or operator must deliver the records to the Director at the conclusion of the retention period, and the records must thereafter be retained at a location designated by the Director for that purpose.

R18-9-J669. Class VI; Emergency and Remedial Response

A. As part of the permit application, the owner or operator must provide the Director with an emergency and remedial response plan that describes actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction, operation, and post-injection site care periods. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

B. If the owner or operator obtains evidence that the injected carbon dioxide stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must:

1. Immediately cease injection;
2. Take all steps reasonably necessary to identify and characterize any release;
3. Notify the Director within 24 hours; and
4. Implement the emergency and remedial response plan approved by the Director.

C. The Director may allow the operator to resume injection prior to remediation if the owner or operator demonstrates that the injection operation will not endanger USDWs.

D. The owner or operator shall periodically review the emergency and remedial response plan developed under subsection (A) of this Section. In no case shall the owner or operator review the emergency and remedial response plan less often than once every five years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the Director that no amendment to the emergency and remedial response plan is needed. Any amendments to the emergency and remedial response plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements at R18-9-C632 or R18-9-C633, as appropriate. Amended plans or demonstrations shall be submitted to the Director as follows:

1. Within one year of an area of review reevaluation;
2. Following any significant changes to the facility, such as addition of injection or monitoring wells, on a schedule determined by the Director; or
3. When required by the Director.

R18-9-J670. Class VI; Injection Depth Waiver Requirements

A. This Section sets forth information which an owner or operator seeking a waiver of the Class VI injection depth requirements must submit to the Director; information the Director must consider in consultation with all affected Public Water System Supervision Directors; the procedure for Director-- Administrator communication and waiver issuance; and the additional requirements that apply to owners or operators of Class VI wells granted a waiver of the injection depth requirements.

B. In seeking a waiver of the requirement to inject below the lowermost USDW, the owner or operator must submit a supplemental report concurrent with permit application. The supplemental report must include the following:

1. A demonstration that the injection zone(s) is/are laterally continuous, is not a USDW, and is not hydraulically connected to USDWs; does not outcrop; has adequate injectivity, volume, and sufficient porosity to safely contain the injected carbon dioxide and formation fluids; and has appropriate geochemistry.
2. A demonstration that the injection zone(s) is/are bounded by laterally continuous, impermeable confining units above and below the injection zone(s) adequate to prevent fluid movement and pressure buildup outside of the injection zone(s); and that the confining unit(s) is/are free of transmissive faults and fractures. The report shall further characterize the regional fracture properties and contain a demonstration that such fractures will not interfere with injection, serve as conduits, or endanger USDWs.
3. A demonstration, using computational modeling, that USDWs above and below the injection zone will not be endangered as a result of fluid movement. This modeling should be conducted in conjunction with the area of review determination, as described in R18-9-J659, and is subject to requirements, as described in R18-9-J659(C), and periodic reevaluation, as described in R18-9-J659(E).

4. A demonstration that well design and construction, in conjunction with the waiver, will ensure isolation of the injectate in lieu of requirements at R18-9-J661(A)(1) and will meet well construction requirements in subsection (G) of this Section.
 5. A description of how the monitoring and testing and any additional plans will be tailored to the geologic sequestration project to ensure protection of USDWs above and below the injection zone(s), if a waiver is granted.
 6. Information on the location of all the public water supplies affected, reasonably likely to be affected, or served by USDWs in the area of review.
 7. Any other information requested by the Director to inform the Administrator's decision to issue a waiver.
- C.** To inform the Administrator's decision on whether to grant a waiver of the injection depth requirements at R18-9-A604 and R18-9-J661(A)(1), the Director must submit, to the Administrator, documentation of the following:
1. An evaluation of the following information as it relates to siting, construction, and operation of a geologic sequestration project with a waiver:
 - a. The integrity of the upper and lower confining units;
 - b. The suitability of the injection zone(s), such as lateral continuity, lack of transmissive faults and fractures, knowledge of current or planned artificial penetrations into the injection zone(s), or formations below the injection zone;
 - c. The potential capacity of the geologic formation(s) to sequester carbon dioxide, accounting for the availability of alternative injection sites;
 - d. All other site characterization data, the proposed emergency and remedial response plan, and a demonstration of financial responsibility;
 - e. Community needs, demands, and supply from drinking water resources;
 - f. Planned needs, potential and/or future use of USDWs and non-USDWs in the area;
 - g. Planned or permitted water, hydrocarbon, or mineral resource exploitation potential of the proposed injection formation(s) and other formations both above and below the injection zone to determine if there are any plans to drill through the formation to access resources in or beneath the proposed injection zone(s)/formation(s);
 - h. The proposed plan for securing alternative resources or treating USDW formation waters in the event of contamination related to the Class VI injection activity; and,
 - i. Any other applicable considerations or information requested by the Director.
 2. Consultation with the Public Water System Supervision Directors of all States and Tribes having jurisdiction over lands within the area of review of a well for which a waiver is sought.
 3. Any written waiver-related information submitted by the Public Water System Supervision Director(s) to the (UIC) Director.
- D.** Pursuant to requirements at R18-9-C620 and concurrent with the Class VI permit application notice process, the Director shall give public notice that a waiver application has been submitted. The notice shall clearly state:
1. The depth of the proposed injection zone(s);
 2. The location of the injection well(s);
 3. The name and depth of all USDWs within the area of review;
 4. A map of the area of review;
 5. The names of any public water supplies affected, reasonably likely to be affected, or served by USDWs in the area of review; and,
 6. The results of UIC-Public Water System Supervision consultation required under subsection (C)(2) of this Section.
- E.** Following public notice, the Director shall provide all information received through the waiver application process to the Administrator. Based on the information provided, the Administrator shall provide written concurrence or non-concurrence regarding waiver issuance.
1. If the Administrator determines that additional information is required to support a decision, the Director shall provide the information. At the Administrator's discretion, they may require that public notice of the new information be initiated.
 2. In no case shall a Director of a State-approved program issue a waiver without receipt of written concurrence from the Administrator.
- F.** If a waiver is issued, within 30 days of waiver issuance, EPA shall post the following information on the Office of Water's Web site:
1. The depth of the proposed injection zone(s);
 2. The location of the injection well(s);

3. The name and depth of all USDWs within the area of review;
 4. A map of the area of review;
 5. The names of any public water supplies affected, reasonably likely to be affected, or served by USDWs in the area of review; and
 6. The date of waiver issuance.
- G.** Upon receipt of a waiver of the requirement to inject below the lowermost USDW for geologic sequestration, the owner or operator of the Class VI well must comply with:
1. All requirements at R18-9-J659, R18-9-J660, R18-9-J662, R18-9-J663, R18-9-J664, R18-9-J666, R18-9-J667, and R18-9-J669;
 2. All requirements at R18-9-J661 with the following modified requirements:
 - a. The owner or operator must ensure that Class VI wells with a waiver are constructed and completed to prevent movement of fluids into any unauthorized zones including USDWs, in lieu of requirements at R18-9-J661(A)(1).
 - b. The casing and cementing program must be designed to prevent the movement of fluids into any unauthorized zones including USDWs in lieu of requirements at R18-9-J661(B)(1).
 - c. The surface casing must extend through the base of the nearest USDW directly above the injection zone and be cemented to the surface; or, at the Director's discretion, another formation above the injection zone and below the nearest USDW above the injection zone.
 3. All requirements at R18-9-J665 with the following modified requirements:
 - a. The owner or operator shall monitor the groundwater quality, geochemical changes, and pressure in the first USDWs immediately above and below the injection zone(s); and in any other formations at the discretion of the Director.
 - b. Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure by using direct methods to monitor for pressure changes in the injection zone(s); and, indirect methods (such as seismic, electrical, gravity, or electromagnetic surveys and/or down-hole carbon dioxide detection tools), unless the Director determines, based on site-specific geology, that such methods are not appropriate.
 4. All requirements at R18-9-J668 with the following, modified post-injection site care monitoring requirements:
 - a. The owner or operator shall monitor the groundwater quality, geochemical changes and pressure in the first USDWs immediately above and below the injection zone; and in any other formations at the discretion of the Director.
 - b. Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure by using direct methods in the injection zone(s); and indirect methods, unless the Director determines based on site-specific geology, that such methods are not appropriate.
 5. Any additional requirements requested by the Director designed to ensure protection of USDWs above and below the injection zone(s).

Table 1: Applicable Standards National Primary Drinking Water Regulations

<u>Contaminant</u>	<u>MCL¹ (mg/L)²</u>
<u>Alachlor</u>	<u>0.002</u>
<u>Alpha/photon emitters</u>	<u>15 picocuries per Liter (pCi/L)</u>
<u>Antimony</u>	<u>0.006</u>
<u>Arsenic</u>	<u>0.010</u>
<u>Asbestos (fibers>10 micrometers)</u>	<u>7 million fibers per Liter (MFL)</u>
<u>Atrazine</u>	<u>0.003</u>
<u>Barium</u>	<u>2</u>
<u>Benzene</u>	<u>0.005</u>
<u>Benzo(a)pyrene (PAHs)</u>	<u>0.0002</u>
<u>Beryllium</u>	<u>0.004</u>
<u>Beta photon emitters</u>	<u>4 millirems per year</u>
<u>Bromate</u>	<u>0.010</u>
<u>Cadmium</u>	<u>0.005</u>
<u>Carbofuran</u>	<u>0.04</u>
<u>Carbon tetrachloride</u>	<u>0.005</u>

<u>Chlordane</u>	<u>0.002</u>
<u>Chlorite</u>	<u>1.0</u>
<u>Chlorobenzene</u>	<u>0.1</u>
<u>Chromium (total)</u>	<u>0.1</u>
<u>Cyanide (as free cyanided)</u>	<u>0.2</u>
<u>2,4-D</u>	<u>0.07</u>
<u>Dalapon</u>	<u>0.2</u>
<u>1,2-Dibromo-3-chloropropane (DBCP)</u>	<u>0.0002</u>
<u>o-Dichlorobenzene</u>	<u>0.6</u>
<u>p-Dichlorobenzene</u>	<u>0.075</u>
<u>1,2-Dichloroethane</u>	<u>0.005</u>
<u>1,1-Dichloroethylene</u>	<u>0.007</u>
<u>Cis-1,2-Dichloroethylene</u>	<u>0.07</u>
<u>Trans-1,2-Dichloroethylene</u>	<u>0.1</u>
<u>Dichloromethane</u>	<u>0.005</u>
<u>1,2-Dichloropropane</u>	<u>0.005</u>
<u>Di(2-ethylhexyl) adipate</u>	<u>0.4</u>
<u>DI(2-ethylhexyl) phthalate</u>	<u>0.006</u>
<u>Dinoseb</u>	<u>0.007</u>
<u>Dioxin (2,3,7,8-TCDD)</u>	<u>0.00000003</u>
<u>Diquat</u>	<u>0.02</u>
<u>Endothall</u>	<u>0.1</u>
<u>Endrin</u>	<u>0.002</u>
<u>Ethylbenzene</u>	<u>0.7</u>
<u>Ethylene dibromide</u>	<u>0.00005</u>
<u>Fecal coliform and <i>E. coli</i></u>	<u>MCL³</u>
<u>Fluoride</u>	<u>4.0</u>
<u>Glyphosate</u>	<u>0.7</u>
<u>Haloacetic acids (HAA5)</u>	<u>0.060</u>
<u>Heptachlor</u>	<u>0.0004</u>
<u>Heptachlor epoxide</u>	<u>0.0002</u>
<u>Hexachlorobenzene</u>	<u>0.001</u>
<u>Hexachlorocyclopentadiene</u>	<u>0.05</u>
<u>Lindane</u>	<u>0.0002</u>
<u>Mercury (inorganic)</u>	<u>0.002</u>
<u>Methoxychlor</u>	<u>0.04</u>
<u>Nitrate (measured as Nitrogen)</u>	<u>10</u>
<u>Nitrite (measured as Nitrogen)</u>	<u>1</u>
<u>Oxamyl (Vydate)</u>	<u>0.2</u>
<u>Pentachlorophenol</u>	<u>0.001</u>
<u>Picloram</u>	<u>0.5</u>
<u>Polychlorinated biphenyls (PCBs)</u>	<u>0.0005</u>
<u>Radium 226 and Radium 228 (combined)</u>	<u>5 pCi/L</u>
<u>Selenium</u>	<u>0.05</u>
<u>Simazine</u>	<u>0.004</u>
<u>Styrene</u>	<u>0.1</u>
<u>Tetrachloroethylene</u>	<u>0.005</u>
<u>Thallium</u>	<u>0.002</u>
<u>Toluene</u>	<u>1</u>
<u>Total Coliforms</u>	<u>5.0 percent⁴</u>
<u>Total Trihalomethanes (TTHMs)</u>	<u>0.080</u>
<u>Toxaphene</u>	<u>0.003</u>
<u>2,4,5-TP (Silvex)</u>	<u>0.05</u>

<u>1,2,4-Trichlorobenzene</u>	<u>0.07</u>
<u>1,1,1-Trichloroethane</u>	<u>0.2</u>
<u>1,1,2-Trichloroethane</u>	<u>0.005</u>
<u>Trichloroethylene</u>	<u>0.005</u>
<u>Uranium</u>	<u>30µg/L</u>
<u>Vinyl chloride</u>	<u>0.002</u>
<u>Xylenes (total)</u>	<u>10</u>

NOTES

1 Maximum Contaminant Level (MCL) – The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to MCLGs as feasible using the best available treatment technology and taking cost into consideration. MCLs are enforceable standards.

2 Units are in milligrams per liter (mg/L) unless otherwise noted. Milligrams per liter are equivalent to parts per million (ppm).

3 A routine sample that is fecal coliform-positive or *E. coli*-positive triggers repeat samples-if any repeat sample is total coliform-positive, the system has an acute MCL violation. A routine sample that is total coliform-positive, and fecal coliform-negative or *E. coli*-negative triggers repeat samples – if any repeat sample is fecal coliform-positive or *E. coli*-positive, the system has an acute MCL violation. See also Total Coliforms.

4 No more than 5.0 percent samples total coliform-positive in a month. (For water systems that collect fewer than 40 routine samples per month, no more than one sample can be total coliform-positive per month.) Every sample that has total coliform must be analyzed for either fecal coliforms or *E. coli*. If two consecutive TC-positive samples, and one is also positive for *E. coli* or fecal coliforms, system has an acute MCL violation.