

El Dorado, Arkansas Hazardous Waste Injection Wells: U.S. Environmental Protection Agency RCRA Land Disposal Restriction Exemption Reissuance

12/31/2019

The United States Environmental Protection Agency (“EPA”) published a December 30th Federal Register Notice reissuing a Resource Conservation and Recovery Act (RCRA) Land Disposal Restriction exemption to Great Lakes Chemical Corporation (“Great Lakes”) for two hazardous waste injection wells located at its El Dorado, Arkansas facility^[1]

Great Lakes submitted an Underground Injection Control Program no migration petition application and documentation to EPA supporting the request.

EPA determined that to a reasonable degree there will be no migration of hazardous constituents from the injection zone as long as the waste remains hazardous.^[2] The exemption authorizes Great Lakes to inject specific restricted hazardous wastes into the two hazardous waste injection wells until December 31, 2026.^[3]

EPA regulates the construction, operation, permitting, and closure of injection wells used to place fluids underground for storage or disposal.^[4]

Class I wells are used to inject hazardous and non-hazardous wastes into deep, confined rock formations.^[5] They are typically drilled thousands of feet below the lowermost underground source of drinking water.^[6] Approximately 800 operational Class I wells exist in the United States.^[7]

Examples of industries that use Class I wells include:

- Petroleum refining
- Metal production
- Chemical production
- Pharmaceutical production
- Commercial disposal
- Food production
- Municipal wastewater treatment^[8]

Based upon the characteristics of the fluids injected, Class I wells fall into one of four subcategories.

- Hazardous waste disposal wells
- Non-hazardous industrial waste disposal wells
- Municipal wastewater disposal wells

- Radioactive waste disposal wells^[9]

Industry injects hazardous waste through Class I wells, as defined by RCRA.^[10] Class I wells are strictly regulated under RCRA and the Safe Drinking Water Act.^[11] Construction, permitting, operating, and monitoring requirements are more stringent for Class I hazardous waste disposal wells than for other Class I injection well categories.^[12]

The Hazardous and Solid Waste Amendments (“HSWA”) to RCRA prohibit land disposal of restricted hazardous waste. The prohibition includes injection of hazardous waste into Class I wells.^[13]

The HSWA Amendments include a provision that allows an operator to petition the EPA Administrator for an exemption to the land disposal prohibition.^[14] The exemption requires the operator to demonstrate that there will be no migration of hazardous constituents from the injection zone for as long as the wastes remain hazardous.^[15]

The length of time required for the demonstration has been defined in the regulations as 10,000 years. The formal demonstration has become known as a Class I no migration petition.^[16] The approval process for the no migration petition requires a signature by a regional EPA Administrator, or his or her designee.^[17]

The public comment period closed on EPA’s exemption reissuance decision for the Great Lakes El Dorado, Arkansas site on November 22, 2019.^[18] No comments were received.^[19]

[1] https://www.govinfo.gov/content/pkg/FR-2019-12-30/pdf/2019-28209.pdf?utm_campaign=subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email

[2] Id.

[3] Id.

[4] <https://www.epa.gov/uic>

[5] <https://www.epa.gov/uic/class-i-industrial-and-municipal-waste-disposal-wells>

[6] Id.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id.

[12] Id.

[13] <https://www.epa.gov/uic/impact-rcra-land-disposal-restrictions-class-i-hazardous-waste-injection>

[14] Id.

[15] Id.

[16] Id.

[17] Id.

[18] https://www.govinfo.gov/content/pkg/FR-2019-12-30/pdf/2019-28209.pdf?utm_campaign=subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email

[19] *Id.*