

Response to Comments on  
Draft Class I Permits Reissued to  
Duke Energy LLC  
Gibson, Indiana  
IN-051-1I-0001  
IN-051-1I-0002  
IN-051-1I-0003

United States Environmental Protection Agency  
Region V  
77 West Jackson Boulevard  
Chicago, Illinois 60604

## **INTRODUCTION**

On November 3, 2017, the United States Environmental Protection Agency (EPA) issued three draft Class I permits to inject non-hazardous waste fluids for disposal (permit numbers IN-051-1I-0001, -0002, and -0003) to Duke Energy LLC, and invited public comment. The only comments came from Duke Energy's Lead Environmental Scientist. This document describes those comments submitted on the draft Class I permits and includes EPA's responses to those comments.

## **COMMENTS AND RESPONSES**

### **1. PART 1 GENERAL PERMIT COMPLIANCE**

#### **E. DUTIES AND REQUIREMENTS**

##### **(9) Records**

#### COMMENT:

For Information: All data are recorded and retained in digital format. There are no analog charts or recordings.

#### EPA RESPONSE:

This comment did not request, and does not require, a change to the draft permit because there is no language requiring that analog records be kept, only that all records be kept for five years.

### **2. PART I GENERAL PERMIT COMPLIANCE**

#### **G. MECHANICAL INTEGRITY & TESTING**

##### **(2) Periodic Mechanical Integrity Testing**

COMMENT: Our current permit includes the following item (c). We would like to see it included in new permit. [sic]

“(c) The permittee may request the Director to use any other test approved by the Director in accordance with the procedures in 146.8(d).”

EPA RESPONSE: This language has been reinstated in the permits.

### **3. PART II WELL SPECIFIC CONDITIONS FOR UIC PERMITS**

#### **B. OPERATIONS**

##### **(5) Automatic Warning and Automatic Shut-off System**

COMMENT: We request that “...unless the Director waives this requirement.” be added to the last sentence of item 5.

EPA RESPONSE: This language has been added to the permits, as it has been used in other permits similar to the ones here, in order to give the Director more flexibility.

### **4. PART II WELL SPECIFIC CONDITIONS FOR UIC PERMITS**

#### **C. MONITORING**

##### **(2) Continuous Monitoring Devices**

COMMENT: All data are recorded and retained in digital format. There are no analog charts or recordings. We recommend the following wording for the last sentence of this requirement: “The

permittee shall maintain for USEPA's inspection at the facility an appropriately scaled, continuous record of these monitoring results as well as original copies of any digitally recorded information pertaining to these operations."

EPA RESPONSE: This language has been modified in the permits, reflecting the lack of analog equipment.

## 5. PART III (A) SUMMARY OF OPERATING, MONITORING, AND REPORTING REQUIREMENTS

### Seismic Event Response

COMMENT: Duke Energy proposes using turbine trips due to vibration (10 mils for 3 sec) as an indicator of earthquakes at the station.

EPA RESPONSE: The United States Geological Survey's (USGS) Global Seismographic Network is a permanent digital network of state-of-the-art seismological and geophysical sensors connected by a telecommunications network. This network is designed to detect and measure the strength of earthquakes and other seismic events and is linked to the free notification system operated by the USGS. With Duke Energy's three injection wells located in the Wabash Valley Fault zone, EPA believes that it is best to design seismic event response around a scientifically designed seismic network that can notify the company and EPA of seismic events in the area of the injection wells. Steam turbines are not designed for that purpose. The draft permit language for Seismic Event Response has not been changed.

## FINAL DETERMINATION

Following review of the permit applications and the submitted comments, EPA has determined that there should be no impact to drinking water supplies as a result of injection via these three wells. The geologic siting, engineering and construction, and operating and monitoring standards applied to the wells are sufficient to protect the USDW. EPA has determined that the public comments submitted did not demonstrate deficiency of the application based on UIC program requirements. Further, comments did not raise issues that would alter EPA's basis for determining that it is appropriate to issue Duke Energy LLC three permits to continue operating the three injection wells. Therefore, only the above-mentioned changes were made to the draft permits and the final permits for the wells are issued to Duke Energy LLC concurrently with this document.

## RIGHTS TO APPEAL

In accordance with 40 C.F.R. §124.19(a), any person who filed comments on the draft permit decision may petition the EAB to review any condition of the final permit decision. Additionally, any person who failed to file comments on the draft permit decision may petition the EAB for administrative review of any permit conditions set forth in the final permit decision, but only to the extent that those final permit conditions reflect changes from the proposed draft permit. Any petition shall identify the contested permit condition or other specific challenge to the permit decision and clearly set forth, with legal and factual support, petitioner's contentions for why the permit decision should be reviewed, as well as a demonstration that any issue raised in the

petition was raised previously during the public comment period (to the extent required), if the permit issuer has responded to an issue previously raised, and an explanation of why the permit issuer's response to comments was inadequate as required by 40 C.F.R. §124.19(a)(4).

If you wish to request an administrative review, documents in EAB proceedings may be filed by mail (either through the U.S. Postal Service ("USPS") or a non-USPS carrier), hand-delivery, or electronically. The EAB does not accept notices of appeal, petitions for review, or briefs submitted by facsimile. All submissions in proceedings before the EAB may be filed electronically, subject to any appropriate conditions and limitations imposed by the EAB. To view the Board's Standing Orders concerning electronic filing, click on the "Standing Orders" link on the Board's website at [www.epa.gov/eab](http://www.epa.gov/eab). All documents that are sent through the USPS, except by USPS Express Mail, must be addressed to the EAB's mailing address, which is: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1200 Pennsylvania Avenue, NW, Mail Code 1103M, Washington, D.C. 20460-0001. Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-USPS carrier such as UPS or Federal Express must be delivered to: Clerk of the Board, United States Environmental Protection Agency, Environmental Appeals Board, 1201 Constitution Avenue, NW, WJC East Building, Room 3332, Washington, D.C. 20004.

A petition for review of any condition of a UIC permit decision must be filed with the EAB within 30 days after EPA serves notice of the issuance of the final permit decision. 40 C.F.R. §124.19(a)(3). When EPA serves the notice by mail, service is deemed to be completed when the notice is placed in the mail, not when it is received. To compensate for the delay caused by mailing, the 30-day deadline for filing a petition is extended by three days if the final permit decision being appealed was served on the petitioner by mail. 40 C.F.R. §124.20(d). Petitions are deemed filed when they are received by the Clerk of the Board at the address specified for the appropriate method of delivery. 40 C.F.R. §124.19(a)(3) and 40 C.F.R. §124.19(i). The request will be timely if received within the time period described above. For this request to be valid, it must conform to the requirements of 40 C.F.R. §124.19. A copy of these requirements is enclosed. This request for review must be made prior to seeking judicial review of any permit decision. Additional information regarding petitions for review may be found in the Environmental Appeals Board Practice Manual (August 2013) and A Citizen's Guide to EPA's Environmental Appeals Board, both of which are available at [http://yosemite.epa.gov/oa/EAB\\_Web\\_Docket.nsf/General+Information/Environmental+Appeals+Board+Guidance+Documents?OpenDocument](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/General+Information/Environmental+Appeals+Board+Guidance+Documents?OpenDocument).

The EAB may also decide on its own initiative to review any condition of any UIC permit. The EAB must act within 30 days of the service date of notice of the Regional Administrator's action. Within a reasonable time following the filing of the petition for review, the EAB shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action when a final permit decision is issued by the EPA pursuant to 40 C.F.R. §124.19(l).

**Final Permits**

The final permits and response to comments will be available for viewing on EPA's website at <http://www.epa.gov/region5/water/uic/index>.

Please contact Janette E. Hansen of my staff at (312) 886-0241, or via email at [hansen.janette@epa.gov](mailto:hansen.janette@epa.gov), if you have any questions about the Duke Energy LLC injection well permits.



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Christopher Korleski  
Director, Water Division  
U.S. Environmental Protection Agency  
Region 5

Date 3/5/18