

RESPONSE TO PUBLIC COMMENTS

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) UNDERGROUND INJECTION CONTROL (UIC) PERMIT # MI-101-3G-A001, MORTON SALT, INC., PREUSS ROAD BRINE FIELD AREA PERMIT MANISTEE COUNTY, MICHIGAN

Introduction

This response is issued in accordance with Section 124.17(a), (b), and (c) of Title 40 of the Code of Federal Regulations, 40 CFR 124.17(a), (b), and (c), which requires that at the time any final EPA permit decision is issued, the Agency shall: (1) describe and respond to all significant comments raised during the public comment period; (2) specify which provisions, if any, of the draft decision have been changed and the reasons for the change; (3) include in the administrative record any documents cited in the response to comments; and (4) make the response to comments available to the public.

Background

A public comment period for this permitting decision began on December 11, 2015, and ended on January 14, 2016, for a total of 35 days. Under 40 CFR 124.10(b), EPA shall allow at least 30 days for public comment. EPA mailed public notices on December 11, 2015 to: (1) interested parties who had contacted EPA to be placed on the mailing list, and (2) residents within a ¼ mile radius of the permitted area. EPA also provided copies of the existing area permit and the draft modified area permit to the Manistee County Library and posted the draft permit modifications on EPA's website for public viewing.

Over the course of the comment period, EPA received 1 letter via U.S. Postal Service. Subsequently, EPA reviewed the comments and developed this response to comments document.

Significant Comments

Comment #1

Attachment 1: Page 9, Part I(E)(15) – Inactive Wells

Morton requests that well “operations” be defined in the body of this section of the permit and proposes the following language:

After cessation of operations, which is defined as well injection and well production, for a given well for two (2) years the permittee shall plug and abandon the well in accordance with the plan and 40 CFR 144.52(a)(6) unless the permittee has: (a) Provided notice to the Director; and (b) Described actions or procedures, which are deemed satisfactory by the Director, that the permittee will take to ensure that the well will not endanger underground sources of drinking water during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active wells unless waived, in writing, by the Director.

Response to Comment #1 – EPA finds that the term operations is inclusive of both injection and production at permitted Class III wells. The permit language replicates that found in the

regulations at 40 CFR 144.52(a)(6) that reads “After a cessation of operations of two years...” Therefore, the suggested change was not made to the draft permit.

Comment #2

Attachment 2: Pages 11 and 12, Part I(E)(19) – Mechanical Integrity (MI)

There are a number of significant changes to Part I(E)(19) Mechanical Integrity, and in particular, the changes to section 19(a) are of greatest concern to Morton Salt. The current permit language specifies the standard annulus pressure test or other approved method for the Part 1 MIT of a newly drilled well and the brine interface or other approved method for later MITs. The proposed draft permit language specifies the standard annulus pressure test or other approved method for newly drilled wells and does not address the follow up MITs required every 60 months. Morton does not run tubing and a packer in these wells and so the standard annulus pressure test is not an option.

When Morton drills a new well generally the Part 1 MIT is run after cementing the production casing but before drilling it out. This leaves a cement plug in the bottom of the casing and allows for a pressure test to confirm mechanical integrity as allowed in 40 CFR 146.8. Sometimes it may be done after drilling out the cement but before any injection occurs. This acts as a Part 1 MIT and also exposes the cement at the casing shoe and confirms that there is no leakage up the backside of the casing. This is used as additional proof to the adequacy of the cement job at facilities where we use cementing records as the Part 2 MIT. When it is time to run the 5 year MITs the preferred method for reasons of cost, scheduling of equipment and disruption to the operation, is the brine interface method.

Because it is not specifically mentioned in CFR 146.8, Morton contends that it is important to maintain the language that allows the brine interface as the most probable method for the Part 1 MIT on these subsequent MITs. This could be accomplished by adding the following sentence to the end of section 19(a), “For subsequent MITs, the brine interface or other approved method would be used.” The requirement that the procedures for these tests be submitted and approved will remove any need to specify the procedure in the permit language and allow it to be individualized for each well.

Response to Comment #2 –

The final sentence of the first paragraph of Part I(E)(19) states “The permittee is required to pass both parts of the mechanical integrity demonstration for each well in accordance with Part I(E)(19)(a) and (b) of this permit and thereafter once every 60 months from the date of the last approved demonstration for a given well.” Part I(E)(19)(a) states “Pursuant to 40 CFR 146.8(a)(1), prior to commencing injection into any newly drilled well, the permittee shall demonstrate the first part of MI by using the standard annulus pressure test or another approved method.” Under the notice published in the Federal Register in January 1992 (57 FR 1109), the Water-Brine Interface Method is an approved alternative to the tests specified in 40 CFR 146.8(b) for the demonstration of no significant leaks in the casing, tubing, or packer of Class III salt solution mining injection wells. Thus, EPA finds that the draft permit language provides for the use of the Water-Brine Interface Test as a method to demonstrate Part 1 mechanical integrity per Part I(E)(19)(a) of the permit, and that the permit requires said Part 1 mechanical integrity demonstration once every 60 months from the date of the last approved demonstration for a given well. Therefore, the suggested change was not made to the draft permit.

Appeal

In accordance with 40 CFR 124.19(a), any person who filed comments on the draft permit may petition the Environmental Appeals Board (EAB) to review any condition of the final permit decision. Additionally, any person who failed to file comments on the draft permit 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 by these regulations. The petition should also state whether the permit issuer has already responded to the issue raised (including in this response to comments) and an explanation of why the permit issuer's response to comments was inadequate, as required by 40 CFR 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.

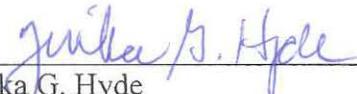
All documents that are sent through the USPS, except by USPS Express Mail, must be addressed to the EAB's mailing address, which is: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1200 Pennsylvania Avenue, NW, Mail Code 1103M, Washington, D.C. 20460-0001.

Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) must be delivered to: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1201 Constitution Avenue, NW, WJC East Building, Room 3334, 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 CFR 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. However, 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 CFR 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 CFR 124.19(a)(3) and 40 CFR 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 CFR 124.19 available electronically at <http://www.gpo.gov/fdsys/pkg/CFR-2013-title40-vol23/pdf/CFR-2013-title40-vol23-sec124-19.pdf>. 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.

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 CFR 124.19(l).



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U.S. Environmental Protection Agency
Region 5

Date May 23, 2016