



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

UNDERGROUND INJECTION CONTROL (UIC) PROGRAM
PERMITS #MI-163-1W-C007 and #MI-163-1W-C008
FACT SHEET

Environmental Disposal Systems, Inc.,
Class I Commercial Hazardous Wells #1-12 and #2-12 in Wayne County, Michigan

Introduction

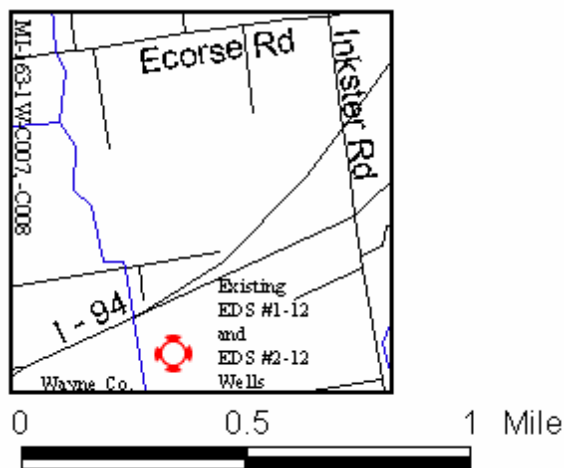
The United States Environmental Protection Agency (U.S. EPA) has tentatively decided to terminate the permits issued to Environmental Disposal Systems, Inc., (EDS) of Birmingham, Michigan to operate two Class I commercial injection wells located on Citrin Drive in Romulus, Wayne County, Michigan for the disposal of hazardous liquid waste. U.S. EPA's notice of intent to terminate is provided pursuant to 40 C.F.R. §§ 144.40 and 124.5(d)(1).

Facility Background and Operation

Under permits issued by U.S. EPA on September 6, 2005, EDS has used these Class I commercial hazardous waste injection wells for the disposal of hazardous waste waters from a variety of sources. These waste waters have included dilute acids, spent solvents, and landfill leachates, as well as a variety of non-hazardous wastes. The construction of the wells was completed in March of 2002 and meets the regulatory criteria of 40 Code of Federal Regulations (CFR)§ 146.12. On March 16, 2004, U.S. EPA granted EDS an exemption from the Resource Conservation and Recovery Act (RCRA) land disposal restrictions for injection of hazardous wastes. On [date] U.S. EPA provided written authorization for EDS to inject waste into the wells, based in part on a determination that EDS has obtained all necessary federal and state permits to operate the wells. The permits extended for a ten (10) year period, unless terminated.

On October 23, 2006, while witnessing a mechanical integrity test, a Michigan Department of Environmental Quality (MDEQ) inspector noticed a leak in the surface piping of one of the wells. On October 25, 2006, MDEQ required the facility to shut down due to the leak. U.S. EPA conducted an inspection on November 2 and 3, 2006, and identified numerous violations of the conditions of the permits. U.S. EPA conducted a second inspection on December 14-15, 2006.

On November 7, 2006, without notice to U.S. EPA, EDS signed agreements transferring ownership of the facility. As of that date, EDS abandoned all interest in, and operations at, the wells.



Intent to Terminate a Permit:

In accordance with the provisions of the Safe Drinking Water Act, as amended (42 U.S.C. § 300f *et seq.*, commonly known as the SDWA) and its implementing regulations, the U.S. EPA proposes to terminate EDS's permits for the injection wells. As provided in 40 C.F.R. § 44.40(a) and in condition I.B.1 of the permits, U.S. EPA intends to terminate the permits due to EDS's noncompliance with numerous provisions of the permits. The violations include noncompliance with the following conditions (which appear in both permits):

- 1) I.E.7. Duty to Provide Information - The permittee shall furnish to the Director, within a time specified, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request within a time specified, copies of records required to be kept by this permit.

U.S. EPA issued a written request for information to EDS on January 12, 2007, in order to determine, among other things, whether cause exists for modifying, revoking and reissuing, or terminating the permits, or to determine compliance with the permits. EDS's response was due by March 4, 2007, but EDS has not responded. EDS's lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory responsibilities.

- 2) I.E.8. Inspection and Entry - The permittee shall allow the Director or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

I.E.9. Records

- (a) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation and copies of all reports required by this permit for a period of at least five years from the date of the sample, measurement or report.

At the time of the U.S. EPA inspection on November 2-3, 2006, a U.S. EPA inspector asked to review calibration and continuous monitoring records for the wells. EDS did not provide the requested records to the U.S. EPA inspector. EDS's lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory responsibilities.

3) I.E.9. Records

- (a) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation and copies of all reports required by this permit for a period of at least five years from the date of the sample, measurement or report.

During the U.S. EPA inspection on December 14-15, 2006, U.S. EPA inspectors were provided with some continuous monitoring records for Well #1-12 and Well #2-12. Several weeks of continuous monitoring records were not provided to the U.S. EPA inspectors and were not retained by EDS. This lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory responsibilities.

4) I.I.1. Financial Responsibility - The permittee shall maintain financial responsibility and resources to comply with closure and post-closure requirements of this permit, in a manner consistent with 40 C.F.R. §§ 144.52 (a)(7), 144.60 through 144.70, and 146.73. A copy of the approved financial assurance mechanism for closure costs is in Part III(B) of this permit. The permittee shall update this mechanism to include post-closure costs before injection commences.

- (b) Pursuant to 40 C.F.R. §§ 144.62(b) and 146.73, the permittee must adjust the cost estimate of closure and post-closure for inflation within 30 calendar days after each anniversary of the first estimate. The permittee shall follow the method described in 40 C.F.R. §144.62(b) or other method approved by the Director.

EDS provided the first cost estimate for closure on May 5, 2004, and the first cost estimate for post closure on January 21, 2003. The adjusted cost estimates were due on June 4, 2005, and February 20, 2004, respectively. EDS did not adjust either cost estimate. EDS's failure to adjust the cost estimates for closure and post-closure for inflation compromises the assurance that funds will be available for the proper plugging, abandonment, and post-closure care of the wells.

5) II.B.4. Warning and Shut-off System - The permittee shall install an automatic warning and automatic shut-off system prior to the commencement of injection...

A trained operator must be on site at all times during operation of the well.

On October 22-23, 2006, EDS injected overnight with no trained deep well operator on site. This conduct circumvents the safety precautions that are required by the permits.

- 6) II.B.4. Warning and Shut-off System - The permittee shall install an automatic warning and automatic shut-off system prior to the commencement of injection....

The permittee must test the warning system and shut-off system prior to receiving authorization to inject, and at least once every twelfth month after the last approved demonstration. These tests must involve subjecting the system to simulated failure conditions and must be witnessed by the Director or his or her representative.

U.S. EPA inspectors observed a successful demonstration of the automatic warning and shut-off system on June 30, 2004. The next demonstration was on June 8, 2006. EDS did not test the system within 12 months of the June 30, 2004 demonstration. This conduct circumvents the safety precautions that are required by the permits.

- 7) II.C.4. Ambient Monitoring - At least every twelfth month, the permittee shall, pursuant to 40 C.F.R. §146.68(e), monitor the pressure buildup in the injection interval, including, at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve. The permittee shall submit plans for this testing at least 30 days before the testing is planned, and is prohibited from performing the testing unless the Director has given written approval.

The first 12-month period after the issuance of the permits ended on September 5, 2006. EDS did not conduct an ambient reservoir pressure test, nor submit testing procedures to U.S. EPA for approval, within 12 months of the issuance of the permits. EDS's failure to test for reservoir pressure prevents U.S. EPA from anticipating the initiation or propagation of fractures in the confining formations that, if present, may act as conduits for waste to migrate to and contaminate an underground source of drinking water.

8) II.D. REPORTING REQUIREMENTS (and III.A and III.E)

The permittee shall submit all required reports to the Director at the following address no later than the end of the month following the reporting period. Monitoring reports under Part II(D)(1), (2), and (3) are not required until the initial authorization to inject has been granted or otherwise required by the Director:

United States Environmental Protection Agency
Region 5, WU-16J
77 West Jackson Blvd.
Chicago, Illinois 60604-3590
ATTN: UIC Branch, DI Section

2. Quarterly Reports - The permittee shall report the following at least every quarter. Quarterly reporting periods shall begin on the first day of January, April, July, and October of each year:
 - (a) Results of the injection fluid analyses specified in Parts III(A) and (E) of this permit, if applicable. In reporting fluid analyses, the permittee shall identify the waste components of the waste stream by their common name, chemical name, structure and concentration, or as approved by the Director. Laboratory reports shall be submitted with the first monthly monitoring report following the close of the quarterly reporting period;
 - (b) The results of the continuous corrosion monitoring as stipulated in Part II(C)(5) of this permit;
 - (c) Any quarterly analyses of ground water monitoring wells at this facility; and
 - (d) Any other monitoring required on a quarterly basis.

3. Annual Reports - The permittee shall report the following at least every twelfth month from the effective date of this permit:
 - (a) Results of the injection fluid analyses specified in Part III(A) and (E) of this permit, and the approved Waste Analysis Plan as recorded in the permit file for this permit. In reporting fluid analyses, the permittee shall identify the waste components of the waste stream by their common name, chemical name, structure and concentration, or as approved by the Director. This report must include statements showing that the permittee has met the requirements of Part I(E)(10), Part II(B)(2), and Part II(C)(3) of this permit.
 - (b) Results of pressure fall-off testing required by 40 C.F.R. §146.68(e) and of other annual requirements of the Groundwater Monitoring Plan which is a part of the permit file for this permit.

EDS was late in submitting a quarterly report for the quarter ending March 31, 2006 and did not submit a quarterly report for the quarter ending September 30, 2006. In addition, EDS did not submit an annual report for the period of September 6, 2005, through September 5, 2006, which was due October 6, 2006. EDS's lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory functions.

Public Comments

Copies of the notice of intent to terminate and administrative record for this permit action are available for public review between 9 a.m. and 4 p.m. at the address listed below. It is recommended that you telephone the permit writer, Dana Rzeznik, at (312) 353-6492 before visiting the Region 5 office:

U.S. Environmental Protection Agency (WU-16J)
UIC Branch (Attn: Dana Rzeznik)
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

The public comment period for the notice of intent to terminate permits runs from April 23, 2007 to June 8, 2007. A public meeting and a hearing have been scheduled for May 23, 2007 at the Crowne Plaza Hotel 8000 Merriman Road, Romulus, Michigan. The informational meeting will take place from 6 pm until 7 pm and will be followed by the public hearing from 7 pm until 9 pm. You may make your comments during the public hearing or directly to Ms. Rzeznik during the comment period.

Part C of the SDWA specifically mandates regulation of the underground injection of fluids through wells to assure that the quality of the underground sources of drinking water is protected. Section 1422 of the SDWA requires the U.S. EPA to administer underground injection control (UIC) programs in the states which do not have approved UIC programs. Michigan has not acquired primacy over the UIC program for Class I injection wells, therefore U.S. EPA is administering the permit program pursuant to 40 CFR §147.1151.

In accordance with 40 CFR §124.19, any person who files comment on the notice of intent to terminate permits or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the final decision on termination of the permits.

Such a petition must include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including the public hearing) to the extent required by these regulations. The petition should, when appropriate, show that each condition being appealed is based upon either, (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy consideration which the Board should, in its discretion review.