



WASHINGTON STATE
DEPARTMENT OF
E C O L O G Y

As required by
the Washington State Administrative Procedures Act
Chapter 34.05 RCW

CONCISE EXPLANATORY STATEMENT
AND
RESPONSIVENESS SUMMARY
FOR THE ADOPTION OF
Chapter 173-218 WAC, Underground Injection Control Program
and
Chapter 173-216 WAC State Waste Discharge Permit Program

12/19/05
Publication: 05-10-095

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CHAPTER 173-218 WAC, Underground Injection Control Program
and
CHAPTER 1713-216 WAC, State Waste Discharge Permit Program

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CONCISE EXPLANATORY STATEMENT

I. Introduction

The Washington State Department of Ecology is revising the state's Underground Injection Control (UIC) Program rule, chapter 173-218WAC and the State Waste Discharge Permit Program rule, chapter 173-216WAC. The goal of the UIC Program is to protect ground water by regulating the disposal of fluids into a UIC well. The reason the regulation was open for revision was because the U. S. Environmental Protection Agency (EPA) completed revisions to the federal UIC program in 1999. Washington's UIC regulation needed to be revised to be consistent with the new federal regulations and to allow Ecology to continue to administer the UIC Program. The federal revisions were added to the regulation. Other revisions were also made to clarify the types of UIC wells allowed in Washington, the types of fluids allowed in UIC wells, and more detail on the best management practices required to protect ground water quality.

The majority of UIC wells in Washington are used to manage stormwater. Staff working on the rule revisions worked closely with Ecology's stormwater program staff to incorporate the ground water protection best management practices from the stormwater program into the UIC regulation.

One change was made to Chapter 173-216 WAC to allow UIC wells in a state waste discharge permit.

II. Describe Differences between Proposed and Final Rules

Under the Administrative Procedures Act, RCW 34.05.325(6)(a)(ii) requires agencies to describe the differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

This section compares the final text as adopted with the proposed rule dated July 6, 2005 that was available for public comment from July 6 – September 15, 2005. This document addresses each subsection of the rule where changes were made.

▪ Differences between the proposed Chapter 173-218 WAC and the final rules

- **Section 010 Purpose**

No changes were made to section 010.

- **Section 020 Policy**

- **020(2)**

The term “waste” was deleted. The definition of waste fluid in Section -030 is any fluid that cannot meet the nonendangerment standard. The term “waste” needed to be deleted or the rule would have been allowing fluids that did not meet the nonendangerment standard.

- **Section 030 Definitions**

- **“Dangerous Waste”**

The term “hazardous waste” was replaced with the term “dangerous waste” and a definition was added to this section. In Washington hazardous waste is regulated under the Dangerous Waste Regulations, chapter 173-303 WAC.

- **“Ground Waters”**

The definition was changed to be consistent with the definition of “ground waters” found in chapter 173-200 WAC Water Quality Standards to Ground Waters of Washington State (GWQS), since UIC wells are regulated under both the GWQS and UIC program rules.

- **“Ground water protection area”**

Editorial change was made for clarity.

- **“High threat to ground water”**

Editorial changes were made to clarify that the examples are not all-inclusive.

- **“Infiltration trench”**

Editorial change was made for clarity.

- **“Nonpollution-generating surface”**

The examples were deleted and instead refer the reader back to the pollution generating surface definition. This makes it more consistent with the stormwater manual, which defines pollution generating surface but does not define nonpollution-generating surface.

- **“Pollution-generating surfaces”**
Additional examples were added due to changes in the Stormwater Management Manual for Eastern Washington. The new language will clarify when a roof receiving indoor pollutants would be a pollution-generating surface.
- **“Well assessment”**
The definition was revised to clarify that the evaluation of existing wells needs to determine if they are in a ground water protection area. Editorial changes were also made to clarify that knowing the depth of ground water may not be necessary in all well assessments, but should be for the wells that are considered to be a high threat to ground water.
- ***Section 040 UIC well classification including allowed and prohibited wells***
 - **040(1) and (4)(a,b)**
The term “hazardous waste” was replaced with “dangerous waste”. In Washington hazardous waste is regulated under the Dangerous Waste Regulations, chapter 173-303 WAC.
 - **040(4)**
The reference to state statutes was added because RCRA is the federal program and the Hazardous Waste Management Act is the equivalent for Washington State. The authority in Washington comes from the state Hazardous Waste Management Act (and Dangerous Waste Regulations) or from MTCA for remedial actions.
 - **040(5)(a)**
Editorial changes were made to clarify that the list of Class V wells are examples and does not represent an exclusive list of Class V wells.

- **040(5)(a)(v)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH), state and local, both use design capacity to regulate septic systems.
 - **040 (5)(a)(xiv)**
Editorial change was made for clarity.
 - **040(5)(a)(xv)**
Deleted this sub-section because it was not needed after the language was changed in 040(5)(a).
 - **040(5)(b)(i)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH), both state and local, use design capacity to regulate septic systems. The additional language will provide consistency throughout the rule in the use of the term “serves 20 or more people per day.”
 - **040(5)(b)(ii)**
Editorial change was made to clarify that wells used to manage stormwater are allowed at these facilities.
 - **040(5)(b)(v)**
Language was added to clarify that discharges that contain hazardous substances are allowed into UIC wells; at remediation sites that use injection wells to enhance remediation if approved by EPA or by state authority, when stormwater meets the nonendangerment standard by applying the best management practices and requirements of the rule and stormwater authorized under a permit.
 - **040(5)(b)(vi)**
Revised the language to clarify that discharging industrial wastewater can be authorized under a permit.
 - **040(5)(b)(vii)** Deleted language because other parts of the rule state that only sanitary waste is allowed in UIC wells; (5)(a)(v) of this section allows septic systems that receive only sanitary waste and in section -050 the exemptions only apply when the septic systems receive sanitary waste. Also, section -040 lists examples and does not represent an exclusive list of Class V wells.
- **Section 050 Exemptions from UIC well status**
 - **050 (1) and (2)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH),

both state and local, use design capacity to regulate septic systems. The additional language will provide consistency throughout the rule in the use of the term “serves 20 or more people per day.”

- **050 (5)**
A new sub-section was added to clarify that stormwater components intended to convey water to a surface water body are not considered a UIC well.

- **Section 060 Requirements to operate a UIC well**
 - **060 (4)**
Editorial change was made for clarity.
 - **060 (4)(a,b)**
Editorial changes were made for clarity.
 - **060 (5)**
Editorial changes were made for clarity. In addition, language was deleted because the MTCA Program does not have federal authority to use Class IV wells according to the code of federal register. Added a subsection stating RCRA sites do have federal authority to use allowed Class IV wells.
 - **060 (5)(a,b)**
Changes were made to clarify that RCRA sites can also use Class V wells.

- **Section 070 Rule authorization and registration.**
 - **070(1)**
Editorial changes were made to clarify that the well only has to be registered once with the department and that the department needs to be notified of changes in the well status.
 - **070(1)(b)(i)**
Revised language to exclude wells authorized at CERCLA facilities, since these UIC wells have already been evaluated and approved under the CERCLA process.
 - **070(1)(b)(ii)**
Language was added to provide examples of well status changes.
 - **070(1)(c)**
Revised language to exclude wells authorized at CERCLA facilities, since these UIC wells have already been evaluated and approved under the CERCLA process.
 - **070(1)(f)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH), both state and local, use design capacity to regulate septic systems. The additional language will provide consistency throughout the rule in the use of the term “serves 20 or more people per day.”
 - **070(1)(g)(ii)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH), both state and local, use design capacity to regulate septic

systems. The additional language will provide consistency throughout the rule in the use of the term “serves 20 or more people per day.”

- **070(2)(d)**
Editorial changes were made to clarify the registration timeline for wells.
- **Section 080 The nonendangerment standard for UIC wells.**
 - **080**
Editorial change was made for clarity.
- **Section 090 Specific requirements for Class V wells to meet the nonendangerment standard**
 - **090 (1)(b)**
The word “aquifer” was changed to “ground water” because not all ground water is considered an aquifer. All ground water is protected under RCW 90.48. Specific reference to the Eastern stormwater manual was deleted since it was found not to be necessary in the section, and more than one guidance document will be completed that could be used as a reference.
 - **090(1)(c)(i)(B)**
Editorial changes were made to clarify which stormwater manuals can be used to meet the nonendangerment standard.
 - **090(1)(c)(i)(C)**
A new subsection was added to clarify that municipalities regulated under the NPDES Program can meet the presumptive approach by applying their stormwater management programs to their new UIC wells.
 - **090 (1)(c)(i)(D)**
A new subsection was added to clarify that there are instances when the presumptive approach may not be used.
 - **090 (1)(c)(ii)(E)**
Editorial changes were made to clarify that state requirements must be met.
 - **090 (2)**
Editorial changes were made for clarity.
 - **090 (2)(a)(i)**
Editorial changes were made to clarify that extensions to the time limit can be given by the department upon request.
 - **090 (2)(a)(ii)**

Editorial changes were made to clarify the requirements of a well assessment and when well assessment requirements will be met using stormwater best management practices.

- **090 (2)(a)(iii)**

Editorial changes were made for clarity.

- **090 (2)(a)(iv)**

This subsection was deleted because it was not needed due to the changes in 090 (2)(a)(ii) and also the revised language in 090(2)(c) (i,ii) and (d).

- **090 (2)(a)(v)**

This subsection becomes (iv) since the previous subsection was deleted. Editorial changes were made for clarity.

- **090 (2)(b)(i)**

Editorial changes were made to clarify that extensions to the time limit can be given by the department upon request.

- **090 (2)(b)(ii)**

Editorial changes were made to clarify the requirements of a well assessment and when well assessment requirements will be met using stormwater best management practices.

- **090 (2)(b)(iii)**

This subsection was deleted because it was not needed due to the changes in 090 (2)(a)(ii) and also the revised language in 090(2)(c) (i,ii) and (d).

Sentence was added to be consistent with 090(2)(a)(iii).

- **090 (2)(c)**

Editorial changes were made for clarity.

- **090 (2)(c)(i)**

Editorial changes were made to clarify when NPDES permitted facilities can use their associated stormwater pollution prevention plan to meet the nonendangerment standard.

- **090 (2)(c)(ii)**

Editorial changes were made to clarify when unpermitted facilities can use their associated stormwater pollution prevention plan to meet the nonendangerment standard.

- **090 (2)(d)**

New subsection was added to clarify that municipalities regulated under the NPDES program can apply their stormwater program requirements to their UIC wells the nonendangerment standard will be met.

- **090 (3)(a)(i)**
Additional well types were exempted from the separation requirement because these types have the potential to discharge directly into ground water.
- **090 (3)(b)**
Revised language to exclude UIC wells authorized at CERCLA sites since they have already been evaluated and approved under the CERCLA process.
- ***Section 100 UIC wells that automatically meet the nonendangerment standard.***
 - **100(1)(a)**
Editorial change was made to clarify what types of injected fluids are allowed.
 - **100(1)(g)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH), both state and local, use design capacity to regulate septic systems. The additional language will provide consistency throughout the rule in the use of the term “serves 20 or more people per day.”
 - **100(1)(i)**
Deleted “or.” Language was changed to clarify that if one or both parts of (i) are met then the discharge would automatically be rule authorized, but if the second part of the statement was only met then it could not be rule authorized
- ***Section 110 Permit terms and conditions if a UIC well is not rule authorized.***
 - **110 (1)**
Editorial change was made for clarification.
- ***Section 120 Decommissioning a UIC well.***
 - **120 (2)(d)(i) and 120(3)(c)**
Added design capacity to determine when a septic system is a UIC well because the Washington Department of Health (WDOH), both state and local, use design capacity to regulate septic systems. The additional language will provide consistency throughout the rule in the use of the term “serves 20 or more people per day.”
- ***Section 130 Enforcement***
No changes were made to section 130.

Describe Differences between Proposed Chapter 173-216 WAC and Final Rule

No differences exist between the proposed and final version of chapter 173-216 WAC.
No public comments were received on this proposed rule revision.

III. Responsive Summary

Responsiveness Summary: WAC 173-218
Underground Injection Control Rule Revisions
July 6 – September 15, 2005

Introduction

The Department of Ecology held a formal 60-day public review and comment period on proposed revisions to Chapter WAC 173-218 Underground Injection Control Rule and Chapter WAC 173-216 State Waste Discharge Permit Program, from July 6 – September 15, 2005.

As part of the public notification process, Ecology contacted potential interested citizens, regulated businesses, governmental officials, cities, counties, and tribes in the state. The Water Quality Program conducted public workshops and hearings for proposed changes to WAC 173-218 on the following dates and locations:

- August 16, 2005 in Longview at the Lower Columbia College.
- August 18, 2005 in Edmonds at the Snohomish County PUD.
- August 23, 2005 in Yakima at the Yakima Convention Center.
- August 24, 2005 in Spokane at the Spokane Downtown Public Library.

During this public review period, several documents related to the Administrative Procedures Act requirements for rule-making were made available to the public, in addition to the draft rule language.

Draft technical guidance for managing stormwater using UIC wells, titled “Determination of Treatment and Source Control for UIC Wells in Washington State”, was also made available for the public to comment on. This draft guidance is not a part of the formal rule package and therefore is not included in the rule responsiveness summary. Several comments were received on the draft guidance document. Responses to these comments can be found on Ecology’s UIC Rule website at:

http://www.ecy.wa.gov/programs/wq/grndwtr/uic/rule_rev.html

This technical guidance will be finalized with stakeholder input after the UIC rule is finalized. Comments received during the public review on the draft guidance will be an important component of these future stakeholder meetings to finalize the guidance. Ecology will contact all commenters on the UIC rule, as well as a variety of other notification lists, to invite participation in the stakeholder meetings. Although dates have not been set, Ecology expects to hold these meetings in winter 2006.

Ecology has also committed to write comprehensive administrative guidance for several aspects of the rule once the final UIC Rule is adopted. The administrative guidance will include information on completing a registration form and well assessment, using a UIC well at a clean up site, examples of high threat to ground water UIC wells and more. The responsiveness summary below highlights areas that will be included in the administrative guidance where commenters have requested additional information on how the rule will be implemented.

Comments Received During the Public Review Period

Name of commenter	Key Words in Responsiveness Summary Table
Automotive Recyclers of WA, Don Phelps	Automotive Recyclers of WA
Callison, Kathy	Callison
Central Washington Home Builders Association, Clarence Barnett	Central WHBA
Clallam County Public Works Department, Dave Lasorsa	Clallam County
Clark County Public Works Department, Rod Swanson	Clark County
Energy Northwest, Motley Hedges	Energy Northwest
Environmental Protection Agency, Kirk Robinson	EPA
Everett, City of Dan Mathias	Everett
Fluor Hanford, Richard Engelmann	Fluor Hanford, Engelmann
Fluor Hanford, Raja Ranade	Fluor Hanford, Digambar
Independent Business Association, Gary Smith	Independent Business Association
Johnson, Walter	Johnson
King County Water and Land Resources Division, Steve Foley	King County
Kitsap County Health District, Jerry Deeter	Kitsap County Health District
Kitsap County Public Works, Randy Casteel	Kitsap County Public Works
Miller, Stan	Miller
Moss, David	Moss
Phelps, Don	Phelps
Pierce County, Heather Kibbey	Pierce County
Public Health Seattle King County, Larry Fay	Public Health Seattle King County
Redmond, City of, Kevin Murphy	Redmond
Richland, City of, Nancy Aldrich	Richland
Seattle Public Utilities, Sally Marquis	Seattle Public Utilities
Snohomish County, Mark Soine	Snohomish County
Spokane, City of, Bill Peacock	Spokane
Spokane County, Brenda Simms	Spokane County
Spokane Valley, City of, Gloria Mantz	Spokane Valley
Thurston County, Dale Rancour	Thurston County, Rancour
Thurston County, Jim Bachmeier	Thurston County, Bachmeier
United States Postal Service, James Hanna	USPS
WA Department of Health, Richard Benson	WDOH
WA State Dept of Transportation, Larry Schaffmer	WSDOT
Yakima County, Donald Gatchalian and William Rice	Yakima County

How to Use the Responsiveness Summary Table

The following responsiveness summary table includes the provisions of the rule package required to undergo public review and comment. The table is organized as follows:

- Specific sections of WAC 173-218 in numeric order;
- General comments on the rule, not related to a specific section;
- Small Business Economic Impact Statement (SBEIS);
- Draft Cost Benefit Analysis;
- State Environmental Policy Act (SEPA) Checklist;
- SEPA Determination of Non-Significance; and
- Draft Implementation Plan.

Comments in the responsiveness summary table are followed by key words representing a person or entity who commented on the rule (see table above). Each comment is followed by a response from Ecology in ***bold italics***.

If you have any questions on the use of this table, or on the responses, please contact Mary Shaleen Hansen at the Department of Ecology at (360) 407-6143 or by email at maha461@ecy.wa.gov.

Responsiveness Summary WAC 173-218: Underground Injection Control Rule	
218-010 Purpose	
	<i>No Comments</i>
218-020 Policy	
	<p>218-020 (1): In the “policy” section clarify the relevancy/ relationship between (a), (a)(i), and (a)(ii) with respect to TDS. (Callison)</p> <p><i>Response: The federal definition of an underground source of drinking water means ground waters that contain fewer than 10,000 mg/l of total dissolved solids which therefore must be protected as a beneficial use. In Washington State, all ground water is considered waters of the state and is protected under RCW 90.48, which would include water with greater than 10,000 mg/l of total dissolved solids.</i></p> <p>218-020 (1): Clarify what would make water containing >10,000mg/L TDS obtainable for beneficial use. (Fluor Hanford, Engelmann)</p> <p><i>RESPONSE: See above response.</i></p> <p>218-020 (1): States that it is the policy of Ecology to prevent the injection of fluids that contain fewer than 10,000 mg/l of total dissolved solids. 218-020(ii) states that it is the policy of Ecology to prevent the injection of fluids that contain greater than 10,000 mg/l of total dissolved solids. These two policy statements suggest that no injection of fluids should be allowed. Is that Ecology’s intent? (Everett)</p>

RESPONSE: The policy of this chapter is to preserve and protect ground waters by preventing the injection of fluids that will endanger ground water that contains fewer than 10,000 mg/L of total dissolved solids and greater than 10,000 mg/l total dissolved solids.

218-020 (1)(a)(i) and (ii): This section appears to be making some distinction between ground water that is generally considered to be of drinking water quality (<10,000 mg/L of total dissolved solids) and that which is not. What are the “practices“ referred to in (a)(ii) that would make water containing greater than 10,000 mg/L total dissolved solids obtainable for beneficial use? Please clarify. (Fluor Hanford, Engelmann)

RESPONSE: All waters of the state are protected under RCW 90.48 including greater than 10,000 mg/l total dissolved solids. If a project proposes to use these types of waters the project must meet the requirement of this chapter.

218-020 (2): The policy is to authorize disposal of “waste fluids” into injection wells, providing these operations satisfy this chapter...” “Waste fluid” is now defined as any fluid that cannot meet the nonendangerment standard at the point of compliance. These two provisions indicate that the policy is to authorize disposal of fluids that cannot meet the nonendangerment standard at the point of compliance, providing these operations satisfy this chapter. Recommend that “waste fluids” be replaced by “fluids” or the definition of waste fluids be modified. (Fluor Hanford, Engelmann)

RESPONSE: Deleted the word “waste” in 218-020 (2).

218-30 Definitions

Abandoned well: An unmaintained well is defined as an abandoned well. Include a definition of unmaintained well. A well should be unmaintained for at least a couple of years before it is considered abandoned. (Everett)

RESPONSE: Rather than further define this term, Ecology will provide additional information on what is considered an unmaintained well in administrative guidance that will be developed shortly after the UIC Rule is finalized. The administrative guidance will contain information on the use of all allowed UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning and more.

Define the term Hazardous Waste throughout. (Fluor Hanford, Engelmann)

RESPONSE: After reviewing this comment and working with the Hazardous Wastes and Toxics Reduction Program staff, the term hazardous waste has been replaced with the term dangerous waste. Chapter 173-303 WAC, Dangerous Waste Regulations, regulates dangerous waste. The definition of dangerous waste has been added to Chapter 173-218 WAC.

Delete “hazardous substances” and replace with “hazardous waste.” (Independent Business Association)

RESPONSE: See comment above. Hazardous substance as defined in Chapter 173-218 WAC is more inclusive than just the federal "hazardous waste" or state "dangerous waste." The intent of the regulation is to protect water quality by preventing the use of a UIC to discharge any substance defined as a hazardous substance. The regulation continues to use hazardous substance. A definition of hazardous substance is included. Also, in section 173-218-040 (5)(b)(5) language was added to allow storm water that may contain hazardous substances but meets the nonendangerment standard by applying the best management practices and requirements in WAC 173-218-090 or storm water authorized under a permit.

"Hazardous Substances" definition as proposed causes several implementation difficulties. Some reasonable limits need to be established for hazardous substances; otherwise, the provision in WAC 173-218-090(2)(c)(ii) is meaningless: virtually all industrial stormwater runoff will contain some very small amount of a hazardous substance as defined in WAC 173-218-030. Recommend that the term hazardous substances be replaced by the term hazardous waste. This would be consistent with the Federal Rule. (Fluor Hanford, Engelmann)

RESPONSE: See above responses.

Clarify high threat definition. (Spokane Valley)

RESPONSE: Additional clarification on the term high threat to ground water will be included in guidance following adoption of the UIC Rule. Draft technical guidance for UIC wells used for stormwater management will contain information on siting and pretreatment requirements for UIC wells. The department will also be developing administrative guidance on the use of all UIC wells in Washington after the rule is finalized. This administrative guidance will include information on completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

High threat to ground water definition, lists vehicle washing. Does it include charity car washes? Clarify. (Pierce County)

RESPONSE: As noted above, additional clarification on the term high threat to ground water will be included in guidance documents developed after the UIC Rule is finalized.

Definition of "High Threat to Ground water" amend to include an exemption for onsite vehicle washing activities that capture and reclaim all wash water. (USPS).

RESPONSE: Vehicle wash water that is captured and not discharged into the ground through a UIC well would not be covered under this regulation.

There are multiple definitions that may be redundant or conflicting. The added complexity may result in contradictory requirements, or lack of clarity. If "pollution", "contaminants", and "nonendangerment" are the same, then just use one term. (Callison).

RESPONSE: Because these words have specific and different meanings in the rule, Ecology believes the separate definitions are appropriate.

Define the difference between motor vehicle waste disposals well and stormwater drains. (Automotive Recyclers of WA)

RESPONSE: We agree that further clarification is helpful. Language was added to separate out a motor vehicle waste disposal well and a well used to manage stormwater that does not receive motor vehicle waste. See section 173-218-040(5)(b)(ii).

It appears that the federal definition of “motor vehicle waste disposal wells” into the rule would prohibit vehicle recycling facilities to have UIC wells. This would put many of them out of business. Language needs to be added to the rule to clarify the difference between a waste well and an UIC well. (Independent Business Association)

RESPONSE: Language was changed to address your concern.

Nonpollution-generating surface; Suggest including natural areas and other low-maintenance landscaped areas. (WSDOT)

RESPONSE: Additional information on examples of nonpollution-generating surfaces will be included in technical guidance for UIC wells that manage stormwater. Draft guidance exists that will be finalized after the UIC rule is adopted. The draft guidance contains information on siting and pretreatment requirements for UIC wells, and can be viewed on Ecology’s website at: http://www.ecy.wa.gov/programs/wq/grndwtr/uic/rule_rev.html.

Pollution-generating surfaces; “use of pesticides or fertilizers or loss of soil” is overly broad. Reference to only those areas that have “intensive use” of chemicals to be consistent with examples listed latter in the definition. (WSDOT)

RESPONSE: Additional clarification on pollution generating surfaces will be included in guidance following adoption of the UIC Rule. Draft technical guidance for UIC wells used for stormwater management will contain information on siting and pretreatment requirements for UIC wells. The department will also be developing administrative guidance on the use of all UIC wells in Washington after the rule is finalized. This administrative guidance will include information on completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more. We will take your suggestion into account.

The definition of pollution generating surfaces includes parking lots. At Hanford, several parking lots are associated with buildings/structures waiting to be decommissioned. The vehicular traffic amounts to one car a week on the average. Parking lots with such minimum traffic should not be considered ‘pollution generating surfaces’. (Fluor Hanford, Engelmann)

RESPONSE: Additional information on the pollution generating surfaces will be included in technical guidance for UIC wells used for stormwater management. The draft guidance document contains information on siting and pretreatment requirements for UIC wells and can be viewed on Ecology’s website at: http://www.ecy.wa.gov/programs/wq/grndwtr/uic/rule_rev.html. We will take your suggestion into account as that draft guidance is being finalized.

Define what “trenches” are UIC wells.(Independent Business Association)

RESPONSE: Infiltration trenches with perforated pipe are included as an example under allowed drainage wells in -040 (5)(a)(i) and also defined in -030.

The Indian Law attorney suggested the following: Tribal land means the all land within the exterior boundaries of Indian reservations and federal land located off-reservation which is held in trust for Indians, unless specifically delegated by EPA. Consider including "Tribal Land" as an item in your definitions section, if used elsewhere in the rules. (EPA)

RESPONSE: A change was made to the definition of tribal land. Since the term tribal land was only used one in the rule, the definition was included in the associated subsection only.

Define "owner" and "operator" similar to the following:

- a. "Operator" means any person or persons in control of, or having responsibility for, the operation or maintenance of a UIC Well.
- b. "Owner" means a person or persons with a vested ownership interest in a property where a UIC well is located, including a leasehold interest, but does not include persons holding only contingent interests or security interests in all or a portion of the property.
(Thurston County, Rancour)

RESPONSE: Ecology does not further define owner and operator in other rules, and believes that it is more appropriate to provide additional information on what the term owner and operator means in administrative guidance that will be developed shortly after the UIC Rule is finalized. The administrative guidance will contain information on the use of all allowed UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning and more.

"You" is defined as "the owner or operator of a UIC well"; "but owner or operator" is not defined. The definition should read "You or **Your**" as the term "your" is used repeatedly throughout the rule. (Redmond)

RESPONSE: See above response. The term "your" is another grammatical use of the word you; therefore no change was made.

Replace you with owner/operator in the definitions. (Independent Business Association)

RESPONSE: Comment noted. The definition of "you" includes owner and operator in section 173-218-030. Additional information on the terms owner and operator will be included in administrative guidance That will be developed shortly after the UIC Rule is finalized.

218-040 UIC Well Classes including allowed and prohibited wells

218-040(2)(iii): Change language to "Any well assessment that identifies a well as a high threat to ground water must include a retrofit schedule."
(Independent Business Association)

RESPONSE: Language was changed to clarify this section.

218-040(4): This section indicates that Ecology could approve re-injecting treated ground water under Model Toxic Control Act (MTCA). The federal rule at 144.13(c), only has provisions for State approval via the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or the Resource Conservation and Recovery Act of 1976 (RCRA). Thus, this section does not appear to be consistent with and as stringent as the federal rule. In addition, the way the section is currently written, Ecology would not have the ability to approve re-injecting treated ground water pursuant to RCRA, which is allowed by the federal rule. (Fluor Hanford, Engelmann)

RESPONSE: Agree with your comment. Language was changed.

218-040(4): The citation is incorrect and needs to be changed from 144.13(a)(4)(c) to 144.13(c). (Fluor Hanford, Engelmann)

RESPONSE: Citation was corrected.

218-040(4)(a, b): Seems to have missing information. (Energy Northwest)

RESPONSE: We reviewed this comment and could not identify any missing information, therefore nothing was changed.

218-040(5): The definition of a Class V well is unclear and how it applies to Seattle's stormwater management facilities. (Seattle Public Utilities).

RESPONSE: The definition of a Class V well is from the federal definition and cannot be revised. An addition to section 173-218-050 may help eliminate confusion for stormwater systems intended to convey water to surface water.

218-040(5): Class V wells should not be defined only as "allowed" and "prohibited". The definition of Class V well, is that they are not regulated in any other class. The "allowed" types therefore, should be indicated as examples, not as an exclusive list. (Callison)

RESPONSE: Language was changed in 5(a) to clarify that these are examples.

218-040(5)(a)(v) Encourage the deletion of the use of design capacity. Easier to count number of people served. (USPS)

RESPONSE: The Washington Department of Health (WDOH), both state and local, use design capacity to regulate septic systems. The rule now includes both the number of people and design capacity to determine if a septic system is a UIC well.

218-040(5)(a)(x): Does not address injection wells used to inject fluids intended to clean up, treat or prevent vadose zone contamination. Recommend: "Injection wells used for remediation wells receiving fluids intended to clean up, treat or prevent soil or ground water contamination." (Fluor Hanford, Engelmann)

RESPONSE: The term subsurface is used and includes all area, including the vadose zone, beneath the land surface. Language was also changed to clarify the relationship between (5)(a)(x) and (5)(b)(v) by saying in (5)(b)(v) "Except for wells allowed under (5)(a)(x) that are receiving fluids containing hazardous substances."

218-040(5)(a)(v) and 5(b)(i): 20 people per day does not have any useful meaning for local health jurisdictions, since we deal with design flow of a system. Add 20 people per day and 3500 gpd or 20 people per day which is equivalent to 3500 gpd would have more meaning and easier to utilize. (Kitsap County Health District)

RESPONSE: Upon review of the comment, the following language was added, “serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day.”

218-040(5)(a)(v) and 5(b)(i)

What is meant by a septic system serving more than 20 people per day? If at all possible tie the UIC definition to the DOH larger onsite sewage system regulations(>3500 gpd) to minimize confusion. (Public Health Seattle King County)

RESPONSE: Upon review of the comment, the following language was added, “serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day. The rule now includes both the number of people or the design capacity to determine if a septic system is a UIC well.

218-040(5)(a)(xv): Indicates that injection wells that receive fluids that cannot be classified as industrial are allowed as Class V injection wells. Further clarification of the term “industrial” is required, especially in light of the definition of “industrial wastewater” in WAC 173-218-030. The definition of industrial wastewater includes water or liquid-carried wastes resulting from any activity of industry, manufacture, trade or business. Potable water drained from business would be considered “industrial wastewater” under the broad definition, and would not be an allowed discharge under WAC 173-218-040(5)(xv) as currently written. (Fluor Hanford, Engelmann)

RESPONSE: The title of 173-218-040 (5)(a) was changed to read: “The following are examples of Class V wells” so that it does not appear to be all-inclusive. 218-040(5)(a)(xv) was deleted because it was not necessary after adding “examples” in (5)(a). The definition of industrial waste water says “may result from” and does not infer that it is always an industrial wastewater but could be.

218-040(5)(b)(v) Wells that receive industrial wastewater are prohibited in this draft chapter. It is unclear what commercial waste waters are prohibited and what may qualify as a class V injection well. The sanitary waste and industrial wastewaters definition both include commercial wastes. (Public Health Seattle King County)

RESPONSE: Language was changed to allow industrial wastewater to be discharged into a UIC well if authorized under a permit. The second sentence of the definition of industrial waste water includes the terms “may result from” which means the fluids could be industrial waste water but doesn’t state all fluids from these facilities are an industrial waste fluid. Commercial waste water would be reviewed on a site by site basis. The definition of a waste fluid, in section 173-218-030, is a fluid that cannot meet the nonendangerment standard at the point of compliance. Commercial discharges that could not meet the nonendangerment standard may need to be regulated under a permit. Sanitary waste or domestic wastewater originates solely from humans and human activity and is not dependent on the type of facility. Waste fluids from an industrial or commercial facility that are solely sanitary waste would not be considered an industrial waste fluid.

218-040(5)(b)(ii): Add the following language “*However, stormwater disposal wells located at vehicular repair, maintenance or dismantling facilities shall not be considered a waste disposal well if the wells are protected from receiving vehicle waste*”, to clarify a facility involved in vehicle repair, maintenance or dismantling can use a UIC well for stormwater disposal, provided the UIC is protected from motor vehicle wastes. (Automotive Recyclers of WA, Independent Business Association, Phelps)

RESPONSE: Added language to clarify concerns.

218-040(5)(2)(ii): Add “if the well may be a high threat to ground water” then the depth of the ground water needs to be located in relation to the UIC well, and if the UIC well is located in a ground water protection area. The well assessment requirements will be met if an owner or operator applies the stormwater best management practices contained in a guidance document approved by the department to their UIC wells; and Verifies that the UIC well does not drain directly into the ground water; and Determines that the UIC well is not located in a ground water protection area. (Independent Business Association, Automotive Recyclers of WA)

RESPONSE: Added language to clarify the intent of this section.

218-040(5)(b)(v): This section states that Class V wells receiving a hazardous substance, which would include parking lot runoff with petroleum products, would not be allowed. Section 173-218-040, underground injection control (UIC) well classification generally uses language consistent with the Federal Rule, which makes use of the terms “hazardous waste” and “radioactive waste” rather than “hazardous substance.” The hazardous substance definition should be removed from this section and the entire Chapter and the terms hazardous waste and radioactive waste should be used in its place. (Fluor Hanford, Engelmann)

RESPONSE: The language was changed to allow stormwater that may contain hazardous substances if it meets the nonendangerment standard by applying the best management practices and requirements of section -090. Stormwater issued under a permit is also allowed. Even though the federal rule uses the term hazardous waste, Washington regulates hazardous waste and substances through chapter 173-303 WAC Dangerous Waste Regulation. The term hazardous substance was not changed in the rule, but hazardous waste was changed to dangerous waste in section -040 (1), Class I wells, and (4) Class IV wells.

218-040(5)(b)(v): Most stormwater is going to contain some hazardous substances, albeit at trace quantities. While this type of runoff would not be expected to result in a violation of WAC 173-200 Ground Water Standards, this type of runoff would not be allowed -040(5)(b)(v). (Fluor Hanford, Engelmann)

RESPONSE: The UIC rule requires that best management practices are applied to stormwater to specifically address the contamination expected in it. The language was changed to allow stormwater that may contain hazardous substances if it meets the nonendangerment standard by applying the best management practices and requirement of section -090. Stormwater issued under a permit is also allowed.

There may be instances when best management practices do not exist to reduce or eliminate the contamination and that discharge would not be rule authorized. The rule does not intend to allow a discharge of contaminated stormwater that would be under a

criteria but still a dangerous waste to be discharged into a UIC well.

218-040(5)(b)(v) Delete the word “hazardous substance” and replace with “hazardous waste.” The definition of “hazardous substance” would result in parking lot stormwater UICs being prohibited in Washington. (Fluor Hanford, Engelmann)

RESPONSE: The term hazardous substance was kept in the rule because Washington regulates hazardous waste and substances through chapter 173-303 WAC Dangerous Waste Regulation and does not use the term hazardous waste. Dangerous waste is broader than hazardous waste in that it includes hazardous waste plus more. Therefore, if you were to use hazardous waste (the federal definition), then wastes would be omitted that are included in WAC 173-303. If hazardous substance were replaced with hazardous waste, then all waste that exhibits toxic criteria under the Dangerous Waste Regulation would be allowed to be discharged without being addressed properly. This would cause a conflict with the Dangerous Waste Program. The rule does not intend to preclude runoff from parking lots. The UIC rule requires that best management practices are applied to stormwater to specifically address the contamination expected in it and there are specific best management practices for minor amounts of petroleum contamination. The language was changed to allow stormwater that may contain hazardous substances if it meets the nonendangerment standard by applying the best management practices and requirements of section -090. Stormwater issued under a permit is also allowed.

218-040(5)(b)(v): States that UIC wells receiving fluids containing hazardous substances or industrial wastewater are prohibited. In the definition of “industrial wastewater” in -030, the only fluid that could be injected in a Class V well is domestic wastewater since the industrial wastewater definition means “water or liquid-carried waste from industrial or commercial process, as distinct from domestic wastewater.” This definition must be changed to reflect what is intended, which is not clear. The definition of “industrial wastewater” and “contaminant,” would prohibit the discharge of all but domestic wastewater. The definitions and text in this section need to be clarified for the rule to be implemented. (Fluor Hanford, Engelmann)

RESPONSE: The definition of industrial waste water was not changed but includes the terms “may result from” which means the fluids could be industrial waste water but doesn’t state all fluids from these facilities are an industrial waste fluid. Also, discharges from an industrial facility will be reviewed on a site by site basis and determined if the nonendangerment standard can be met. Fluids that meet the nonendangerment standard could be discharged into a UIC well. See the comment above which discusses hazardous substances.

218-050 Exemptions

218-050(1) and (2): 20 people per day does not have any useful meaning for local health jurisdictions, since we deal with design flow of a system. Add 20 people per day and 3500 gpd or 20 people per day which is equivalent to 3500 gpd would have more meaning and easier to utilize. (Kitsap County Health District)

RESPONSE: Upon review of the comment, the following language was added, “serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day.

218-050(2): Expand exemption to cover all septic systems, large or small. These systems are

permitted thru another rule and registration is duplicative and an extra burden that is not warranted. (Fluor Hanford, Engelmann)

RESPONSE: The state UIC regulation has to be as stringent as the federal UIC regulation, so UIC wells that serve 20 or more people per day must be included in the state UIC regulation.

UIC wells that are injected with agents for remediation should be exempt from meeting the nonendangerment standard requirements. (Fluor Hanford, Engelmann)

RESPONSE: The state UIC regulation has to be as stringent as the federal UIC regulation. The language was not changed.

Are stormwater systems containing perforated pipe, that are intended to convey stormwater to surface water a UIC well? Please clarify. (Seattle Public Utilities)

RESPONSE: Stormwater systems that are designed and intended to move stormwater to surface water are not considered a UIC well. If components of a system meet the definition of a UIC well and are designed and intended to infiltrate then the components would be a UIC well. The following language was added to 173-218-050: Storm drain components that contain perforated pipes, drain tiles or other similar mechanisms designed and intended to convey water directly or indirectly to a surface water body.

218-60 Requirements to operate a UIC well

218-060(4) (a): Registration of UIC is an administrative requirement under CERCLA and is preempted for on-site CERCLA actions by Federal law at 42 U.S.C. 9621(e)(1). An explanation of the CERCLA exemption with regard to state administrative requirements appears at 55 Federal Register 8756 (March 8, 1990). A state regulation cannot serve to override the broad exemption from both federal and state law established in CERCLA. Hence, the requirement to register UIC wells associated with CERCLA on-site actions could not be enforced. Delete requirement. (Fluor Hanford, Ranade; Fluor Hanford, Engelmann)

RESPONSE: Your comment was considered, but after consulting with an Ecology attorney, it was determined that registration is not considered a permit. CERCLA facilities are exempt from state permits and since UIC registration is not a permit it is still required. Language was not changed.

WAC 173-218-060, WAC 173-218-070, and WAC 173-218-080: These sections state that to operate an existing UIC well it must be registered and either rule authorized or receive a state waste discharge permit. If a well has already been registered, does it have to register again? Clarify what the requirements are for already registered UIC wells. (Fluor Hanford, Engelmann)

RESPONSE: UIC wells must be registered with either Ecology or EPA depending on where they are located, except where exempt. A UIC well only has to be registered once. In section 173-218-070(1) language was added stating a UIC well only has to be registered once with the department. In section 173-218-090(2) language was added to state that UIC wells only have to be registered once. Owners of existing registered wells have to

either complete a well assessment if the wells manage stormwater or for other types of wells, except at CERCLA facilities, the owner will have to complete a survey and send it back to the department. Operators of UIC wells used at CERCLA facilities are exempt from completing a well assessment or a survey.

218-060 & 070: Clearly state that UIC wells regulated under a state waste discharge permit are exempted from registration and assessment requirements. (Fluor Hanford, Engelmann)

RESPONSE: All UIC wells must be registered whether under a permit or not except for the exemptions listed in the rule. Language was added to exempt existing UIC wells used at CERCLA facilities from completing a well assessment. Existing wells used at facilities or municipalities regulated under the NPDES Program can apply stormwater pollution prevention plan requirements to their UIC wells and this will fulfill their well assessment requirements but the wells still need to be registered.

218-060(5)(a)&(b) Rephrase "CERCLA and are"...the "are" needs more description (Pierce County)

RESPONSE: Agree with comment. Language was changed.

218-70 Rule authorization and registration

As a power plant, our septic system was approved by EFSEC. Consider including alternate approval authorities in the following sections: (1)(f), (1)(g)(ii). (Energy Northwest)

RESPONSE: Language was not added to the rule. EFSEC has authority from the legislature to regulate energy facilities. Ecology and EPA and will work with EFSEC to establish a working relationship on providing inventory information as required in the federal UIC rule.

218-070: Use the term "drinking" in the rule if is to protect drinking water. There is confusion in regards to the term "ground water" and "aquifer" being used interchangeably. Is the new rule to be more inclusive than solely to protect drinking water? (Everett)

RESPONSE: The federal UIC regulation protects drinking water sources. Washington protects all ground water as waters of the state in RCW 90.48, and this is reflected in chapter 173-200 WAC Water Quality Standards for ground water in Washington. The UIC rule protects all ground water similarly.

218-070(1)(a)(iii): Confusion in the application of BMPs. BMPs are discussed as if they are applied at an industrial site and municipalities are far larger, with thousands of drywells. Consider adding, "Phase 1 permit holders implementing their Stormwater Management Program are in compliance with the portion of this rule for application of BMPs until assessment of individual drywells over the seven year period indicates where further efforts are necessary." Appropriate for businesses and industries, not appropriate for Phase 1 permit holders that are managing an MS4, not individual drywells. (Pierce County)

RESPONSE: Subsection (a)(iii) was revised to clarify that best management practices must be used to protect ground water quality. Language was also added to section 173-

218-090(2)(c) to clarify the requirements for municipalities regulated under the NPDES Program that use UIC wells to manage stormwater.

218-070(1)(a)(iv): More clarification of what sort of well descriptor information is needed. (WSDOT)

Response: Additional information will be in the registration form and also in administrative guidance that will be developed shortly after the UIC Rule is finalized. The administrative guidance will contain information on the use of all allowed UIC wells in Washington, including directions on completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning and more

218-070(1)(a)(v): This section is overly broad and needs to be more specific. (King County).

RESPONSE: There are many different types of UIC wells, and required information may be different depending on the well type. Additional information will be included in the registration form and administrative guidance that will be developed shortly after the UIC Rule is finalized. See above response.

218-070(1)(a)(v): Remove "Other information the department determines is necessary to meet the nonendangerment standard and describe "other information needed." (Thurston County, Bachmeier)

RESPONSE: See above response.

218-070(1)(b)(i): Include time period to complete a well assessment here. (Fluor Hanford, Engelmann)

RESPONSE: Reference to the section with time lines for well assessments was added, 173-218-090 (2).

218-070(1)(b)(i): Reference is vague for well assessment requirement. Provide information on completing a well assessment. (Thurston County, Bachmeier)

RESPONSE: Additional information on completing a well assessment will be included in administrative guidance that will be developed shortly after the UIC Rule is finalized. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-070(1)(b)(ii): What constitutes a well status change, specify. (King County)

RESPONSE: Examples were added to the rule language describing a well status change. Additional examples will be included for UIC wells in administrative guidance that will be developed shortly after the UIC Rule is finalized.

The City of Redmond is concerned that UIC applicants may not provide Ecology with sufficient information regarding local issues such as geology, shallow ground water tables, proximity to production wells, wellhead protection zones, etc. Prior to issuance of UIC Rule Authorization

Notification, Ecology should endeavor to coordinate closely with local agencies to determine if UIC registrants are seeking registration of UIC wells located within Critical Aquifer Recharge Areas or other Sensitive Areas under local jurisdiction. Ecology could provide a list of pending registrations to affected local agencies or post the pending registrations in such a way that local agencies can be notified in a timely manner and provide information to Ecology prior to UIC authorization. (Redmond)

RESPONSE: Comments noted. Ecology has developed an Implementation plan for the rule in accordance with Administrative Procedures Act requirements, and will take into account working with local governments to make sure ground water is adequately protected. We appreciate your suggestions.

218-070(1): Change language to “UIC wells used at sites under CERCLA do not have to register with the department.” (Fluor Hanford, Engelmann)***

RESPONSE: Your comment was considered, but after consulting with an Ecology attorney it was determined that registration is not considered a permit. CERCLA facilities are exempt from state permits and since UIC registration is not a permit it is still required. Language was not changed

218-070(1)(f): Since septic systems are permitted at WDOH, they should be exempt from chapter 173-218 WAC. (Fluor Hanford, Engelmann)

RESPONSE: The Washington State UIC regulation must be as stringent as the federal UIC regulation and septic systems that serve 20 or more people per day are UIC wells in the federal regulation. WDOH has agreed to provide information on the systems they permit through Chapter 246-272B WAC Large on-site sewage systems so that the owners do not have to register individually.

218-070(1)(f): If Ecology deems it necessary to duplicate the WDOH efforts and require registration on septic systems, what happens if WDOH does not provide the registration information for these systems? (Fluor Hanford, Engelmann)

RESPONSE: WDOH has agreed in good faith effort to send Ecology the information necessary for the registration requirement. If a system is not registered Ecology will work with WDOH to receive the information or work with the facility.

218-070(1)(f): Is it the intent of this regulation not to require registration for septic systems regulated under WAC 173-216, 173-221? (Fluor Hanford, Engelmann)

RESPONSE: No, all septic systems that serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day are UIC wells and regulated by the UIC program. WDOH has agreed to provide information on these systems so that the owner does not have to register individually.

218-070(1)(f): Septic systems with design capacity larger than 14,500 gallons per day are permitted at Ecology. Do these systems have to register? (Fluor Hanford, Engelmann)

RESPONSE: Yes systems over 14,500 gallons per day are required to be registered.

218-070(1)(f): Is not clear on what the registration requirements for new septic systems need to submit. (Fluor Hanford, Engelmann)

RESPONSE: Septic systems regulated under WDOH, chapter 246-272B will be registered by WDOH. All other septic systems that are UIC wells, other than located on tribal land, must register with Ecology. Additional information will be on the registration forms and in administrative guidance that will be developed shortly after the UIC Rule is finalized. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-070(1)(f): Delete this section because onsite systems regulated by WDOH or Ecology should be exempt, or modify to allow automatic registration of other onsite septic systems . (Fluor Hanford, Engelmann)

RESPONSE: The federal UIC regulation requires septic systems that are UIC well to be registered so the rule can not exempt them. WDOH has agreed to send us information on the systems regulated under chapter 246-272B WAC. Ecology will work with other programs within Ecology to obtain information on Ecology permitted septic systems.

218-070(1)(f): Exclude a home-based commercial business without “industrial activity” operating from a residential type building from the requirements of the UIC. (USPS)

RESPONSE: Comment noted, however other commercial businesses do have to register, so the registration requirement will be consistent in the rule if the language is not changed.

218-070(1)(g): Many existing septic systems that are considered a large on site system do not have DOH operating permits therefore will not be registered by WDOH. Includes systems regulated by Ecology, locally approved prior to 1984 and counties. (WDOH)

RESPONSE: The owner or operator of a UIC well is responsible for registering their UIC well and not the WDOH, with the exception of owners of the large on site systems that WDOH has agreed to forward the registration information to Ecology [chapter 173-218-070(1)(f)]. Ecology will work with local health jurisdictions to try and reach all UIC wells owners and also with other sections of Ecology to provide outreach on the UIC rule program.

218-070(1)(g)(ii): The term 20 people per day does not have any useful meaning for local health jurisdictions, since we deal with design flow of a system. Add 20 people per day and 3500 gpd or 20 people per day which is equivalent to 3500 gpd would have more meaning and easier to utilize. (Kitsap County Health District)

RESPONSE: Upon review of the comment, the following language was added; “serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day”, to make the rule language consistent with other sections pertaining to on site systems that are UIC wells.

218-070(2): Compliance with the nonendangerment standard must be shown prior to placing a new well into service. At what point does the new well need to be registered? It should be after

construction as changes may be necessary due to design or construction constraints. Additionally, the 60-day review period may lead to delays if Ecology finds the wells to be non-complaint. (Spokane Valley)

RESPONSE: The well should be registered prior to use. The owner is responsible for meeting the requirements for the nonendangerment standard when constructing a well. Ecology does not intend to wait 60 days to review a registration form. Ecology is planning on adding a web-based registration form to expedite the registration process.

218-070(2)(a): Would owners of already registered wells be notified if they are rule authorized? (Fluor Hanford, Engelmann)

RESPONSE: The revised rules now assume that existing registered wells are already rule authorized, but they also require that owners of registered UIC wells to fill out a well assessment or complete a survey (some exceptions apply). Ecology will notify owners of verification that they are rule authorized after receiving additional information.

218-070(2)(a) and (d): Will a business be denied registration and rule authorization if they receive written notification after they have been put under automatic registration because the department does not respond within 60 days? Delete “until such time that the written notification is received” (Central WHBA, Fluor Hanford, Engelmann).

RESPONSE: Language was deleted to clarify that if the department has not responded within 60 days the well will be automatically registered.

218-070(3): The requirement to register UIC wells associated with CERCLA on-site actions could not be enforced. Delete this requirement. (Fluor Hanford, Engelmann)

RESPONSE: Your comment was considered, but after consulting with an Ecology attorney, it was determined that registration is not considered a permit. CERCLA facilities are exempt from state permits and since UIC registration is not a permit it is still required. Language was not changed.

218-070(3)(a)(iii): Change ground water sensitive area to ground water protection area to be consistent with in rule. (WSDOT)

RESPONSE: Language was changed to be consistent within the rule.

WDOH indicated that they have concerns about registration of large on-site systems that do not have operating permits and the regulation of “quasi” industrial systems (dental clinics, dog kennels). They suggest coordination between Ecology, WDOH and the counties to address these systems. (WDOH)

RESPONSE: WDOH or the local health department permit the majority of these types of systems but Ecology will work with WDOH to register these systems.

218-80 The nonendangerment standard for UIC wells.

218-080: First paragraph indicates that movement of fluid containing **any** contaminant into the

ground water must be prevented This is an unrealistic expectation for existing UIC wells. (Spokane Valley)

RESPONSE: This is a federal requirement and must be part of the State UIC rule. The rule presumes that if approved best management practices are applied the majority of the UIC wells will meet the UIC Program requirements.

218-080: Stormwater discharges to ground water that fulfill the AKART requirements should be presumed to be in compliance with state water quality standards for ground water. However, this section implies that to meet the nonendangerment standard, the discharge of contaminants must be prevented and AKART requirements must be fulfilled. To clarify this, the first sentence in WAC 173-218-080 should be deleted and the last sentence in WAC 173-218-080 should be revised to read, "The nonendangerment standard is presumed to be met if you meet the following requirements:" (Everett)

RESPONSE: Comment noted. The first sentence is language from the code of federal register and the same intent is true for the state UIC rule.

UICs used for remediation purpose under CERCLA, RCRA or MTCA are exempt from WAC 173-218-080, if such action is approved by EPA, Lead Agency for CERCLA Removal Actions, or the Department of Ecology." (Fluor Hanford, Engelmann)

RESPONSE: Comment noted.

RCWs set policy and not requirements. Identify requirements for the Washington Administrative Codes. (Fluor Hanford, Engelmann)

RESPONSE: The word "requirements" was deleted in first paragraph.

218-90 Nonendangerment requirement.

218-090: This section apparently only applies to class V UIC wells. If so, then it should be clearly stated that WAC 173-218-080 does not apply to class V UIC wells. (Everett)

RESPONSE: Section -080 applies to all UIC wells and section -090 applies to Class V UIC wells. The section title includes Class V wells.

Conflict exists between the presumptive approach and performance based approach. Change the language to state clearly that Class V wells used to manage stormwater are regulated by the presumptive approach. Language should clarify that monitoring is not required as part of the UIC program. (King County)

Response: If an owner/operator follows Ecology's current stormwater manuals it will be presumed that the discharge is complying with the state ground water standards unless there is site specific information which indicates that the presumption is incorrect and then monitoring may be necessary. Monitoring is not required unless a ground water problem exists or past practices are determined to be considered a high pollutant load category which could lead to ground water quality problem. Additional technical

guidance for UIC wells that manage stormwater is being developed and will be finalized after the UIC rule is adopted. This draft guidance can be viewed on Ecology's website at: http://www.ecy.wa.gov/programs/wq/grndwtr/uic/rule_rev.html.

A municipality with an NPDES permit that has been found in compliance with the permit; must have their UIC wells presumptively found to meet the nonendangerment standard. (King County)

RESPONSE: Language was added to section 173-218-090(2)(c) to clarify the requirements for municipalities that are regulated under the NPDES Program that use UIC wells to manage stormwater.

218-090 (1): We assume that if the presumptive approach is used for new stormwater wells then nonendangerment standard will be met, assume operation of the UIC well will be protective and an assessment is not required. (Thurston County, Bachmeier)

RESPONSE: Your assumption is correct. New wells do not have to complete a well assessment.

218-090(1): Does Ecology have to approve each new well prior to construction? If so, is there necessary staffing and a process in place? (Thurston County, Bachmeier)

RESPONSE: Yes, Ecology must approve the UIC well before use. Ecology is planning to add a web-based registration process to help expedite the registration process.

218-090(1)(a)(ii) If the owner chooses to seek a demonstrative approach, how will Ecology determine if equivalency has been achieved?

RESPONSE: On a programmatic basis Ecology does have equivalency criteria for the stormwater manuals but not on a well-by-well basis. If a UIC well owner wanted to meet the nonendangerment standard by using the demonstrative approach Ecology would assess whether the UIC well(s) would comply with chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington and also the Implementation Guidance for the Ground Water Quality Standards.

218-090(1)(b): Replace See Stormwater Management Manual for Eastern Washington with See Determination of Treatment and Source for UIC wells in Washington State. (Kitsap County Public Works)

RESPONSE: Deleted the reference to the Stormwater Management Manual for Eastern Washington. Since there is more than one reference that contains information on regulating UIC wells, a specific reference was not included in the rule.

218-090(1)(b): The assumption is that "aquifer" implies the drinking water aquifer vs. high ground water. Clarify. (Thurston County, Bachmeier)

RESPONSE: RCW 90.48 Protects waters of the state and ground water is considered waters of the state. Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington, applies to all ground water and there fore we would also protect high ground water. The word "aquifer" was changed to "ground water".

218-090(1)(c): The first sentence states that new class V wells must meet the nonendangerment standard in WAC 173-218-080. The third sentence states that that new class V wells must comply with the presumptive or demonstrative nonendangerment standard in WAC 173-218-090(1)(c)(i) or WAC 173-218-090(1)(c)(ii). New class V UIC wells should only be required to meet one nonendangerment standard. Therefore, the first sentence in this section - should be deleted. (Everett)

RESPONSE: The intent of 218-080 is to provide a broader overview of federal and state requirements for all UIC wells. 218-090 provides more specific requirements for owners to meet the broader requirements. Therefore, we believe it is appropriate to leave the first sentence in as a reference to the previous section.

218-090(1)(c)(i): The first sentence in this section should be revised to read, "...unless discharge monitoring data or other site specific data collected in accordance with an Ecology-approved QAPP shows that a discharge..." (Everett)

RESPONSE: Quality Assurance Project Plans (QAPP) are required on a site by site basis, such as within a permit, and we do not believe it needs to be specifically cited in the rule.

218-090(1)(c)(i)(B): Does not indicate that there are soils that will not allow direction injection of some materials. Would like new section to say: 173-218-090 1(c)(i)(C) However, note that under certain conditions of runoff quality and soil type, the presumptive test for nonendangerment will not be met. (Miller)

RESPONSE: Language was added to address the concern that not all soils have treatment capacity and also the instances when a best management practice does not exist to reduce or eliminate a contaminant in the discharge..

218-090(1)(a)and(3)(a)(ii): State ground water protection requirements must be implemented. Specify additional criteria or requirements. (Fluor Hanford, Engemann)

RESPONSE: Additional information on the types of ground water protection areas will be included in the registration form and administrative guidance that will be developed shortly after the UIC Rule is finalized. The administrative guidance will contain information on the use of all allowed UIC wells in Washington, including direction on completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning and more.

218-090(1)(c)(i)(B): Insert the following text: The well is operated in conformance with a state waste discharge permit. (Fluor Hanford, Engemann)

RESPONSE: Language was added in section 173-218-090 (2) that addresses permitted facilities that use UIC wells.

218-090(1)(c)(ii)(E): Identify the specific federal technology-based treatment requirements applicable to UIC wells that will be included in this assessment. (Fluor Hanford, Engemann)

RESPONSE: Upon review, the term "specific federal technology based treatment requirements" was deleted from the rule since it appears there are no specific federal requirements. Only state AKART, all known available and reasonable methods of

prevention, control and treatment requirements exist. Thank you for pointing this out.

218-090(1)(c)(i): The presumptive approach supposes the owner has control over the waters being discharged to it and control of the UIC well. This is not always the case for municipalities. (King County)

RESPONSE: Comment noted.

218-090(1)(B): Please clarify what the rule means by, "If the local manual has been approved by the department, UIC well registrants may use it for the above documentation". (Pierce County)

RESPONSE: Language was added 173-218-090 (1)(B) to clarify that local stormwater manuals that are equivalent to the latest department manual are approved.

218-090(2): I am concerned about the five-year grace period for registering existing wells. A suggestion would be to set the grace period at a year, then include language that allows facilities to apply for extensions to the registration deadline. You can then have an internal policy in regard to the length of an extension based on the projected number of wells. You can also put it in the hands of the facility to request the amount of time needed to comply. (EPA)

RESPONSE: The grace period for registering existing wells used for stormwater management recognizes that the local jurisdiction will need a reasonable period of time to identify those wells, get location information, and proceed with a well assessment for all of the wells within their jurisdiction. The grace period also coincides with the time municipalities have to implement their stormwater programs under the NPDES phase II stormwater permits. This grace period was determined through discussions with an external advisory group on what would be an appropriate amount of time. In fact, several comments were received indicating that more time may be needed outside of the window allowed. To accommodate situations where appropriate, Ecology added language allowing additional time if requested and approved by the department. In addition, language was added to require that any wells found to be an imminent public health hazard must be retrofitted immediately (rather than waiting until the grace period expires). We believe this adequately addresses the need to ensure that ground water is being protected, and yet allows a reasonable period of time to get all existing stormwater wells registered.

218-090(2): The City is concerned that the 3-5 year time frame for registration and assessment of its UIC wells may place a significant burden on the Stormwater Utility and the Developing/Developed Community. The rule revisions may require significant retrofitting of stormwater infrastructure, both public and private, in order to meet the more stringent requirements of the revised Rule. (Redmond)

RESPONSE: In section 173-218-090 (2) states other timelines, or additional time will be granted if approved by Ecology.

218-090(2): Provide guidance on "high threat to ground water" and provide uniform review standards. (Thurston County, Bachmeier)

RESPONSE: Additional information will be provided in guidance following adoption of the UIC Rule. Draft technical guidance for UIC wells used for stormwater management will

contain information on siting and pretreatment requirements for UIC wells. The department will also be developing administrative guidance on the use of all UIC wells in Washington after the rule is finalized. This administrative guidance will include information on completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-090(2): Need well assessment guidelines with examples and provide consistent interpretation of the assessment process. (Thurston County, Bachmeier)

RESPONSE: See above response.

218-090(2): Already registered wells should not have to perform a well assessment or a survey. (Fluor Hanford, Engelmann)

RESPONSE: The rule revision includes more specific requirements for owners of UIC wells. Ecology is requiring owners to review their uses of UIC wells to ensure that ground water quality is protected. Owners of UIC wells under a permit can apply the same best management practices to the UIC wells, if this has not happened already, and the well assessment requirement will be fulfilled. The survey will be provided by Ecology and will ask for well and ownership changes, if new wells have been added and will ask if the discharges to the UIC wells have changed.

218-090(2): UIC wells under a permit have undergone a review process and should not be required to complete a well assessment or a survey, including wells at CERCLA sites. (Fluor Hanford, Engelmann)

RESPONSE: Language was added in (2) for permitted and unpermitted facilities and municipalities. Existing facilities or municipalities regulated under the NPDES Program can apply stormwater pollution prevention plan requirements to their UIC wells and this will fulfill their well assessment requirements. Language was also added in -090 (3)(b) and -070(1)(b)(i),(c) to note that wells located at CERCLA sites do not need to complete a survey or well assessment.

218-090(2): Specify that “unregistered” existing UIC facilities are grandfathered. They need to be registered, inventoried and assessed but do not have to comply with the requirements for new UIC facilities. (Spokane Valley)

RESPONSE: Comment noted. Language was added in (2) to state that existing wells do not have to meet the new well requirements.

218-090(2)(a): If wells are already registered then the well assessment has already been completed. Change to “if own/operate ≤ 50 wells and have not registered the wells with the department prior to the adoption of this rule.” (Fluor Hanford, Engelmann)

RESPONSE: The draft UIC rule, has more specific requirements in the new language and owners need to review their practices to fully ensure ground water protection.

218-090(2): Clarification is needed about well assessments. The guidance document on well assessments should be available at the same time of the proposed rule. It is difficult to say if you support the rule if you don't know what is expected of you when completing a well

assessment. (Automotive Recyclers of WA, Independent Business Association)

RESPONSE: Additional information will be provided in guidance following adoption of the UIC Rule. While we understand the desire to have both the guidance and rule completed at the same time, Ecology believes that the rule needs to be completed first in order to determine what needs to appear in resulting guidance. Draft technical guidance for UIC wells used for stormwater management will contain information on siting and pretreatment requirements for UIC wells. We do anticipate having some follow up meetings with interested stakeholders to discuss finalizing the guidance for UIC Wells that manage stormwater and will be sure to include you in those meetings. The department will also be developing administrative guidance on the use of all UIC wells in Washington after the rule is finalized. This administrative guidance will include information on completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-090(2)(a)(ii): Sentence 6: after “the quality of the discharge, the local geology, depth of the ground water in relation to the UIC well” add “if the well is a high threat to ground water”, and at the end of the paragraph add “ if an operator follows BMPs and does not drain to a ground water protection area will have met the well assessment requirements. For 218-090(2)(a)(iii): Change to read “any well assessment that identifies a well as a high threat to ground water must include a retrofit schedule. Delete (iv). (Automotive Recyclers of WA).

Response: On consideration of comments, changes were made except for the following language; “if the well does not drain to a ground water protection area.” A requirement for a new well, see -090(1)(a) is; a new well must meet additional ground water protection area requirements as determined by other state laws or by local ordinances. For 218-090(2)(a)(iii) Agree with comment, language was changed.

218-090(2)(a)(v): Include or reference enforcement procedures. (Central WHBA).

RESPONSE: Language was added to refer the reader to section -130 Enforcement of the rule.

218-090(2)(B): There should be another threshold over 50 wells or flexibility for registering and assessing drywells. For example, the City of Spokane Valley owns over 5,600 drywells. It may take longer than 5 years to register and 7 years to assess all of the drywells that we own. This rule had language that allowed flexibility but it appears that it was removed. It will be almost impossible for our City to meet the time requirements for inventorying and assessing UIC wells. (Spokane Valley)

RESPONSE: Additional time for registration can be granted by Ecology, please see 173-218-090 (2).

218-090(2)(b): Clarify how the NPDES program relates to the UIC rule and what is required. Change “hazardous substance” to “hazardous wastes. (Fluor Hanford, Engelmann)

RESPONSE: For NPDES permitted entities, stormwater discharges to UIC wells are regulated under the UIC program. Stormwater discharges to ground that do not discharge to UIC wells are regulated under the NPDES permit. Existing facilities or municipalities regulated under the NPDES Program can apply stormwater pollution prevention plan

requirements to their UIC wells and this will fulfill their well assessment requirements. The term hazardous waste was deleted, because Washington State does not recognize the term and similar wastes are regulated under the Dangerous Waste Regulation, 173-303. In 173-218-040 the term hazardous waste was replaced by dangerous waste.

218-090(2)(c): States one of the following must be done, but neither may be appropriate. What if the NPDES pollution prevention plan does not address UIC wells? If Ecology is attempting to exempt facilities with an NPDES permit and a pollution prevention plan that addresses UIC wells from completing a well assessment that clarification is needed. Delete this section and add: stormwater UIC wells are not subject to the well assessment if subject to a state waste discharge permit, or included under a NPDES permit. (Fluor Hanford, Engelmann)

Response: Ecology is not exempting facilities with an NPDES permit, but allowing them to apply the appropriate best management practices with in the stormwater pollution prevention plan to their UIC wells. This also includes facilities with just a state waste permit.

218-090(2)(c): Clarify that only industrial activities aligned with SIC codes “as regulated” by 40 CFR 122 be added. (USPS)

RESPONSE: Language was changed to clarify this section.

218-090(2)(c): Inferred that an NPDES no exposure to stormwater certification would be proof of nonendangerment; if true, be specific in rule. (USPS)

RESPONSE: The no exposure form in the UIC rule is specifically for discharges to ground. The NPDES no exposure form is similar but is specifically for the NPDES program. A no exposure form for UIC wells for discharges to ground is one choice for owners to use to describe their site process and determine if the site practices can meet the nonendangerment standard.

218-090(2)(c)(ii): Municipal owners of class V UIC wells used for stormwater management would likely be subject to the municipal rather than the industrial phase II NPDES permit. The only reference to a stormwater pollution prevention plan (SWPPP) in the preliminary draft municipal phase II NPDES permit is a single paragraph regarding heavy equipment maintenance yards. This is inadequate guidance for SWPPPs. The first sentence in WAC 173-218-090(2)(c)(ii) should be revised to read, “For unpermitted or municipal facilities...” (Everett)

RESPONSE: Language was added in 173-218-090 to address unpermitted facilities or municipalities.

218-090(3)(a)(ii): Says “Ground water sensitive area”. Is this meant to say “Ground water protection area”? (WSDOT)

RESPONSE: Changed to ground water protection area to be consistent with other parts of the rule.

Please clarify how the data will be used. (Thurston County, Bachmeier)

RESPONSE: Additional information will be provided in administrative guidance that will be developed shortly after the final UIC Rule is adopted..

Remove all references to the Stormwater Management Manual for Eastern Washington. (Thurston County, Bachmeier)

RESPONSE: Deleted reference to specific regional manuals.

218-100 UIC wells that automatically meets the nonendangerment standard

218-100(1)(c) Closed loop heating and cooling systems should both be rule authorized. (Callison)

RESPONSE: Added language to include both types of wells.

218-100(1)(g): The term 20 people per day does not have any useful meaning for local health jurisdictions, since we deal with design flow of a system. Add 20 people per day and 3500 gpd or 20 people per day which is equivalent to 3500 gpd would have more meaning and easier to utilize. (Kitsap County Health District)

RESPONSE: : Upon review of the comment, the following language was added, “serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day.

218-100(1): Need a grading system for sites that would automatically meet the nonendangerment standard. Change language to: “those sites not associated with industrial facilities are excluded from WAC 173-218(090). (Fluor Hanford, Engelmenn)

RESPONSE: Comment noted. Information will be added to the draft technical guidance for UIC wells that manage stormwater, which covers low to high pollutant loads associated with land use (a similar approach to a grading system). The guidance does not cover industrial sites except at their employee parking lots and non-industrial foot print areas.

218-110 Permit terms and conditions if a UIC well is not rule authorized.

No comments received.

218-120 Decommissioning a UIC well.

218-120(3)(b)(ii)(A): Requires removing any structure within 3 feet of the land surface. This may not be feasible for wells located within the road prism. Recommend allowing backfill per Section B to the land surface and providing a solid lid or patching pavement. (Spokane Valley)
“

RESPONSE: The Washington Department of Transportation manual, WSDOT Standard Specifications for Road, Bridge, and Municipal Construction 2004 M 41-10,” states the structure should be removed. This is a reference manual used by engineers with in

Washington and the UIC rule should be as protective and consistent.

218-120(3)(b)(ii)(B): Provide examples of chemically and biologically inert backfill for decommissioning wells, such as grout. (Fluor Hanford, Engelmann)

RESPONSE: Additional information on examples of inert backfill will be provided in administrative guidance that will be developed shortly after the final UIC rule is adopted. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-120(3)(b)(ii)(C): Provide examples of “structurally sound material common with current engineering practices.” (Fluor Hanford, Engelmann)

RESPONSE: Additional information on structurally sound material will be provided in administrative guidance that will be developed shortly after the final UIC Rule is adopted. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-120(3)(c): The term 20 people per day does not have any useful meaning for local health jurisdictions, since we deal with design flow of a system. Add 20 people per day and 3500 gpd or 20 people per day which is equivalent to 3500 gpd would have more meaning and easier to utilize. (Kitsap County Health District)

RESPONSE: : Upon review of the comment, the following language was added, “serve 20 or more people per day or an equivalent design capacity of 3500 gallons or larger per day.

218-120(3)(d): How will an owner of a UIC well prior to decommissioning know if additional requirements are necessary and how will additional requirements be established? (Fluor Hanford, Engelmann)

RESPONSE: Additional requirements will be determined on a site by site basis and is based on the pollutant risk of the past discharges to the UIC well. If an owner knows of past practices that would be considered a high threat to ground water or a spill has occurred then the owner should contact Ecology to determine if sampling is necessary prior to decommissioning the UIC well. Also, additional information will be included in administrative guidance that will be developed shortly after the final UIC Rule is adopted. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

218-120(4)(b): Requires notifying Ecology 30 days prior to decommissioning a well. Other portions of the rule indicate that a well determined to be an imminent public health hazard must be decommissioned immediately. (Spokane Valley)

RESPONSE: In section 173-218-090(2)(iv) it states that If there is an imminent public

health hazard the owner or operator must take immediate action to correct the use of a well but that doesn't mean the well has to be decommissioned. Decommissioning is an option, but not the only one.

218-130 Enforcement

No comments received.

General

I am opposed to all forced injection wells, no matter what the functions. Forced injection of even water can have unintended geological consequences. The use of dry wells road runoff is also counter productive. The entire program of allowing any untreated wastes into the ground needs to be eliminated. At most, recharging of aquifers should occur only with purified water. Washington must consider the geological consequences of injection for ground water protection. (Johnson)

RESPONSE: The majority of UIC wells in Washington manages stormwater and receives fluids passively and the discharge is not injected under pressure. One of the two requirements of the program is to protect ground water by requiring all know available, reasonable treatment technology (AKART), and best management practices are a form of AKART. Untreated wastes are prohibited under this regulation. UIC wells are also regulated under chapter 173-200 WAC Water Quality Standards for ground water in Washington which requires projects to consider the hydrogeologic system.

While I can see the need to register and assess new Class V wells used for stormwater management, the proposal to register and assess existing roadside Class V wells will be impossible to implement, and will produce meaningless data. Finding these wells will be difficult. If they are found, what kind of assessment will not be biased by runoff from non-polluting surfaces? Most roadside infiltration trenches also transport and infiltrate runoff from the surrounding land uses (forests, pastures, etc.), which would not be considered pollution-generating surfaces. Separating these from the pollution-generating surfaces for the purpose of determining if a UIC is exceeding water quality is futile. (Clallam County)

RESPONSE: Ecology does recognize that locating existing UIC wells can be difficult since some of the wells have been in place for decades. If wells receive fluids from nonpollution-generating surfaces, they would not be considered a high threat to ground water and therefore would not need retrofitting. For existing wells, we are not asking owners to separate out pollutant generating discharges from non pollutant but rather, reviewing how the UIC wells are used and finding the high threat to ground water wells and retrofitting them to protect ground water quality. Retrofit has many options, from source control to closure.

The UIC program rules should require basic public information and education activities to discourage dumping of waste into drywells. Jurisdictions that fall under an NPDES stormwater permit, this type of public education will be a requirement of their permit. BUT... not all

jurisdictions will be permitted under NPDES. Hence they should be required, under the UIC rules, to provide an appropriate level of education to help reduce pollution. (Moss)

RESPONSE: Outreach to UIC well owners is an important part of the rule revision. One state requirement of revising a regulation is completing an implementation plan which describes how the program will be implemented and outreach is part of this plan. The implementation plan is posted at the Ecology UIC website.

Often clear separation between Class V wells and NPDES regulated systems does not exist or Class V wells are very localized. It will be hard to apply both the UIC standard and the permit requirements to systems that are difficult to separate out. The rule and stormwater permit could be written so that stormwater discharges to surface water and ground water are covered under the NPDES/state waste discharge permit. Include special requirements for high risk Class V wells into the permit if necessary. (Clark County)

RESPONSE: Language was added for permitted entities to apply the best management practices required under their permits to their UIC wells. Ecology's stormwater manuals contain best management practices for surface water and infiltration and these practices are required under the NPDES permits. Registration is a federal requirement and has to be included in the state UIC rule. Ecology recognizes the difficulty in locating UIC wells in stormwater systems and will work with municipalities on their registration process. Also, language was added to the regulation that distinguishes the difference between stormwater systems that were designed and intended to move stormwater to surface water and systems intended to infiltrate.

The existing WAC requires an owner to notify Ecology of the well locations. The requirement hasn't been enforced and to date there isn't an approved program. The best management practices, from the technical manuals, should be part of the rule. (Thurston County, Rancour)

RESPONSE: Ecology received primacy from EPA to administer the UIC program in 1984. Locating and registering the UIC wells is a requirement of the current rule. Ecology recognizes that outreach to the public is necessary to fully implement the UIC Program and will continue to work to notify well owners of the requirements. Since the science and development of the best management practices and the mechanics of contaminant removal in the vadose is continually changing, it was decided to leave the technical details in guidance so that updates can easily be made when new information is available.

Why does EPA define ground water as the source of water for drinking and Ecology defines ground water as all waters beneath the land? What is the basis for the difference? (Thurston County, Rancour)

RESPONSE: State rules must be as stringent as federal rules but they do not have to be identical. The federal UIC regulation protects drinking water sources. Washington chose, when writing its laws for ground water protection, to protect all ground water as water of the state in RCW 90.48 and this requirement is captured under chapter 173-200 WAC Water Quality Standards for ground water in Washington. The UIC rule must protect all ground water similarly.

It appears that the UIC wells that the rule intends to "rule authorize" may be caught up in conflicting requirements. Clarify relationship between the nonendangerment standard and Chapter 173-200 WAC may be helpful. (Callison)

RESPONSE: Both the UIC regulation and chapter 173-200 require that ground water be protected. The nonendangerment standard and meeting the chapter 173-200 is equivalent, since both require all known and available reasonable treatment technology (AKART) to discharges.

Injection of water naturally high in mineral content diluted with potable water should be allowed without having to undergo the requirements of Chap. 173-216 WAC and without having to meet the water quality standards of Chapter 173-200 WAC. (Callison)

RESPONSE: Washington protects all ground water as water of the state in RCW 90.48 and this requirement is captured under chapter 173-200 WAC Water Quality Standards for ground water in Washington. The UIC rule must protect all ground water similarly.

Flexibility should be given to the development of alternatives for injection of reclaimed water including perforated pipes and other means, so as not to limit innovated uses and reuse techniques for this new resource. (Callison)

RESPONSE: The intent of the UIC Program is not to limit reclaimed water projects. Both programs protect ground water quality. If the reclaimed water projects meet the requirement of the reclaimed water program, and are registered with the UIC program, the project will be rule authorized.

Definitions of class V injection well and drainage wells: These definitions and subsequent requirements in the draft rule suggest that Ecology intends to use the UIC rule to regulate stormwater discharges to ground water. The preliminary draft municipal NPDES phase II permit, May 2005, states that stormwater discharges to ground water will be regulated by the municipal NPDES phase II permit (see S2.A(4) on page 5 of the draft NPDES II permit). It is inappropriate to use both of these regulatory tools to regulate stormwater discharges to ground water. The ground water and stormwater divisions of Ecology should coordinate their efforts and regulate stormwater discharges to ground water with only one of these regulatory tools. Regulating stormwater discharges to ground water through WAC 173-218 seems more appropriate than regulating through the NPDES phase II permit. (Everett)

RESPONSE: Stormwater discharges to UIC wells are regulated under the UIC program. Stormwater discharges to ground that do not discharge to UIC wells are regulated under the NPDES permit. The UIC Program worked with the Ecology's stormwater unit when developing the Eastern Washington stormwater manual and also when the stormwater unit worked with a stakeholders group to prepare a response to the legislature on how to manage stormwater in Washington in 2003.

This regulation should not be so burdensome or costly to deter individuals, businesses or municipalities from ground water infiltration for stormwater. Are areas of the MS4 now in the UIC program relieved from the Phase 1 permit? (King County)

RESPONSE: Language was added for permitted entities to apply the best management practices required under their permits to their UIC wells. Ecology's stormwater manuals contain best management practices for surface water and infiltration and these principals are required under the NPDES permits. Registration is a federal requirement and has to be included in the state UIC rule. Ecology recognizes the difficulty in locating UIC wells

in stormwater systems and will work with municipalities on their registration process. Also, language was added to the regulation that distinguishes the difference between stormwater systems that were designed and intended to move stormwater to surface water and systems intended to infiltrate.

Phase 1 stormwater permit holders still are unsure how this rule will affect them. (Pierce County)

RESPONSE: Ecology will work with phase 1 NPDES permit holders on how the UIC rule affects permitted entities. Also, the previous response addresses permitted facilities and the overlap with the UIC Program.

The UIC rule requirements apply only to the infiltration well and actions performed on the “site” of the well. The NPDES permit applies in general to the entire storm sewer. There would be many cases in which different management requirements would apply to different parts of the physical storm sewer system. The technical standards for construction, operation and maintenance differ widely between the permit and the UIC rule. Such confusion is likely to lead to inefficiency, increased cost of administration, and possibly unintended violations of the permit, the rule or both rather than the unintended reduction in environmental impacts of stormwater. (Snohomish County)

RESPONSE: In working with the stormwater staff we have specifically designed this program so there would not be conflicting requirements. If municipalities are following the requirements of their municipal stormwater permits and apply the best management practices to their UIC wells then they will be meeting the nonendangerment standard in the UIC rule. We recognize that the stormwater system needs to be operated as one system and have worked to make sure the management requirements in the NPDES permits and the UIC rule are consistent. Registration is a federal requirement and has to be included in the state UIC rule. Ecology recognizes the difficulty in locating UIC wells in stormwater systems and will work with municipalities on their registration process. Also, language was added to the regulation that distinguishes the difference between stormwater systems that were designed and intended to move stormwater to surface water and systems intended to infiltrate.

Data requirements and forms for multiple UIC sites are excessive and cumbersome. Discuss with stakeholders what data is essential. (Thurston County, Bachmeier)

RESPONSE: Ecology plans to update the UIC database spreadsheets that owners use to complete their registration requirement. The registration form was also discussed at the UIC rule revision committee and required data was part of the discussion.

Provide clarification on the relationship between NPDES Phase I and II and the UIC rules under revision. (Thurston County, Bachmeier)

RESPONSE: Ecology will work with municipalities to clarify the relationship. Information will be in the administrative guidance that will be developed shortly after the final UIC Rule is adopted. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more.

Ecology has done an admirable job in drafting the state's UIC revised rules. (USPS)

RESPONSE: Thank you for the comment.

Washington DOH and Ecology should continue to work on registering systems that do not have an operating permit and also the issue of the prohibition of industrial waste water and quasi industrial septic systems. (WDOH)

RESPONSE: Ecology, Washington DOH, and local health departments will continue to work together to protect ground water quality from industrial discharges into septic systems.

Washington DOH supports the draft rule. Local health jurisdictions should be notified of the rule and Ecology should work with them to inform owners of the registration requirements. (WDOH)

RESPONSE: Ecology will continue to do out reach to the public and other agencies that regulate septic systems that are also UIC wells. Outreach is a part of the implementation plan for the rule revision.

Local health jurisdictions are concerned about this rule applying to septic systems smaller than 3500 gallons per day and offer their assistance to help resolve this issue. (WDOH)

RESPONSE: Ecology appreciates the assistance from local health agencies to resolve the issues in regulating septic systems smaller than 3500 gallons per day and will work with the agencies to alleviate this issue.

Add to rule: In those jurisdictions where there exists a federally designated Sole Source Aquifer under 208, those standards and practices developed under 208 are observed when they are more stringent than the standards under the UIC ruling. (Spokane)

RESPONSE: Sole source aquifers are one of the ground water protection areas listed in the code of federal regulations. In the UIC rule, new UIC wells must meet additional requirements when located in ground water protection areas. Therefore, if the City of Spokane sole source aquifer designation has additional ground water protection requirements, the UIC rule recognizes and supports them in sections 173-218-080(2), 090(1)and -090 (1)(i)(c).

The technical document *Determination of Treatment and Source Control for UIC Wells in Washington State* [Publication Number 05-10-067] should be finalized and published by the effective date of the revisions to Chapter 173-218 WAC UIC Program. (Central WHBA, Richland, Thurston County, Rancour, Independent Business Association)

RESPONSE: While we understand the desire to have technical guidance for UIC wells used to manage stormwater available in final form when the final UIC Rule is adopted, Ecology believes that the rule needs to be adopted before the technical guidance can be finalized, in order to determine what needs to appear in the final guidance. We do anticipate having follow up meetings with interested stakeholders to discuss finalizing the guidance and will be sure to include you in those meetings. We also received numerous comments on the draft guidance during the public review, and those will be valuable in considering as we work with stakeholders to finalize the document. The draft document, and response to comments, can be found on Ecology's website at:

http://www.ecy.wa.gov/programs/wq/grndwtr/uic/rule_rev.html.

The well assessment includes information such as depth of the ground water in relation with the UIC. Those of use in the vehicle recycling firms are not geologists, nor are we qualified to determine where the ground water is in relation to our UIC. Ecology states that guidance in doing a well assessment will be provided after this regulation is adopted is not acceptable. Even worse, we may find out after we complete the well assessment that we can no longer operate a UIC as proposed in -070. If that were to happen, we are out of business. (Phelps)

RESPONSE: Ecology recognizes that not everyone will know the geology under their facility. If a facility does not know the geology, when completing the well assessment and best management practices need to be added, a more conservative approach may be necessary similar to what is required in an industrial stormwater pollution prevention plan. Also, additional information on completing a well assessment will be in administrative guidance that will be developed shortly after the final UIC Rule is adopted. Ecology will work with owners to help complete their well assessments. The administrative guidance will contain information on the use of all UIC wells in Washington, including completing a registration form, examples of a well assessment, more information on high threat to ground water situations, decommissioning, using UIC wells at ground water clean up sites and more. While we understand the desire to have technical guidance for UIC wells used to manage stormwater available in final form when the final UIC Rule is adopted, Ecology believes that the rule needs to be adopted before the technical guidance can be finalized, in order to determine what needs to appear in the final guidance.

Will the Department of Ecology do anything with the UIC registration information? (Public Health Seattle King County)

RESPONSE: Ecology stores the UIC registration information in a database and plans on providing the information to WA State Department of Health for their Source Water Protection Program. Source water and other ground water protection areas may request information on the locations and land uses associated with the UIC wells located in the ground water protection areas.

Will there be any DOE enforcement of prohibited discharges. (Public Health Seattle King County)

RESPONSE: There are prohibited discharges to UIC wells listed in the UIC rule. Currently Ecology's Water Quality stormwater inspectors provide assistance to owners of UIC wells and they would be the initial contacts for any enforcement actions.

Small Business Economic Impact Statement (SBEIS)

The CWHBA is concerned that the *Evaluation of Probable Benefits and Costs* indicates that the largest cost generated by the proposed rule amendments is the cost of well assessment, and that the *Small Business Economic Impact Analysis* concludes that there is a disproportionate impact on small businesses. Notwithstanding the time period allowed to conduct the assessment, each additional cost element of government regulations creates an economic burden on small business. (Central WHBA)

RESPONSE: *The cost per employee ratio in the Small Business Economic Impact Statement was in a range from \$74.73 to \$184.31 per employee for the smallest businesses, and from \$0.05 to \$0.13 for the top ten largest businesses that must comply with the new rule. This unusually large ratio comes from the fact that large businesses with thousands of employees have only one or two wells. Although this ratio between the smallest and the largest may be disproportionate, the Cost Benefit Analysis demonstrated that everyone received a net benefit from this rule.*

It should be noted that the SBEIS only quantifies the cost side. Used in conjunction with the Cost Benefit Analysis to understand the benefits, we realize that a high cost ratio also means smaller business receive a larger benefit than the large companies. Ecology has also implemented some procedures to mitigate this disproportionality on smaller businesses by reducing costs to some of those businesses. These steps include:

- *Registration is not required for those that have registered before.*
- *An on-line registration is being developed for the majority of UIC well uses so that the registrations process is streamlined and easy to use.*
- *Industrial facilities that have already developed a Stormwater Pollution Prevention Plan (SWPPP) to meet National Pollution Discharge Elimination System (NPDES) requirements can also use the SWPPP to meet the requirements of a well assessment (see WAC 173-218-090(2)(c)(ii)).*
- *A new section of the rule has been added (WAC 173-218-100) to identify certain UIC wells that automatically meet the nonendangerment standard. The types of wells listed in this section are considered rule authorized after they are registered, which means that the owner does not need to provide a well assessment.*

The \$60 per hour rate came from page 232 of the Stormwater Manual for Eastern Washington (publication # 03-10-076). Table 9.1 describes a Technician 1 as having a \$60 loaded hourly rate including 40% for benefits and 100% for overhead. Technician 1 staff include "maintenance staff and construction inspector". These numbers were developed by the Eastern Washington Model Program subcommittee members.

There are some concerns about the Small Business Economic Impact Statement: The costs to small businesses are 3666 times greater than to large business and the consultant fee is \$60/hour which seems too low. (Automotive Recyclers of WA, Independent Business Association)

RESPONSE: *See previous response.*

Draft Cost Benefit Analysis (CBA)

No comments received.

State Environmental Policy Act (SEPA) Checklist & SEPA Determination of Non-significance

<i>No comments received.</i>
Draft Implementation Plan
<i>Comments related to implementation of the rule were responded to under the specific section of the rule that the comment pertained to. Changes were made to the draft Implementation Plan based on those comments received.</i>
Responsive Summary WAC 173-216 State Waste Discharge Permit Program
216-010 Purpose
<i>No Comments</i>

IV. Summary of Public Involvement Opportunities

- In November 2001, the CR101 notice was sent out to inform the public that Ecology was considering revising the UIC rule, WAC 173-218.
- October, 2001-August, 2004 The UIC rule advisory committee met seven times. The committee was represented by municipalities, state agencies, and private business.
- In November 2004 informational workshops were held to better acquaint the public with the proposed regulation revisions. The following are the dates and locations for the four information workshops.
 - November 9, 2004 in Tacoma, WA at the Tacoma Waste Water Treatment Plant, Transmission Room
 - November 16, 2004 in Vancouver, WA at the Vancouver Water Resource Educational Center
 - November 17, 2004 in Yakima at the Yakima Convention Center
 - November 18, 2004 in Spokane at the Spokane Falls Community College.
- On July 6, 2005 the CR 102 was filed, and public hearings were held as part of the formal comment period. The following are the dates and locations of the public hearings.
 - August 16, 2005 in Longview at the Lower Columbia College (Student Center).
 - August 18, 2005 in Edmonds at the Snohomish County PUD.
 - August 23, 2005 in Yakima at the Yakima Convention Center.
 - August 24, 2005 in Spokane at the Spokane Downtown Public Library.

Notices were sent out for the filing of the CR 101, CR102, the 2004 informational workshops and the 2005 public hearings. The following groups were notified via mailings, email listserves, and website notification (approximate number of people notified in parentheses):

- Water Quality Standards list serve – approximately 500
- Stormwater list serve - 500
- Registered UIC well owners - 325
- Interagency Ground Water Committee - 70
- UIC Rule interested party list – 35
- UIC rule advisory committee list - 25
- Washington Tribes - 29

V. Rule-Making Criteria Documentation

In accordance with RCW 34.05.328, before adopting a significant legislative rule, an agency shall:

- Clearly state the general goals and specific objectives of the statute that the rule implements. *Reference:*

Washington's Water Pollution Control Act RCW 90.48 states:

It is declared to be the public policy of the state of Washington to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the state of Washington.

RCW 90.48.030 states: Jurisdiction of department.

The department shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington.

In addition, The UIC Program, authorized by the **Safe Drinking Water Act**, is administered under [Title 40 Code of Federal Regulations \(CFR\) part 144](#). Washington Department of Ecology was delegated authority by the Environmental Protection Agency (EPA) in 1984 to administer the program ([RCW 43-21A.445](#)).

- Determine that the rule is needed to achieve the goals and objective of the specific statute, and analyze alternatives to rule making and the consequences of not adopting the rule.

The current UIC rule needs to be updated to meet federal changes made in 1999.

The current state waste permit program regulation does not apply to injection of fluids through UIC wells regulated by Chapter 173-218. The proposal will bring consistency between the rules that regulate UIC wells, Chapter 173-218 and 173-216.

- Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs.

This is found in the Final Cost Benefit Analysis which is # 05-10-093.

- Determine, after considering alternative versions of the rule and the analysis above, that the rule being adopted is the least burdensome alternative for those required to comply with it.

Various alternatives were studied in developing the current proposed rule language and the current one is expected to be the least burdensome to those required to comply without sacrificing the general goals and specific objectives of the rule making. Additional information can be found in the Final Cost Benefit Analysis publication # 05-10-093 and the Concise Explanatory Statement and Responsiveness Summary publication # 05-10-095 including the response to comments.

- Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

This rule does not differ from other statutes or federal regulations and it does not require those to whom it applies to take an action that violates other regulations. This rule is required under the federal Safe Drinking Water Act.

- Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The requirements for public and private entities are the same.

- Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified.

This rule does not differ from other statutes or federal regulations. This rule is required under the federal Safe Drinking Water Act. Many facilities use underground injection control wells and that meant we have had to coordinate with a number of agencies and other environmental programs to make sure that what is in the UIC rule did not conflict with other statutes and federal regulations. Through this coordination we were able to identify potential conflicts and get them resolved.

- Coordinate the rule to the maximum extent practicable, with other federal, state, and local laws.

The development of this rule has been coordinated with stormwater programs, ground water program and other applicable waste regulations. In addition we have done extensive coordination with the Department of Health and local health jurisdictions and municipal stormwater programs and have addressed their concerns. Where there have been concerns regarding conflicting requirements, we have worked with the Attorney General Office and EPA attorneys to clarify how to proceed. Questions and solutions to issues of conflicting requirements that were raised during the public comment period can be found in the Concise Explanatory Statement and Responsiveness Summary 05-10-95.

**VI. Implementation Plan for the Revisions to Chapter 173-218 WAC,
Underground Injection Control Program and Chapter 173-216 WAC,
State Waste Discharge Permit Program**

**APA Requirements
Table of Contents**

1. Describe how the Agency intends to implement and enforce the rule. Please include a description of the resources the Agency intends to use (RCW 34.05.328(3) (a)).
2. Describe how the Agency intends to inform and educate affected persons about the rule (RCW 34.05.328(3) (b)).
3. Describe how the Agency intends to promote and assist voluntary compliance for this rule (RCW 34.05.328(3) (c)).
4. Describe how the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted, including to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcome (RCW 34.05.328(3)(d)).
5. Describe how the Agency intends to train and inform Ecology staff regarding new rule or rule amendment.
6. Identify supporting documents that may need to be revised because of the rule amendment. Or Identify new supporting documents that need to be developed because of a new rule.

Implementation Plan for Revisions to Chapter 173- 218 WAC and Chapter 173-216

Describe how the Agency intends to implement and enforce the rule. Please include a description of the resources the Agency intends to use (RCW 34.05.328(3)(a)).

In general, the Washington State Department of Ecology (Ecology) will implement and enforce the Underground Injection Control (UIC) Program revised rule in the same way the current rule is implemented and enforced. Ecology headquarters staff and the regional offices will continue to provide technical assistance through, phone and email requests and compliance inspections.

One regulatory change that will occur is, currently, the NPDES Phase I stormwater discharge permit includes UIC wells. When the Phase I permits are up for renewal they will not include the UIC wells in the permit. Not all municipalities will be required to apply for a NPDES stormwater permit, however both permitted and non permitted municipalities use UIC wells. To make it equitable for all municipalities, Ecology will defer to the UIC Program to regulate discharges from UIC wells. The UIC program rule allows NPDES permitted municipalities to apply the stormwater program requirements to their UIC wells to protect ground water quality.

Additional resources will assist in implementing the UIC rule revision, such as;

- Clarifying the requirements of the UIC Program in the Chapter 173-218 WAC UIC Program.
- The Stormwater Management Manual for Eastern Washington (SMMEW) contains language on building, siting criteria and best management practices for UIC wells.
- Technical guidance for UIC wells that manage stormwater titled, Guidance for UIC wells that manage Stormwater in Washington State.
- Administrative guidance for UIC wells that will be completed after the UIC rule is finalized.
- Streamlining the UIC registration process by providing web based on-line registration for the majority of UIC uses.
- Revising the UIC database to make it more efficient in the upload of data.
- Adding language to the Stormwater permit fact sheets and permit correspondence stating that the UIC Program requirements must be met.

Clarification on the requirements

Clarifications were added to the rule to provide the reader a better understanding of what is needed to operate a UIC well in Washington. The rule includes:

- The Class V UIC wells that are allowed and prohibited in Washington.
- Exemptions from UIC well status.
- Rule authorization requirements to operate a UIC well and how to meet them.
- Closure requirements.

To operate a UIC well in Washington, the well must be rule authorized or receive a state waste discharge permit to operate. Ecology believes that the majority of UIC wells will be able to meet the rule authorization requirements. For a UIC well to be rule authorized, the well must be registered with Ecology (or Environmental Protection Agency if on Tribal Land) and has to meet the nonendangerment standard. The nonendangerment standard means a discharge will not allow contaminants to reach the ground water.

UIC manuals

A draft technical guidance manual for UIC wells that manage stormwater will be finalized after the UIC rule is adopted. The manual will explain the tools an owner can use to meet the nonendangerment standard, such as:

- The siting criteria and pretreatment requirements for new UIC wells.
- Prohibited discharges..

In addition, a comprehensive administrative guidance document will be developed shortly after the final UIC Rule is adopted that will provide compliance information for the majority of, new and existing, Class V wells types. The guidance will include:

- An example of a well assessment;
- Clarifying the process for using UIC wells at independent clean up sites and meeting the Ground Water Quality Standards;
- Directions on completing a registration form;
- Briefly describing the best management practices required to meet the nonendangerment standard for UIC wells that manage stormwater;
- How to determine if an existing UIC well needs to be retrofitted; and

Stormwater Management Manual for Eastern Washington (SMMEW)

The majority of the core elements in the SMMEW are applicable to Underground Injection Control (UIC) rule-authorized wells for projects that are considered new development and redevelopment as defined in the manual. Along with the independent UIC guidance the SMMEW contains building diagrams for dry wells, design storm volume calculations for some UIC wells and source control best management practices.

Other guidance

Other Ecology guidance documents that are handed out as part of technical assistance include language on the proper use of UIC wells; such as Vehicle and Equipment Wash Water Discharge guidance and toxic waste reduction pamphlets for targeted industries (auto repair businesses).

Registration

There are two registration forms; a form for an individual site and Excel spreadsheets for an owner of many sites. Both of these forms can be found at the Ecology website. Well owners can also receive them by contacting the Water Quality Program UIC contact at (360) 407-6143 or maha461 @ecy.wa.gov. Ecology plans to provide web based registration forms for the owner to complete over the internet and stream line the registration process.

Ecology stores the registration information in the UIC database that is located at Ecology headquarters. Currently database queries can only be answered by the Water Quality UIC contact. However, Ecology plans to provide on-line, read-only access to the database so the public and interested parties can query the database for registration information.

Describe how the Agency intends to inform and educate affected persons about the rule (RCW 34.05.328(3) (b)).

The affected persons include the public, business owners and local and state government. To help inform and educate the affected persons, Ecology is doing the following:

Before the rule is finalized:

- Ecology's UIC website includes information on the program and rule-making process.
- Rule revision committee meeting minutes are posted on the UIC website.
- UIC wells used for stormwater management are discussed in the Stormwater Management Manual for Eastern Washington and were also discussed in the development of the Eastern Washington Model Program. Many communities, businesses and state government participated in both the manual and model program and will use the guidance to manage stormwater in their communities.
- Four informational workshops were conducted prior to the formal rule-making process. Over 800 people were notified.
- Eastern Washington stormwater manual workshops included presentations on the UIC Program and rule revision.
- A UIC rule revision advisory committee was formed. Municipalities from both sides of the state, industries, state government and consultants were members of the committee and they can pass on the information to their community and co-workers.
- Four public hearings were conducted during the formal rule making process. An over-view of the rule revision was presented.

Once the rule is adopted:

- Ecology will hold workshops for affected persons on the UIC manual.
- Ecology plans on linking UIC Program registration to the on-line Industrial Stormwater Permit Application to simplify the paper work for industries that use UIC wells.
- Ecology's UIC website will include information on the program requirements, access to the UIC database and rule revision process.
- Ecology's response letters to industrial stormwater permit applicants contain compliance information on the UIC Program.

Describe how the Agency intends to promote and assist voluntary compliance for this rule (RCW 34.05.328(3) (c)).

The actions mentioned above, to inform and educate affected persons on the changes, also help promote voluntary compliance. Compliance staff will be able to inform the regulated community about relevant changes during their site visits. Program staff are available to respond to stakeholder phone and e-mail queries.

A number of other activities will be useful to help promote voluntary compliance. They include the following:

- The regulations and guidance documents are available on Ecology's web site.
- Training of regional staff on revised regulations.
- Guidance documents are developed for particular industries, including fact and focus sheets, industry specific booklets, and stormwater pollution prevention plans.
- Ecology response letters to industrial stormwater permit applicants contain compliance information on the UIC Program.
- The UIC interested party list may be used to pass on UIC program information and updates.

Describe how the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted, including to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcome (RCW 34.05.328(3)(d)).

The main objectives of the revision are to:

- Incorporate the Environmental Protection Agency (EPA) revisions to the federal UIC into Chapter 173-218 WAC the state regulation.
- Clarify rule language.
- Bring consistency between the rules that regulate UIC wells.

The purpose of the UIC program is to prevent contamination from reaching ground water by regulating discharges into UIC wells. When a UIC well is registered the information on the form is reviewed to determine that the UIC well will not contaminate ground water.

Ecology will measure the following outcomes:

- Increase in UIC well registrations
- Increase in technical assistance calls from public and privately entities on the use of UIC wells.
- Internal referrals from other programs in Ecology to UIC well owners.

Describe how the Agency intends to train and inform Ecology staff regarding new rule or rule amendment.

Regional staff:

- Participate in the rule revision advisory committee.
- Review and comment on the UIC guidance manual.
- Present and attend Eastern Washington stormwater workshops.
- Attend the UIC informational workshop.

Additional training at the regional offices will take place after the rule is adopted. In addition, training will target Ecology inspectors that visit sites that use UIC wells.

Identify supporting documents that may need to be revised because of the rule amendment or identify new supporting documents that need to be developed because of a new rule.

Documents that need to be developed:

- UIC comprehensive administrative manual
- Technical guidance for UIC wells that manage stormwater, titled Guidance document for UIC wells that manage Stormwater in Washington State.
- Other guidance documents that internal or external interest groups request.