



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[EPA-HQ-OW-2023-0073; FRL 9916-01-OW]

State of Louisiana Underground Injection Control Program; Class VI Program Revision Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) has received a complete Underground Injection Control (UIC) program revision package from the State of Louisiana (State), requesting approval of a revision to the State's Safe Drinking Water Act (SDWA) section 1422 UIC program to include Class VI injection well primary enforcement responsibility (primacy). The proposed revision would allow the Louisiana Department of Natural Resources (LDNR) to issue UIC permits for geologic carbon sequestration facilities as Class VI wells and ensure compliance of Class VI wells under the UIC program. EPA proposes to issue a final rule approving Louisiana's application to implement the UIC program for Class VI injection wells located within the State, except those on Indian lands. EPA proposes amendments to reflect this proposed approval of Louisiana's Class VI primacy application.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The application is available for inspection and copying at the address appearing in the **ADDRESSES** section of this document.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OW-2023-0073, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred

method). Follow the online instructions for submitting comments.

- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand Delivery or Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Suzanne Kelly, Drinking Water Infrastructure Development Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564-3887; email address: Kelly.Suzanne@epa.gov or Lisa Pham, U.S. EPA Region 6, Groundwater/UIC Section (Mail code WDDG), 1201 Elm Street, Suite 500, Dallas, Texas 75720-2102; telephone number: (214) 665-8326; email address: Pham.Lisa@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Public Participation

A. Written Comments

B. Participation in Public Hearing

C. Public Participation Activities Conducted by Louisiana

II. Introduction

- A. UIC Program and Primary Enforcement Authority (Primacy)
- B. Class VI Wells Under the UIC Program
- C. Louisiana UIC Programs

III. Legal Authorities

IV. EPA's Evaluation of Louisiana's Primacy Revision Application

- A. Background
- B. Environmental Justice in Class VI Permitting
- C. Summary of EPA's Comprehensive Evaluation

V. EPA's Proposed Action – Incorporation by Reference

VI. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

VII. References

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA-HQ-OW-2023-0073, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. If you need to submit CBI, contact Lisa Pham, contact information available in the **FOR FURTHER INFORMATION CONTACT** section. Multimedia submissions (audio, video, etc.) must be accompanied by written comments. Written comments are considered the official comments and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

B. Participation in Public Hearing

A public hearing will be held on June 15, 2023 at Louisiana Department of Natural Resources, LaBelle Hearing Room, 1st Floor, LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802. For additional information regarding the public hearing, please contact Lisa Pham at (214) 665-8326 or Pham.Lisa@epa.gov.

EPA will begin pre-registering speakers for the hearing upon publication of this document in the *Federal Register*. To register to speak at the hearing, please contact Lisa

Pham at (214) 665-8326 or Pham.Lisa@epa.gov. The last day to pre-register to speak at the hearing will be June 8, 2023. On June 14, 2023, EPA will post a general agenda for the hearing that will list pre-registered speakers in approximate order at:

<https://www.epa.gov/uic/underground-injection-control-epa-region-6-ar-la-nm-ok-and-tx>.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, requests to speak will be accepted the day of the hearing at the hearing registration desk. EPA will make every effort to accommodate all speakers who arrive and register, although it may not be possible to fulfill preferences on speaking times.

EPA encourages commenters to provide EPA with a copy of their oral testimony electronically by emailing it to Pham.Lisa@epa.gov. EPA also recommends submitting the text of your oral comments as written comments to the rulemaking docket.

EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing are posted online at: <https://www.epa.gov/uic/underground-injection-control-epa-region-6-ar-la-nm-ok-and-tx>. While EPA expects the hearing to go forward as set forth above, please monitor our website or contact Lisa Pham at (214) 665-8326 or Pham.Lisa@epa.gov to determine if there are any updates. EPA does not intend to publish a document in the *Federal Register* announcing updates.

EPA will not provide audiovisual equipment for presentations unless we receive special requests in advance. Commenters should notify Lisa Pham when they pre-register to speak that they will need specific equipment. If you require the services of an

interpreter or special accommodations such as audio description, please pre-register for the hearing with Lisa Pham and describe your needs by June 8, 2023. EPA may not be able to arrange accommodations without advance notice.

C. Public Participation Activities Conducted by Louisiana

In October 2020, the Louisiana Department of Natural Resources (LDNR) published a notice of intent in the Louisiana Register to adopt Statewide Order No. 29-N-6 providing rules for Class VI injection wells. LDNR held a public comment period from October 20, 2020, to December 1, 2020, and provided the opportunity to request a public hearing. There was no request for a public hearing. LDNR received five comments, which did not result in changes to the proposed rule. LDNR later provided a second public comment period on the State's intent to seek Class VI Primacy from May 28, 2021, to July 13, 2021. LDNR held a public hearing at the LDNR Office in Baton Rouge on July 6, 2021. Notice of the comment period and public hearing was published in six newspapers across Louisiana, through email mailing list, and on LDNR's website to ensure statewide attention of the comment period and public hearing. LDNR received seven oral comments at the hearing and 21 written public comments. Commenters shared general concerns about the role of carbon capture and storage in mitigating climate change, sensitive coastal areas and erosion caused by pipelines, and the current pollution and environmental hazard burden in Louisiana. Commenters were also specifically concerned about whether LDNR had adequate resources to successfully permit and monitor Class VI projects and the State's assumption of liability after completion of projects. Environmental Justice (EJ) was also a major concern, with commenters seeking a clear EJ review process and criteria, as well as a mechanism for Class VI projects to avoid impacts on already overburdened communities with EJ concerns. LDNR responded to all public comments including details about increased staffing and resources for Class VI permitting responsibilities. Documentation of

Louisiana's public participation activities, including comments received and responses by the LDNR, can be found in EPA's Docket ID No. EPA-HQ-OW-2023-0073.

II. Introduction

A. UIC Program and Primary Enforcement Authority (Primacy)

The Safe Drinking Water Act (also known as SDWA) was passed by Congress in 1974. It protects public health by regulating the nation's public drinking water supply, including both surface and groundwater sources. The SDWA requires EPA to develop requirements and provisions for the state and tribal Underground Injection Control (UIC) programs. These programs regulate the injection of fluids (such as water, wastewater, brines from oil and gas production, and carbon dioxide) to protect underground sources of drinking water (USDWs). USDWs are aquifers or parts of aquifers that supply a public water system or contain enough groundwater to supply a public water system. *See* 40 CFR 144.3.

The UIC program regulates various aspects of an injection well project. These include technical aspects throughout the lifetime of the project from site characterization, construction, operation, and testing and monitoring through site closure, as well as permitting, site inspections, and reporting to ensure well owners and operators comply with UIC regulations.

SDWA section 1422 directs EPA to establish requirements that states, territories, and federally recognized tribes (hereafter referred to as applicants) must meet to be granted primary enforcement responsibility or "primacy" for implementing a UIC program, including a Class VI program. An applicant seeking primacy under SDWA section 1422 for a Class VI program must demonstrate to EPA that the applicant's Class VI program is as stringent as the Federal requirements and is protective of USDWs, including jurisdiction over underground injection and provisions for the necessary administrative, civil, and criminal enforcement penalty remedies under SDWA.

EPA conducts a comprehensive technical and legal evaluation of each primacy application to assess and confirm that the proposed program is as stringent as the Federal regulations and to evaluate the effectiveness of the state's proposed program. Louisiana's application included the following elements: Louisiana's Class VI-related UIC statutes and regulations; documents describing the public participation process; a letter from the Governor of Louisiana requesting Class VI primacy; a Program Description that explains how the State intends to carry out its responsibilities; an Attorney General's statement of enforcement authority; and an addendum to the existing Memorandum of Agreement (MOA) between EPA and Louisiana describing the administration, implementation, and enforcement of the Louisiana's Class VI program.

B. Class VI Wells Under the UIC Program

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

The UIC Class VI program provides multiple safeguards that work together to protect USDWs and human health. Owners or operators that wish to inject carbon dioxide for the purpose of geologic sequestration must demonstrate that their injection well will meet all regulatory requirements and receive a Class VI permit for each well. The UIC Class VI program requires applicants to meet strict technical, financial, and managerial requirements to obtain a Class VI permit, including:

- Site characterization to ensure the geology in the project area will contain the carbon dioxide within the zone where it will be injected.

- Modeling to delineate the predicted area influenced by injection activities through the lifetime of operation.
- Evaluation of the delineated area to ensure all potential pathways for fluid movement have been identified and addressed through corrective action.
- Well construction requirements that ensure the Class VI injection well will not leak carbon dioxide.
- Testing and monitoring throughout the life of the project, including after carbon dioxide injection has ended. Requirements include, for example, testing to ensure physical integrity of the well, monitoring for seismic activity near the injection site, monitoring of injection pressure and flow, chemical analysis of the carbon dioxide stream that is being injected, and monitoring the extent of the injected carbon dioxide plume and the surrounding area (e.g., ground water) to ensure the carbon dioxide is contained as predicted.
- Operating requirements to ensure the injection activity will not endanger USDWs or human health.
- Financial assurance mechanisms sufficient to cover the cost for all phases of the geologic sequestration project including the post injection site care period and until site closure has been approved by the permitting authority.
- Emergency and remedial response plans.
- Reporting of all testing and monitoring results to the permitting authority to ensure the well is operating in compliance with all permit and regulatory requirements.

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

C. Louisiana UIC Programs

The State of Louisiana received primacy for Class I, III, IV, and V injection wells under SDWA section 1422, and Class II injection wells under SDWA section 1425 on March 23, 1982. On September 17, 2021, Louisiana applied to EPA under section 1422 of SDWA, 42 U.S.C. 300h-1, for primacy for Class VI injection wells located within the State, except those located on Indian lands.

III. Legal Authorities

This regulation is proposed under authority of SDWA sections 1422 and 1450, 42 U.S.C. 300h-1 and 300j-9.

Section 1421 of SDWA requires the Administrator of EPA to promulgate Federal requirements for effective state UIC programs to prevent underground injection activities that endanger USDWs. Section 1422 of SDWA establishes requirements for states and tribes seeking EPA approval of their UIC programs. It also requires that states and tribes seeking approval demonstrate how the applicant (after public notice) will implement a UIC program which meets the requirements set forth under section 1421.

For states and tribes that seek approval for UIC programs under section 1422 of SDWA and those seeking EPA approval of revisions to existing state and tribal UIC programs, EPA has promulgated regulations setting forth the applicable procedures and substantive requirements codified in 40 CFR parts 144, 145 and 146. 40 CFR part 144 outlines general program requirements that each state must meet to obtain primary enforcement authority. 40 CFR part 145 specifies the procedures EPA will follow in approving, revising, and withdrawing state programs and outlines the elements and provisions that a state must include in their application. It also includes requirements for state permitting programs (by reference to certain provisions of 40 CFR parts 124 and 144), compliance evaluation programs, enforcement authority, and information sharing. 40 CFR part 146 contains the technical criteria and standards applicable to each well class, including Class VI wells.

IV. EPA's Evaluation of Louisiana's Primacy Revision Application

A. Background

On September 17, 2021, Louisiana submitted to EPA a program revision application to add Class VI injection wells to the State's SDWA section 1422 UIC program. The UIC program revision package from Louisiana includes a description of the State's UIC Class VI program, copies of all applicable rules and forms, a statement of legal authority, a summary and results of Louisiana's public participation activities, and an addendum to the existing MOA between Louisiana and EPA's Region 6 office. EPA reviewed the application for completeness and performed a technical evaluation of the application materials.

B. Environmental Justice in Class VI Permitting

People across the country have shared with EPA concerns about the safety of carbon capture and storage and carbon dioxide removal projects as well as their concern that already environmentally overburdened communities may yet again bear a disproportionate environmental burden associated with geologic sequestration. Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to identify and address, as appropriate, disproportionate and adverse human health or environmental impacts on minority (people of color) and low-income populations. On December 9, 2022, EPA sent a letter to state governors recognizing the importance of developing and deploying clean energy technologies that capture and remove carbon from the atmosphere while mitigating impacts on vulnerable communities, and ensuring protection of underground drinking water sources. EPA called for states seeking primacy to incorporate EJ and equity into proposed UIC Class VI programs, including in permitting. EPA outlined a variety of approaches, such as implementing an inclusive public participation process, consideration of EJ impacts on communities, enforcing Class VI regulatory requirements, and

incorporating mitigation measures.

As part of developing this proposal, EPA worked with the State of Louisiana to adopt the environmental justice approaches encouraged in the letter, which Louisiana has incorporated into their primacy application. EPA reviewed Louisiana's EJ approach as described in the State's Program Description and MOA addendum and compared it to the EJ elements discussed in the December 9, 2022 letter. Louisiana's committed in its MOA addendum to adopt all the EJ elements described in the letter, including implementing an inclusive public participation process, incorporating EJ and civil rights considerations in permit review processes, enforcing Class VI regulatory protections, and incorporating mitigation measures. More specifically, Louisiana also committed in the MOA addendum to examine the potential risks of each proposed Class VI well to minority and low-income populations. EPA supports these commitments. Furthermore, Louisiana's Program Description specifies that LDNR will require well owners or operators to conduct an EJ review as part of the Class VI application process. EPA supports LDNR's commitment in its Program Description to evaluate project sites using EPA's EJ Screen and to utilize qualified third-party reviewers to conduct additional evaluation of the Class VI application when communities with EJ concerns and/or other increased risk factors are identified. The results of the review will be used by LDNR to determine if an enhanced public comment period will be required. Lastly, LDNR's Program Description provides that LDNR will require applicants to assess alternatives to the site location and propose mitigating measures to ensure adverse environmental effects are minimized. EPA supports each of these efforts described in LDNR's program description.

Based on its review of LDNR's MOA addendum and Program Description, EPA concludes that Louisiana has addressed all EJ elements that were discussed in the December 9, 2022, letter. EPA supports LDNR's agreement to adopt these approaches to protecting EJ communities. Louisiana's Class VI Program, as described in LDNR's

primacy application, includes approaches to ensure that equity and EJ will be appropriately considered in permit reviews, and in LDNR's UIC Class VI program as a whole.

C. Summary of EPA's Comprehensive Evaluation

EPA conducted a comprehensive technical and legal evaluation of Louisiana's Class VI primacy application to assess and confirm that the State's UIC Class VI program is as stringent as the Federal regulations and evaluated the effectiveness of the State's Class VI program. To be approved for Class VI primacy under SDWA section 1422, a state or tribe must have a UIC program that meets Federal requirements (40 CFR parts 124, 144, 145, and 146). EPA evaluated Louisiana's draft and final UIC statutes and Class VI regulations against these Federal requirements. The evaluation involved identifying and resolving any discrepancies between the State and Federal UIC Class VI statutory and/or regulatory provisions. EPA worked with Louisiana to address any stringency issues with their draft and final Class VI regulations prior to submittal of the primacy application. The Agency also evaluated for stringency and effectiveness Louisiana's Class VI Program Description, the Attorney General's statement of enforcement authority, and the addendum to the MOA between EPA and Louisiana, describing the administration, implementation, and enforcement of Louisiana's UIC Class VI program.

EPA evaluated Louisiana's program description against 40 CFR 145.23, which lists all the information that must be submitted as part of the program description. EPA's evaluation of the program description includes reviewing the scope, structure, coverage, processes and organizational structure of the permitting authority. EPA evaluated LDNR's permitting, administrative and judicial review procedures and reviewed the permit application, reporting, and manifest forms. EPA also reviewed the State's compliance tracking and enforcement mechanisms. EPA evaluated LDNR's proposed

schedule for issuing permits within the first 2 years after program approval. More specifically, EPA required Louisiana to demonstrate that the State's Class VI program will have adequate in-house staff or access to contractor support for technical areas including site characterization, modeling, well construction and testing, financial responsibility, regulatory and risk analysis expertise.

EPA evaluated Louisiana's Attorney General's statement against 40 CFR 145.24 to ensure it met Federal requirements. The Attorney General's statement is required to ensure that a state's top legal officer affirms that state statutes, regulations and judicial decisions demonstrate adequate authority to administer the UIC Program as described in the program description and consistent with EPA's regulatory requirements for UIC programs. EPA independently evaluates and confirms that the Attorney General's statement certifies that the state either does not have environmental audit privilege and/or immunity laws, or, if there are environmental audit privilege and/or immunity laws, that they will not affect the ability of the state to meet the enforcement and information gathering requirements under SDWA.

EPA evaluated Louisiana's MOA addendum against 40 CFR 145.25 to ensure it met Federal requirements. The MOA is the central agreement setting the provisions and arrangements between the state and EPA concerning the administration, implementation, and enforcement of the state UIC Program. EPA's evaluation includes ensuring that the MOA contains the necessary provisions pertaining to agreements on coordination, permitting, compliance monitoring, enforcement, and EPA oversight. For example, the MOA addendum specifies that LDNR and EPA agree to maintain a high level of cooperation and coordination to assure successful and efficient administration of the UIC Class VI program. EPA is aware that stakeholders have raised concern about Louisiana's long term liability provision in Louisiana Revised Statute (LA R.S.) 30:1109. LDNR agreed in the MOA addendum that LDNR will not issue a certificate of completion

pursuant to LA R.S. 30:1109 until the owner or operator submits a site closure report pursuant to 40 CFR 146.93(f) and Louisiana Code (LAC) 43:XVII.3633.A.6 and otherwise fully complies with the site closure requirements in 40 CFR 146.93 and LAC 43:XVII.3633.A. Additionally, EPA and LDNR agree to coordinate prior to LDNR approving any site closure to ensure doing so is consistent with the requirements of the Federal Safe Drinking Water Act. EPA concludes that Louisiana's Class VI Program—implemented consistent with the MOA addendum—meets Federal requirements. EPA will also confirm that specific aspects of LA R.S. 30:1109 are consistent with EPA's interpretation.

Louisiana has demonstrated that it has the legal authority to implement all permit requirements found in 40 CFR 145.11. Louisiana's UIC Class VI permitting provisions are as stringent as EPA's regulations in 40 CFR 124 and 144. The State has incorporated necessary procedures, pursuant to 40 CFR 145.12 to support a robust compliance evaluation program. Additionally, Louisiana has the necessary administrative, civil, and criminal enforcement penalty remedies pursuant to 40 CFR 145.13. Louisiana's Class VI regulations regarding permitting, inspection, operation, and monitoring are at least as stringent as found in 40 CFR parts 145 and 146. Louisiana's reporting and recordkeeping requirements are as stringent as found in 40 CFR 144.54 and 146.91 for Class VI wells. EPA is aware that stakeholders have raised concern that Louisiana's long term liability provision in LA R.S. 30:1109 undercuts the state's ability to meet the enforcement authority requirements at 40 CFR 145.13. EPA's interpretation is that Louisiana's enforcement authority related to Class VI meets Federal requirements if LDNR implements LA R.S. 30:1109 consistent with the MOA addendum. We are working with Louisiana to confirm that specific aspects of LA R.S. 30:1109 are consistent with our interpretation.

As a result of this comprehensive review, EPA is proposing to approve Louisiana's

application because EPA has determined that the application meets all applicable requirements for approval under SDWA section 1422 and the State is capable of administering a UIC Class VI program in a manner consistent with the terms and purposes of SDWA and all applicable UIC regulations.

V. EPA's Proposed Action – Incorporation by Reference

EPA is proposing to approve a revision to the State of Louisiana's UIC Program for primacy for regulating Class VI injection wells in the State, except for those located on Indian lands. Louisiana's statutes and supporting documentation are publicly available in EPA's Docket No. EPA-HQ-OW-2023-0073. If finalized, this action would amend 40 CFR 147.950 and incorporate by reference EPA-approved state statutes and regulations that contain standards, requirements, and procedures applicable to Class VI owners or operators. EPA will continue to administer the UIC program for Class I, II, III, IV, V and VI injection wells on Indian lands.

If finalized, the provisions of Louisiana's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of UIC Class VI wells would be incorporated by reference into 40 CFR 147.950. Provisions of Louisiana's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of Class I, III, IV and V injection wells have already been incorporated by reference into 40 CFR 147.950. Any provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of SDWA and 40 CFR 147.1(e).

For clarity, EPA is reformatting the codification of EPA-approved Louisiana SDWA section 1422 UIC Program statutes and regulations for Well Classes I, III, IV, V and VI that are already incorporated by reference. Instead of codifying Louisiana statutes and regulations as separate paragraphs, EPA will be incorporating by reference a

compilation that contains “EPA-approved Louisiana statutes and regulations for Well Classes I, III, IV, V and VI.” This notebook compilation will be incorporated by reference into 40 CFR 147.950 and the documents will be available at <https://www.regulations.gov> in the docket for this proposed rule. EPA will also codify a table listing EPA-approved Louisiana Statutes and Regulations for Well Classes I, III, IV, V and VI in 40 CFR 147.950, including those already incorporated by reference.

Upon approval, EPA would oversee Louisiana’s administration of SDWA Class VI program and will continue to oversee Louisiana’s administration of the programs for SDWA Class I, II, III, IV, and V wells. EPA will require quarterly reports of non-compliance and annual UIC performance reports pursuant to 40 CFR 144.8. The MOA addendum between EPA and Louisiana, signed by the Regional Administrator on March 3, 2023, articulates that EPA will oversee the State’s administration of the UIC Class VI program on a continuing basis to assure that such administration is consistent with the program MOAs, the State UIC grant application, and all applicable requirements embodied in current regulations, policies, and Federal law. In addition, the MOA addendum provides that EPA may request specific information including permits and the accompanying EJ reviews.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at: <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because OMB has exempted, as a category, the approval of state UIC programs.

B. Paperwork Reduction Act (PRA)

This proposed action will not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2040-0042. Reporting or recordkeeping requirements will be based on Louisiana's UIC Regulations, and the State of Louisiana is not subject to the PRA.

C. Regulatory Flexibility Act (RFA)

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. This proposed action does not impose any requirements on small entities as this action approves an existing state program.

D. Unfunded Mandates Reform Act (UMRA)

This proposed action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The proposed action imposes no enforceable duty on any state, local, or tribal governments or the private sector. EPA's proposed approval of Louisiana's Class VI program will not constitute a Federal mandate because there is no requirement that a state establish UIC regulatory programs and because the program is a state, rather than a Federal program.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. This proposed action contains no Federal mandates for tribal governments and does not impose any enforceable duties on tribal governments. Thus, Executive Order 13175 does not apply to this proposed action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This proposed action is not subject to Executive Order 13045 because it approves a state program.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This proposed action does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

EPA believes that it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and

adverse effects on people of color, low-income populations and/or Indigenous peoples because there currently are no Class VI wells permitted in Louisiana and because this is a procedural action. EPA has reviewed Louisiana's proposed approach to environmental justice, as outlined in the Program Description and MOA, and described in section IV.B of this preamble. EPA considers Louisiana's Class VI primacy application to fully integrate environmental justice and equity considerations into their UIC Class VI program, while ensuring protection of USDWs. This proposed action would provide Louisiana with primacy under SDWA section 1422 for a UIC Class VI program, pursuant to which Louisiana will be implementing a program that is as stringent as an EPA administered UIC Class VI program.

VII. References

Attorney General's Statement "Attorney General's Statement to Accompany Louisiana's

Underground Injection Control Program Class VI Primacy Application," signed by the Attorney General for the State of Louisiana, February 10, 2021.

Memo from Environmental Defense Fund and Gupta Wessler PLLC to EPA related to Long Term Liability, March 2, 2023.

Letter from EPA to State Governors, December 9, 2022.

Letter from Governor of Louisiana to Regional Administrator, EPA Region VI, March 4, 2021.

Louisiana Administrative Code 43:XVIII.Chapter 36 (Statewide Order No. 29-N-6).
Class VI Injection Well Regulations. January 2021.

Memorandum of Agreement Addendum 3 between the State of Louisiana and EPA, Region VI for the UIC Class VI Program, signed by the EPA Regional Administrator on March 3, 2023.

State of Louisiana Class VI Underground Injection Control Program 1422 Description, April 2021.

State of Louisiana. Summary Report of Public Comment Class VI Geologic

Sequestration of Carbon Dioxide Office of Conservation Rules and Regulations

LAC 43:XVII.Chapter 6 (Statewide Order 29-N-6), April 21, 2021.

State of Louisiana. Comment Response Document. Class VI Geologic Sequestration of

Carbon Dioxide Office of Conservation Rules and Regulations LAC

43:XVII.Chapter 6 (Statewide Order 29-N-6), December 9, 2020.

State of Louisiana. Public Hearing and Rule Docket for the Class VI USEPA Primacy

Application, July 6, 2021.

State of Louisiana. Public Hearing Transcript for the Class VI USEPA Primacy

Application, July 6, 2021.

State of Louisiana. Compilation of Public Comments. Class VI Geologic Sequestration of

Carbon Dioxide Office of Conservation Rules and Regulations LAC

43:XVII.Chapter 6 (Statewide Order 29-N-6), August 12, 2021.

State of Louisiana Summary Report of Public Comment Class VI Geologic Sequestration

of Carbon Dioxide Office of Conservation Rules and Regulations LAC

43:XVII.Chapter 6 (Statewide Order 29-N-6), September 17, 2021.

List of Subjects in 40 CFR Part 147

Environmental protection, Incorporation by reference, Indian lands,

Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 147 as follows:

**PART 147—STATE, TRIBAL, AND EPA—ADMINISTERED UNDERGROUND
INJECTION CONTROL PROGRAMS**

1. The authority citation for part 147 continues to read as follows:

Authority: 42 U.S.C. 300f *et seq.*; and 42 U.S.C. 6901 *et seq.*

2. Amend § 147.950 by:

- a. Revising the section heading;
- b. Revising the introductory text and paragraph (a);
- c. Adding paragraphs (b)(3) and (4), and (c)(4); and
- d. Revising paragraph (d).

The revisions and additions read as follows.

§ 147.950 State-administered program—Class I, II, III, IV, V and VI wells.

The UIC program for Class I, II, III, IV, and V wells in the State of Louisiana, except those wells on Indian lands, is the program administered by the Louisiana Department of Natural Resources approved by EPA pursuant to sections 1422 and 1425 of the SDWA. Notice of this approval was published in the *Federal Register* on April 23, 1982; the effective date of this program is March 23, 1982. The UIC Program for Class VI wells in Louisiana, except those located on Indian lands, is the program administered by the Louisiana Department of Natural Resources, approved by EPA pursuant to SDWA section 1422. The effective date of this program is **[DATE OF FINAL RULE PUBLICATION IN THE FEDERAL REGISTER]**. The UIC program for Class I, II, III, IV, V, and VI wells in the State of Louisiana, except those located on Indian lands, consists of the following elements, as submitted to EPA in the State's program application and program revision application.

(a) *Incorporation by reference.* EPA-approved Louisiana statutes and regulations for Well Classes I, III, IV, V and VI, dated [date when EPA compiles the notebook] (as described in table 1 to this paragraph (a)) is incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Louisiana. This incorporation by reference was approved by the Director of the Federal Register in

accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the EPA and the National Archives and Records Administration (NARA). Contact the EPA at: the Water Docket, EPA Docket Center (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460; (202) 566–2426. For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations.html or email fr.inspection@nara.gov. The material may be obtained from or inspected at the Louisiana Department of Natural Resources (LDNR), Office of Conservation, Injection and Mining Division, LaSalle Building, 617 North Third Street, Room 817, Baton Rouge, LA 70802; (225) 342-5581.

Table 1 to Paragraph (a) EPA-Approved Louisiana SDWA §1422 Underground Injection Control Program Statutes and Regulations for Well Classes I, III, IV, V and VI			
State citation	Title/subject	State effective date	EPA approval date
Louisiana Revised Statutes Annotated sections 30:1; 30:4; 30:6; 30:18; 30:22-23, and 30:1101 to 30:1111	Minerals, Oil, and Gas and Environmental Quality	1975 and Supp. 1982	June 25, 1984
Underground Injection Control Program Regulations for Class I, III, IV, and V wells, (Statewide Order No. 29-N-1)	Class I, III, IV and V Injection Wells	February 20, 1982	June 25, 1984
Louisiana Administrative Code 43:XIX.Chapters 1-5 (Statewide Order No. 29-B)	Drilling for and Producing of Oil and Gas in the State of Louisiana	August 26, 1974	June 25, 1984
Louisiana Administrative Code 43:XVIII.Chapter 3 (Statewide Order No. 29).	Hydrocarbon Storage Wells in Salt Dome Cavities	July 20, 1977	June 25, 1984
Louisiana Administrative Code 43:XVIII.Chapter 36 (Statewide Order No. 29-N-6)	Class VI Injection Wells	January 2021	[DATE OF FINAL RULE PUBLICATION IN THE FEDERAL REGISTER]

(b) * * *

(3) Memorandum of Agreement Addendum 3 between the State of Louisiana and EPA, Region VI for the UIC Class VI Program, signed by the EPA Regional Administrator on March 3, 2023.

(4) Letter from Governor of Louisiana to Regional Administrator, EPA Region VI, March 4, 2021.

(c) * * *

(4) Attorney General's Statement "Attorney General's Statement to Accompany Louisiana's Underground Injection Control Program Class VI Primacy Application," signed by the Attorney General for the State of Louisiana, February 10, 2021.

(d) The Program Description and any other materials submitted as part of the application or amendment thereto, and the Program Description and any other materials submitted as part of the program revision application or amendment thereto.

[FR Doc. 2023-09302 Filed: 5/3/2023 8:45 am; Publication Date: 5/4/2023]