

**UIC - \_\_\_\_\_2\_\_\_\_\_**

# **UIC PROGRAM REVISION**

# **COMPENDIUM**

# **2022**



# FEDERAL REGISTER

---

Vol. 87

Monday

No. 1

January 3, 2022

Pages 1–150

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see [www.federalregister.gov](http://www.federalregister.gov).

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at [www.govinfo.gov](http://www.govinfo.gov), a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, [gpocusthelp.com](mailto:gpocusthelp.com).

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see [bookstore.gpo.gov](http://bookstore.gpo.gov).

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 86 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

#### Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

**General online information** 202-512-1530; 1-888-293-6498

#### Single copies/back copies:

Paper or fiche	202-512-1800
Assistance with public single copies	1-866-512-1800 (Toll-Free)

### FEDERAL AGENCIES

#### Subscriptions:

Assistance with Federal agency subscriptions:

Email	<a href="mailto:FRSubscriptions@nara.gov">FRSubscriptions@nara.gov</a>
Phone	202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



(i) 2021 Nacha Operating Rules & Guidelines: The Guide to the Rules Governing the ACH Network, copyright 2021; into § 210.2.

(ii) Supplement #1–2021, Notice of Amendment to the 2021 Nacha Operating Rules, dated April 8, 2021; into § 210.2.

(2) [Reserved]

\* \* \* \* \*

#### § 210.6 [Amended]

■ 4. In § 210.6, in paragraph (g), remove the text “2019 NACHA Operating Rules and Guidelines” and add in its place the text “applicable ACH Rules”.

David A. Lebryk,

*Fiscal Assistant Secretary.*

[FR Doc. 2021–28048 Filed 12–30–21; 8:45 am]

BILLING CODE P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 147

[EPA–HQ–OW–2020–0154; FRL–7998–02–OW]

### State of New Mexico Underground Injection Control Program; Primacy Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is approving an application from the State of New Mexico under the Safe Drinking Water Act (SDWA) to revise the State’s existing Underground Injection Control (UIC) program for Class I injection wells located within the State, except those in Indian country. New Mexico has revised the State’s UIC Class I program regulations to establish new permit conditions, oversight, and enforcement to manage hazardous waste injection activities by petroleum refineries in such a manner that is protective of underground sources of drinking water. The State’s Class I hazardous waste injection wells are only authorized for use by petroleum refineries for the waste generated by the refinery (“generator”). With this action, EPA is also codifying previously approved, non-substantial changes to the New Mexico UIC program. New Mexico will continue to implement and enforce a State UIC regulatory program that is as stringent as the existing federal program.

**DATES:** This final rule is effective on January 3, 2022. The Director of the

Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on January 3, 2022. For judicial purposes, this final rule is promulgated as of January 3, 2022. **ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2020–0154. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kyle Carey, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2322; fax number: (202) 564–3754; email address: [carey.kyle@epa.gov](mailto:carey.kyle@epa.gov), or Evelyn Rosborough, Region VI Library (6WD), U.S. Environmental Protection Agency, 1201 Elm Street, Suite 500, Dallas, Texas 75270; telephone number: (214) 665–7515; fax: (214) 665–6490; email address: [rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplementary information is organized as follows:

- I. Introduction
  - A. UIC State Primacy
  - B. New Mexico’s UIC Primacy Program Revision
  - C. UIC Class I Wells
  - D. This Final Rule
- II. Legal Authorities
- III. State UIC Program Requirements
- IV. State of New Mexico’s Application
  - A. Background
  - B. Public Participation Activities Conducted by the State of New Mexico
  - C. Public Participation Activities Conducted by EPA
- V. Public Comments Received on the Proposed Rule and EPA’s Response to Comments
  - A. Public Comments
  - B. EPA’s Response
- VI. Incorporation by Reference
- VII. Effective Date
- VIII. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and 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
- K. Congressional Review Act (CRA)

## I. Introduction

EPA approved the State of New Mexico’s UIC program as meeting the requirements for primary enforcement responsibility (primacy) for Class I, III, IV, and V injection wells, under SDWA Section 1422, on July 11, 1983.

### A. UIC State Primacy

To obtain primacy for the UIC program, EPA conducts a technical and legal review of a state’s primacy application. EPA’s review encompasses a comprehensive evaluation of every aspect of each of the following elements: The state’s UIC statutes and regulations, which must include provisions that are as stringent as the federal requirements; documents describing the public participation process; a request from the state’s governor for primacy under SDWA; the program description; an attorney’s general statement of enforcement authority; and a memorandum of agreement between EPA and the state, describing the administration, implementation, and enforcement of the state’s UIC program.

### B. New Mexico’s UIC Primacy Program Revision

The State of New Mexico has revised its UIC Class I program regulations to establish new permit conditions, oversight, and enforcement to manage Class I hazardous waste disposal wells by petroleum refineries, except those in Indian country. EPA considers New Mexico’s application to be a “substantial” program revision and therefore subject to the agency’s approval procedures specified in the *Code of Federal Regulations* (CFR) at 40 CFR 145.32(b)(2) and (4).

### C. UIC Class I Wells

Class I wells are typically drilled thousands of feet below the lowermost underground source of drinking water as authorized under SDWA. Non-hazardous waste disposal wells include municipal wastewater treatment, food



production, and non-hazardous manufacturing waste. Whereas Class I hazardous waste disposal wells include the injection of waste that may be considered harmful to the public health or the environment. Hazardous waste is generated from many sources, ranging from industrial manufacturing process wastes to batteries. The injection of hazardous waste is strictly regulated under the Resource Conservation and Recovery Act (RCRA) and SDWA. Construction, permitting, operating, and monitoring requirements are more stringent for Class I hazardous waste disposal wells than for any other Class I injection well category. Examples of Class 1 hazardous waste disposal well requirements are listed Section V.B of this preamble.

#### D. This Final Rule

In this final rule, EPA is approving New Mexico's application because it meets or exceeds all applicable requirements for approval under SDWA Section 1422 and the agency has determined that the State is capable of administering a Class I program pertaining to hazardous waste disposal wells for use by petroleum refineries in a manner consistent with the terms and purposes of SDWA and all applicable regulations to protect underground sources of drinking water (USDWs). With EPA's approval, New Mexico will continue to implement and enforce a state UIC regulatory program that is as stringent as the existing federal program.

This action also updates the compilation of previously approved State statutes and regulations and, therefore, EPA is incorporating by reference the amended compilation of New Mexico's SDWA 1422 Program for Class I, III, IV, and V wells. See Section VI of this preamble for further information on the incorporation by reference.

## II. Legal Authorities

These proposed regulations are being promulgated under the authority of SDWA Sections 1422 and 1450, 42 U.S.C. 300h-1 and 300j-9.

## III. State UIC Program Requirements

SDWA Section 1421 requires the EPA Administrator to promulgate federal requirements for effective state UIC programs to prevent underground injection activities that endanger USDWs. SDWA Sections 1422 and 1425 establish requirements for states seeking EPA approval of state UIC programs.

For states that seek approval for UIC programs under SDWA Section 1422, EPA has promulgated a regulation

setting forth the applicable procedures and substantive requirements, codified at 40 CFR part 145. It includes requirements for state permitting programs (by referencing certain provisions of 40 CFR parts 24 and 144), compliance evaluation programs, enforcement authority, and information sharing. Each state UIC regulatory program must be as stringent as the existing federal program.

## IV. State of New Mexico's Application

### A. Background

On May 2, 2019, EPA determined that the agency had received a complete UIC program revision application from the State of New Mexico, in which the State requested approval of its revised UIC regulations for Class I injection wells.

On October 13, 2020 (85 FR 64437), EPA published a **Federal Register** document announcing New Mexico's submittal of a complete UIC program revision application to the agency. In that announcement, EPA proposed to approve the application from New Mexico under SDWA Section 1422 to implement a UIC program for Class I hazardous waste disposal wells for use by petroleum refineries located within the State, except those in Indian country; sought public comments on the agency's intent to approve New Mexico's application; and provided an opportunity to request a public hearing.

### B. Public Participation Activities Conducted by the State of New Mexico

On May 15, 2015, the New Mexico Water Quality Control Commission (WQCC or Commission) published a public notice of the Commission's intent to adopt amendments to the WQCC rules governing underground injection control to authorize the State of New Mexico to allow the approval of Class I hazardous waste injection wells for use by petroleum refineries. The public notice was published in 15 newspapers across the State of New Mexico. Written comments on the proposed rulemaking changes were accepted between May 15, 2015, and July 14, 2015. A public hearing was held on July 14, 2015, before both a WQCC hearing officer and the full Commission. Prior to the hearing, five technical witnesses from the Navajo Nation and one from New Mexico Oil Conservation Division pre-filed written testimony. At the hearing, in addition to the technical witnesses, several members of the public, including local elected officials, provided written or oral testimony in favor of the proposed rule changes. There was no testimony, written or oral, in opposition to the proposal.

### C. Public Participation Activities Conducted by EPA

As previously noted, on October 13, 2020, EPA published a document announcing the receipt of a complete application for a UIC program revision from New Mexico, the agency's proposed approval of New Mexico's application, a request for public comment, and a public hearing to be held on November 27, 2020. EPA published this announcement in the **Federal Register** (85 FR 64437), the *Albuquerque Journal*, the *Roswell Daily Record*, the *Gallup Independent*, and on websites of both EPA Region VI and EPA Headquarters. In addition, EPA emailed a link to the document published in the **Federal Register** to a statewide list of interested stakeholders.

## V. Public Comments Received on the Proposed Rule and EPA's Response to Comments

### A. Public Comments

The public comment period on EPA's October 13, 2020 (85 FR 64437) proposed approval was open for 45 days and ended on November 27, 2020. EPA received 15 public comment submissions. Two commenters are in support of the rule and provided clarification on the planned permitting and use of Class I hazardous waste disposal wells by petroleum refineries in New Mexico. Multiple commenters objected to the proposed rule, expressing general confusion about the safety of hazardous waste disposal within context of surface water and groundwater sources of drinking water in New Mexico and the protection provided under the UIC program in Indian country. These comments of general non-support for the UIC program do not include specific technical or legal assertions for EPA to further evaluate. For example, several commenters expressed concern about the safety of underground injection in general and with respect to sources of drinking water and expressed confusion over the underground injection well permitting authorities found within the State of New Mexico and Indian country.

### B. EPA's Response

SDWA sets the requirements for underground injection control activities, including hazardous waste disposal, that are subject to regulations promulgated by EPA and approval issued by either EPA or an authorized state, tribe, or territory. These activities are regulated by the UIC program. To operate an injection well, an owner or operator must receive approval through

the appropriate UIC permitting authority. Injection well owners and operators may not: Site, construct, operate, maintain, convert, plug, abandon wells, or conduct any other injection activity that endangers USDWs. The purpose of the UIC program requirements is to ensure that either: Injected fluids stay within the well and the intended injection zone, or fluids that are directly or indirectly injected into a USDW do not cause a public water system to violate drinking water standards or otherwise adversely affect public health. The UIC program works with injection well owners and operators throughout the life of the well to ensure their wells and their practices do not contaminate drinking water. This is achieved through monitoring, reporting, inspections, compliance assistance, and enforcement action.<sup>1</sup>

Nationally, injection wells are overseen by a state, tribal, or territorial agency or one of EPA's regional offices. The State of New Mexico has primacy and is authorized to implement the UIC program for Class I, II, III, IV, and V injection wells within the boundaries of the State only (see Section I of this preamble). Since EPA's 1983 UIC program primacy approval, the agency has determined that New Mexico is capable of continuing to administer its UIC program in a manner consistent with the terms and purposes of SDWA and all applicable regulations to protect USDWs.

Class I wells are typically drilled thousands of feet below the lowermost underground source of drinking water. Hazardous waste disposal is one of four approved injection fluid sub-categories under the Class I program. Industry injects hazardous waste, as defined by the RCRA, through Class I wells. These types of Class I wells are strictly regulated under RCRA and SDWA. Construction, permitting, operating, and monitoring requirements are more stringent for Class I hazardous waste disposal wells than for other Class I injection well categories. For example, preconstruction requirements for Class I hazardous waste disposal wells include additional structural studies to demonstrate: Injection and confining formations are free of vertically transmissive fissures or faults; low seismicity and probability of earthquakes; minimum area of review of two miles; and no-migration petition demonstrating that fluids will remain in the injection zone for as long as they are

hazardous (e.g., modeling conducted to show either the waste will remain in the injection zone for 10,000 years or it will be rendered non-hazardous before migration) among other requirements.<sup>2</sup>

After close consideration of all the comments, EPA is providing a clarifying response document that addresses the general concerns raised by commenters. The comments received and EPA's response are available in EPA's Docket No. EPA-HQ-OW-2020-0154.

A virtual public hearing was held on November 27, 2020, with four persons in attendance in addition to EPA staff and an EPA contractor. The attendees did not provide comment.

## VI. Incorporation by Reference

In this action, EPA is approving the revisions to the State of New Mexico's UIC program to permit Class I hazardous waste injection wells for use by petroleum refineries in the State, except those in Indian country. New Mexico's statutes and supporting documentation are publicly available in EPA's Docket at EPA-HQ-OW-2020-0154. This action amends 40 CFR part 147 and incorporates by reference the EPA-approved State statutes and regulations considered by this rule.

The provisions of New Mexico's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of UIC Class I hazardous waste wells used by petroleum refineries within the State are incorporated by reference into 40 CFR 147.1601 as described in the regulatory text. Provisions of the New Mexico's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of Class I, III, IV, and V injection were incorporated by reference into 40 CFR 147.1601 through prior EPA rules, but are being reapproved in this new format, described in the following paragraph. Any provisions incorporated by reference, as well as all permit conditions issued pursuant to such provisions, are enforceable by EPA pursuant to SDWA Section 1423 and 40 CFR 147.1(e).

In order to better serve the public, EPA is reformatting the codification of EPA-approved New Mexico SDWA Section 1422 UIC program statutes and regulations for well Classes I, III, IV, and V. Instead of codifying the New Mexico statutes and regulations as separate

paragraphs, EPA is now incorporating by reference a compilation that contains "EPA Approved New Mexico SDWA § 1422 Underground Injection Control Program Statutes and Regulations for Well Classes I, III, IV, and V," dated March 11, 2021. This compilation is incorporated by reference into 40 CFR 147.1601 and is available at <https://www.regulations.gov> in the docket for this rule. EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and also in hard copy at the EPA Region VI office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). A complete list of the New Mexico statutes and regulations contained in the compilation, titled "EPA Approved New Mexico SDWA § 1422 Underground Injection Control Program Statutes and Regulations for Well Classes I, III, IV, and V," dated March 11, 2021, is also now codified in Table 1 to paragraph (a) at 40 CFR 147.1601.

## VII. Effective Date

This final rule is effective immediately upon publication. Section 553(d) of the Administrative Procedure Act ("APA"), 5 U.S.C. 553(d), provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, "except . . . as otherwise provided by the agency for good cause," among other exceptions. The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should "balance the necessity for immediate implementation against principles of fundamental fairness, which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling." *Gavrilovic*, 551 F.2d at 1105. EPA has determined that there is good cause for making this final rule effective immediately. This action approves State permitting, oversight, and enforcement requirements for Class I hazardous waste disposal activities for use by petroleum refineries and codifies other already-approved changes to the New Mexico program. Currently, there are no Class I hazardous waste disposal wells in New Mexico. As a result, there are no current permittees that need time to prepare for this rule and any prospective permittees will benefit from

<sup>1</sup> For information on the approval for UIC primary permitting and enforcement authority visit: <https://www.epa.gov/uic/primary-enforcement-authority-underground-injection-control-program>.

<sup>2</sup> A comparison of requirements between Class I non-hazardous waste injection wells and Class I hazardous waste disposal wells can be found at: [https://www.epa.gov/sites/default/files/2015-10/documents/page\\_uic-class1\\_summary\\_class1\\_reqs\\_508c.pdf](https://www.epa.gov/sites/default/files/2015-10/documents/page_uic-class1_summary_class1_reqs_508c.pdf).

the regulatory certainty that an immediate effective date will provide. This final rule will not require affected persons to take action or change behavior to come into compliance within the next 30 days.

In this action, EPA is also amending 40 CFR part 147 to incorporate non-substantial changes to the New Mexico UIC program, previously approved by letter under 40 CFR 145.32(b)(4). EPA did not undergo notice and comment on these non-substantial revisions because the agency had previously approved them by letter and is now simply updating the CFR to reflect these previously approved, non-substantial revisions. Because these revisions have already been approved, the codification of these revisions is ministerial. As a result, EPA finds there is “good cause” pursuant to 5 U.S.C. 553(b) to publish these codifications without prior notice and opportunity for comment. Letters from EPA approving the non-substantial revisions to the New Mexico Administrative Code and the New Mexico Annotated Statutes are included in the docket for reference.

For these reasons, EPA finds that good cause exists under Section 5 U.S.C. 553(d)(3) to make this rule effective immediately upon publication.

## VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review

This action has been exempted from review under this Executive Order by the Office of Management and Budget (OMB).

### B. Paperwork Reduction Act (PRA)

This action does 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 record-keeping requirements will be based on the State of New Mexico UIC Regulations, and the State of New Mexico is not subject to the PRA.

### C. Regulatory Flexibility Act (RFA)

The agency certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may

certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action does not impose any requirements on small entities as this action approves and codifies existing State of New Mexico’s UIC program revisions. EPA has therefore concluded that this action will have no net regulatory burden for any directly regulated small entities.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandates as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. EPA’s approval of the State of New Mexico’s program revisions will not constitute a federal mandate because there is no requirement that a state establish UIC regulatory programs.

### 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 action does not have tribal implications as specified in Executive Order 13175. This 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 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 the agency has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in Section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it approves program requirements for the State of New Mexico’s existing UIC program.

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

This 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 rule does not involve technical standards.

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

EPA has determined that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This action approves the State of New Mexico’s revisions to its existing UIC program.

### K. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). EPA has made a good cause finding for this rule as discussed in Section VII of the preamble, including the basis for that finding.

### 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 out in the preamble, the Environmental Protection Agency is amending 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. Revise § 147.1601 as follows:

**§ 147.1601 State-administered program—Class I, III, IV, and V wells.**

The UIC Program for Class I, III, IV, and V wells in the State of New Mexico, except for those located on Indian country as defined under 40 CFR 144.3, is the program administered by the New Mexico Water Quality Control Commission, the New Mexico Environment Department (formerly the New Mexico Environmental Improvement Division), and the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department and approved by EPA pursuant to section 1422 of the Safe Drinking Water Act (SDWA). The effective date of this program is August 10, 1983. A subsequent program revision application for Class I hazardous waste injection wells, which are only authorized for use by petroleum refineries for the waste

generated by the refinery (“generator”), except in Indian country, was approved by EPA pursuant to section 1422 of the SDWA. The effective date of this program is January 3, 2022. The State-administered UIC programs for Classes I, III, IV, and V consist of the following elements, as submitted to EPA in the State’s program applications.

(a) *Incorporation by reference.* The New Mexico State provisions cited in “EPA-Approved New Mexico SDWA § 1422 Underground Injection Control Program Statutes and Regulations for Well Classes I, III, IV, and V,” dated March 11, 2021, and listed in Table 1 to this paragraph (a), are incorporated by reference and made a part of the applicable UIC program under SDWA for the State of New Mexico. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and

1 CFR part 51. Copies of the State of New Mexico’s provisions that are incorporated by reference may be inspected at the U.S. Environmental Protection Agency, Water Docket, EPA Docket Center (EPA/DC), EPA WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004, or the Region VI, Library, U. S. Environmental Protection Agency, 1201 Elm Street, Suite 500, Dallas, Texas 75270. If you wish to obtain materials from the EPA Headquarters Library, please call the Water Docket at (202) 566–2426 or from the EPA Regional Office, please call (214) 665–8326. You may also inspect the materials at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

**TABLE 1 TO PARAGRAPH (a): EPA—APPROVED STATE OF NEW MEXICO SDWA § 1422 UNDERGROUND INJECTION CONTROL PROGRAM STATUTES AND REGULATIONS FOR WELL CLASSES I, III, IV, AND V**

State citation	Title/subject	State effective date	EPA approval date
New Mexico Administrative Code, Title 20, Chapter 6, Part 2.	Ground and Surface Water Protection.	December 21, 2018 .....	January 3, 2022, [insert <b>Federal Register</b> citation].
New Mexico Administrative Code, Title 19, Chapter 14, Parts 1–4.	Geothermal Resources Development.	February 27, 2018 .....	January 3, 2022, [insert <b>Federal Register</b> citation].

(b) *Other laws.* The following statutes and regulations, although not incorporated by reference, are also part of the approved State-administered UIC program:

(1) Water Quality Act, New Mexico Statutes Annotated Sections 74–6–1 through 74–6–13 (1978 and Supp. 1982);

(2) Geothermal Resources Development Act, New Mexico Statutes Annotated, Chapter 71, Article 9 (July 1, 2016);

(3) Surface Mining Act, New Mexico Statutes Annotated Sections 69–25A–1 through 69–25A–35 (1978 and Supp. 1980).

(c) *Memorandum of Agreement.*

(1) The Memorandum of Agreement between EPA Region VI and the New Mexico Water Quality Control Commission, the Environmental Improvement Division, and the Oil Conservation Division, signed by the EPA Regional Administrator on April 13, 1983;

(2) Letter from the Director, Environmental Improvement Division and the Director, Oil Conservation Division, to Regional Administrator, EPA Region IV, “Re: New Mexico Underground Injection Control Program—Clarification,” February 10, 1983.

(3) Amendment No. 1, Underground Injection Program Substitute Memorandum of Agreement Between the State of New Mexico and United States Environmental Protection Agency Region VI, signed by the EPA Regional Administrator on May 2, 2019.

(d) *Statement of legal authority.*

(1) Attorney General’s Statement, signed by the Assistant Attorney General for the Environmental Improvement Division, the Assistant Attorney General for Oil Conservation Division, and the Deputy Attorney General, Civil Division, Counsel for the Mining and Minerals Division, undated, submitted December 8, 1982.

(2) Attorney General’s Statement for Program Revision of New Mexico UIC Program, signed by Bill Brancard, Special Assistant Attorney General, State of New Mexico Energy, Minerals and Natural Resources Department, submitted December 12, 2018.

(e) *Program Description and any other materials.* The Program Description and any other materials submitted as part of the application or as supplements thereto.

[FR Doc. 2021–28237 Filed 12–30–21; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 200124–0029]

RTID 0648–XB702

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; 2021 Red Snapper Private Angling Component Accountability Measure in Federal Waters off Texas

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule, accountability measure.

**SUMMARY:** Through this temporary rule, NMFS implements accountability measures (AMs) for the red snapper recreational sector private angling component in the Gulf of Mexico (Gulf) off Texas for the 2021 fishing year. Based on information provided by the State of Texas Parks and Wildlife Department (TPWD), NMFS has determined that the 2020 Texas regional management area private angling