

AQUIFER EXEMPTION COMPLIANCE SCHEDULE REGULATIONS

Public Comments—Summaries and Responses

**Public Comment Period:
May 29, 2015 through July 13, 2015**

**Public Comment Hearings:
Bakersfield – July 15, 2015
Santa Maria – July 16, 2015**

Numeric codes at the beginning of each comment summary can be used to locate the summarized comment in the marked-up version of the written comment submission or transcript of public hearing.

| | SHUT DOWN IMPROPERLY PERMITTED WELLS SOONER |
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| | <p>0001-1, 0002-1, 0003-1, 0004-2, 0023-2, 0024-2, 0025-1, 0027-1, 0028-1, 0029-1, 0030-1, 0030-2, 0032-1, 0033-1, 0034-1, 0038-1, 0038-2, 0039-1, 0040-1, 0040-2, 0041-1, 0042-1, 0044-1, 0361-1, 0361-2,</p> <p>Please order the immediate shutdown of the roughly 2,000 active oil and gas wells that are injecting into underground sources of drinking water. Allowing for the continued injection of potentially toxic fluids into nonexempt aquifers violates the Federal Safe Drinking Water Act (SDWA) and is a threat to California's dwindling water supply. California is suffering from a historic drought that warrants emergency action. But the timeline proposed by your regulators does not provide the protections we need. Please change the proposed compliance schedule to shut all illegal injection wells down immediately.</p> |
| | <p>0046-1, 0053-1, 0054-2, 0056-1, 0057-1, 0057-2, 0058-1, 0059-1, 0060-1, 0061-1, 0062-1, 0063-1, 0064-1, 0065-1, 0066-1, 0067-1, 0067-2, 0068-1, 0068-2, 0069-1, 0070-1, 0071-1, 0072-1, 0073-1, 0074-1, 0075-1, 0075-2, 0076-1, 0077-1, 0078-1, 0079-1, 0080-1, 0081-1, 0082-1, 0082-2, 0083-1, 0083-2, 0084-1, 0084-2, 0085-1, 0086-1, 0087-1, 0088-1, 0089-1, 0090-1, 0091-1, 0092-1, 0105-1, 0106-1, 0107-1, 0108-1, 0109-1, 0109-2, 0110-1, 0111-1, 0112-1, 0113-1, 0114-1, 0115-1, 0116-1, 0117-1, 0118-1, 0119-1, 0129-1, 0131-1, 0132-2, 0152-1, 0153-1, 0154-1, 0155-1, 0158-1, 0159-1, 0160-1, 0161-1, 0162-2, 0163-1, 0164-1, 0165-1, 0166-1, 0167-1, 0187-1, 0187-2, 0199-1, 0212-1, 0213-1, 0218-1, 0219-1, 0220-1, 0221-1, 0225-1, 0226-1, 0227-1, 0236-1, 0237-1, 0238-1, 0257-1, 0258-1, 0266-1, 0267-1, 0268-1, 0268-2, 0275-1, 0276-1, 0276-2, 0278-1, 0304-1, 0305-1, 0305-2, 0309-1, 0309-2, 0314-1, 0314-2</p> <p>I am writing to urge you to order the immediate shut down of the roughly 2,000 oil and gas injection wells. The State has determined that these wells are injecting into aquifers, polluting underground injecting into aquifers, polluting underground sources of drinking water that should be protected under the Safe Drinking Water Act, yet your regulations are</p> |

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| | <p>allowing these activities to continue. I urge you to take immediate action and order the shutdown of these illegal injection wells.</p> |
| | <p>0047-1, 0048-1, 0049-1, 0050-1, 0051-1, 0052-1, 0055-1, 0093-1, 0094-1, 0095-1, 0096-1, 0097-1, 0098-1, 0099-1, 0100-1, 0101-1, 0102-1, 0103-1, 0104-1, 0120-1, 0121-1, 0122-1, 0123-1, 0124-1, 0125-1, 0126-1, 0126-2, 0127-1, 0128-1, 0130-1, 0133-2, 0134-1, 0135-1, 0136-1, 0137-1, 0138-1, 0139-1, 0140-1, 0141-1, 0142-1, 0143-1, 0143-2, 0144-1, 0145-1, 0146-1, 0147-1, 0148-1, 0149-1, 0150-1, 0151-1, 0156-1, 0168-1, 0169-1, 0169-2, 0170-1, 0171-1, 0172-1, 0173-1, 0175-1, 0186-1, 0186-2, 0188-1, 0189-1, 0190-1, 0191-1, 0191-2, 0192-1, 0193-1, 0194-2, 0195-1, 0195-2, 0196-1, 0197-2, 0198-1, 0214-1, 0214-2, 0215-1, 0216-1, 0217-1, 0228-2, 0229-1, 0230-1, 0231-1, 0232-1, 0232-2, 0233-1, 0239-1, 0239-2, 0240-1, 0240-2, 0242-1, 0243-1, 0244-1, 0245-1, 0247-1, 0248-1, 0249-1, 0250-1, 0251-1, 0253-1, 0253-2, 0255-1, 0256-1, 0265-1, 0265-2, 0282-1, 0286-1, 0288-1, 0289-1, 0294-1, 0294-2, 0296-1, 0299-1, 0299-2, 0301-1, 0307-1, 0307-2, 0315-1, 0315-2, 0316-1, 0316-2, 0317-1, 0320-2, 0325-1, 0328-1, 0337-2, 0338-2, 0341-2, 0342-2, 0344-1, 0345-1, 0345-2, 0348-1, 0351-1, 0353-1, 0353-2, 0355-2, 0357-1, 0358-2, 0362-1, 0363-1, 0364-1</p> <p>I am writing to urge you to immediately shut down the 2,000 illegal oil and gas injection wells. The State has determined that these wells are injecting into aquifers that should be protected under the Safe Drinking Water Act/Clean Water Act, yet the proposed regulations allow these activities to continue. Please change the proposed regulations to shut down these illegal injection wells immediately and protect our drinking water.</p> |
| | <p>0201-1, 0204-1, 0205-1, 0206-1, 0207-1, 0208-1, 0209-1, 0210-1, 0211-1, 0222-1, 0223-1, 0224-1, 0234-1, 0235-1, 0241-1, 0252-1, 0259-1, 0260-1, 0261-1, 0262-1, 0263-1, 0264-1, 0269-1, 0270-1, 0272-1, 0273-1, 0279-1, 0280-1, 0281-1, 0283-1, 0284-1, 0285-1, 0287-1, 0287-2, 0300-1, 0306-1, 0312-1, 0312-2, 0312-3, 0313-1, 0323-1, 0323-2, 0326-1, 0337-1, 0339-1, 0339-2, 0340-1, 0343-1, 0343-2, 0346-1, 0347-1, 0352-1, 0354-1</p> <p>I am writing to urge you to order the immediate shut down of the roughly 2,000 oil and gas injection wells that may be polluting underground sources of drinking water. The State has determined that these wells are injecting into aquifers that should be protected under the Safe Drinking Water Act, yet your regulators are allowing these activities to continue. Our state is facing one of the worst droughts on record. We need strong leadership for drinking and irrigation water protection, not more pollution from oil companies. I urge you to take immediate action and order the shutdown of these illegal injection wells.</p> |
| | <p>0012-1, 0013-1, 0011-1, 0005-1, 0006-1, 0007-1, 0008-1, 0009-1, 0010-1, 0016-1, 0017-1, 0014-1, 0045-1</p> <p>Amend the emergency regulations and issue enforcement orders to shut down all illegal injection wells, which are in violation of the Safe Drinking Water Act.</p> |

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| | 0020-7 The Department must determine if the proposed action does not negatively affect industry, meanwhile is okay with the over 2,500 wells that are illegally being polluted under the watch of the UIC for the people of California. The 11 aquifers should be classified correctly now instead of waiting. |
| | 0254-1 Shut down these illegal injection wells. |
| | 0293-1, 0311-1 Injection wells must be shut down immediately. |
| | 0271-1, 0290-1, 0318-3, Stop the illegal dumping of toxic chemicals into potentially useable water sources. |
| | 0019-1 The commenter commends the state for taking action but illegal/improper injection should be phased out more quickly. |
| | 0020-2, 0368-1 Why are deadlines allowed? All illegal injection should stop immediately. |
| | 0324-1, 0330-7, 0377-1, 0378-2 The proper course for California to take is to immediately shut down all injection wells injecting into non-exempt aquifers. |
| | 0026-2, 0035-1, 0371-1, 0321-1, Immediately block/shut-down all further activities of these wells. |
| | 0035-2, 0037-1, 0041-2, 0042-2, 0043-2 The proposed regulations allow injections to continue, despite the State finding out these wells are injecting into aquifers that the Safe Drinking Water Act protects. Revise the proposed regulations to shut down the illegal injection wells immediately and keep our drinking water safe. |
| | 0028-3, 0040-4, 0347-2 Do not allow the proposed regulations that would allow this to continue. Please change these regulations. |
| | 0319-1, 0319-2, 0349-1, 0349-2, 0356-2 Re-examine/write tougher regulations, regulate and shutdown oil and gas injection wells. |
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| | Change the proposed regulations to prohibit injection wells. It is too economically and environmentally dangerous to allow injection wells anywhere in the state. |
| | 0334-7, 0334-9, 0334-10, 0374-2, 0375-2 In light of the Permanent Regulations' illegality and the ongoing harm occurring to California's underground sources of drinking water under the schedule proposed by the Permanent Regulations, Environmental Groups urge DOGGR to rescind the Permanent Regulations and enforce the Safe Drinking Water Act's prohibition on injections into nonexempt aquifers immediately. The Permanent Regulations elevate the interests of oil industry above the public right to protection of its current and future underground sources of drinking water, all while more information continues to emerge regarding the scope of harm and illegality of DOGGR's Class II well program. Instead of passing regulations allowing pollution to continue for two more years, DOGGR must use its existing powers to immediately close down the almost 2,500 wells illegally injecting toxic industry wastewater into federally protected aquifers. |
| | 0331-1 All Improperly Permitted Wells Should Be Shut Down Immediately. These improperly permitted wells will be allowed to continue injecting for in some cases up to two more years while the compliance plan is carried out. This presents an unacceptable risk to USDWs. Delay in shutting down these improperly permitted wells may allow any contamination to spread and impact additional drinking water supplies. DOGGR should order the immediate cessation of injection at all improperly permitted wells, which is the course of action most consistent with the goals of the UIC program and its authorizing statute, the Safe Drinking Water Act (SDWA). |
| | 0333-7 DOGGR has authority to immediately stop further damage. DOGGR should require immediate cessation of injection into non-exempt aquifers. |
| | 0359-1 We respectfully request that this regulation be amended to immediately shut down the more than 6,000 injection wells that are currently allowed to inject into federally protected underground sources of drinking water. |
| | 0360-2 Injection of toxic chemicals into aquifers must stop immediately. |
| | 0366-3 The MOA conditions between the State of California and EPA have not been fulfilled, therefore, stop all illegal injections immediately. |
| | 0370-1 It's inexcusable to set a schedule allowing more than two years to comply with the Safe Drinking Water Act. We need our aquifers protected now. |

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| | <p>Response to all comments urging immediate shut-in of wells injecting into non-exempt areas: Rejected.</p> <p>The Division appreciates and shares the commenters’ concerns for the protection of our state’s groundwater resources. We take very seriously any practices that undermine our efforts to achieve that goal.</p> <p>However, achieving “immediate” statewide compliance with a mandate that all wells injecting into non-exempt USDW zones cease operations would not be practicable. There are several reasons why.</p> <p>First, such an approach fails to consider the individual characteristics of the affected or potentially affected natural resources, including both groundwater and hydrocarbons.</p> <p>Second, determining whether any given well is injecting into a non-exempt USDW zone requires substantial and careful analysis. Without adequate time for review, immediate statewide shut down of all wells potentially injecting into non-exempt zones could only be effective if enforced in a vastly over-inclusive manner.</p> <p>Third, administrative enforcement takes time and resources. Implementing enforcement measures against an over-inclusive collection of injection wells on a statewide basis would be logistically difficult, as well as an inefficient use of agency resources. Moreover, any enforcement mechanism employed by the Division must accommodate the procedures of due process, including the right to appeal an administrative order. An over-inclusive statewide enforcement effort would undoubtedly invite widespread, vigorous opposition, thereby thwarting the intended immediacy and needlessly jeopardizing the entire objective.</p> <p>Addressing the statewide issue of injection into non-exempt USDW zones in an effective and efficient manner requires a methodical approach and a wise application of agency resources.</p> <p>The compliance schedule set forth in the proposed regulations establishes prioritized deadlines, allowing the Division to focus its resources on identifying and halting those injection activities posing the greatest risk to aquifers with the best potential to serve as sources of drinking water, while also providing fair notice to the regulated industry so as to incentivize cooperation and speed compliance. The Division believes this approach will provide the greatest protection of natural resources while also minimizing collateral harm to the public.</p> <p>With respect to the approximately 2,500 injection wells referenced in the Notice of Proposed Action, it is critical not to treat them uniformly, but</p> |

rather evaluate them more precisely based on their individual characteristics.

For example, approximately 80 percent of these wells have been identified as injecting into zones that naturally contains oil-related compounds (i.e., hydrocarbon producing zones). Groundwater within hydrocarbon producing zones may not be suitable for drinking water or other beneficial uses. The federal Safe Drinking Water Act identifies the presence of hydrocarbons as one reason why groundwater cannot and will not be used for drinking purposes, regardless of its quality as measured in milligrams per liter of total dissolved solids (TDS).

Similarly, many of the wells have been identified as injecting into zones with groundwater that, although it does not contain hydrocarbons, is naturally of relatively poor quality—i.e., between 3,000 and 10,000 TDS. In certain cases, groundwater of this quality can be suitable for agricultural or other beneficial uses, but is unlikely to be a preferred source of drinking water. The federal Safe Drinking Water Act also recognizes that a TDS level of between 3,000 and 10,000 is a factor which makes groundwater less suited for drinking purposes.

Accordingly, the proposed regulations set a lower priority compliance deadline for wells injecting into hydrocarbon producing zones, and for wells injecting into zones with groundwater between 3,000 and 10,000 TDS. Doing so enables the Division to prioritize the protection of aquifers with better potential to serve as sources of drinking water, by first focusing its resources on securing compliance for wells injecting into higher-quality non-hydrocarbon producing zones.

This approach has proven effective. The Division has already successfully implemented the top priority statewide compliance deadline. As of October 15, 2015, under the authority of identically-worded emergency regulations, the Division timely secured the compulsory shut-in of all wells determined to have been injecting into non-exempt zones most suited for potential use as a source of drinking water—i.e., non-hydrocarbon producing zones with water quality of better than 3,000 TDS.

Later this year, the next statewide deadline in the proposed regulations will similarly compel a halt to all injection operations occurring in a specific set of aquifers historically treated as exempt by state and federal agencies, unless and until the United States Environmental Protection Agency (US EPA) determines that the aquifer or the portion of the aquifer where injection is occurring meets the criteria for aquifer exemption. The final statewide deadline will then take effect in February of 2017, focusing enforcement on all remaining injection activities occurring in non-exempt areas.

Moreover, the compliance schedule set forth in the proposed regulations is not the exclusive effort undertaken by the Division to address problems

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| | <p>related to the management of the state Underground Injection Control (UIC) program. It is an integral component of a broader, interagency effort.</p> <p>In June of 2014, the Division assembled an interagency team, including representatives from the State Water Resources Control Board and the US EPA, to assess the scope of the problems related to the management of the State UIC program and to address any potential risk to public health and the state’s groundwater supplies.</p> <p>The initial response of the interagency team included immediately shutting down several injection wells identified as the most likely to present a risk of contamination to groundwater sources currently used for domestic or irrigation purposes.</p> <p>Subsequently, the interagency team pursued a two-prong effort: (1) initiate a systematic review of injection wells to identify and prioritize for targeted immediate administrative action any wells presenting a cause for elevated concern, and; (2) develop a set of regulatory corrective actions to address on a statewide basis the issue of injection into non-exempt areas with potential use as a source of drinking water.</p> <p>The review process that constitutes the first prong of the interagency effort has included analyzing water quality in the injection zones, and evaluating the potential for contamination of existing water supply wells. Thus far, analyses of groundwater samples collected from water supply wells have not identified any elevated concentrations of chemical constituents that appear to have been caused by injection activities. Nonetheless, the Division and the Central Valley Regional Water Board have required additional groundwater sampling by injection well operators in areas that show potential risk to water supply wells, and the Division has ordered or otherwise compelled the immediate shut in of several additional wells specifically identified as presenting a potential risk to public health or environmental safety.</p> <p>The proposed regulations represent the second prong of the interagency effort. All aspects of the compliance schedule set forth in the proposed regulations were developed as a result of extensive discussions and collaboration with the State Water Resources Control Board and the US EPA.</p> <p>Although commenters argue that it is not aggressive enough, the Division believes the compliance schedule set forth in the proposed regulations, operating in conjunction with ongoing interagency review and targeted exercise of administrative enforcement tools, is the most efficient, balanced, and demonstrably effective mechanism by which to achieve the relevant federal and state objectives for protection of groundwater resources.</p> |
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| | ENFORCEMENT |
| | 0334-6 The mechanism for enforcement of the proposed regulations' deadlines is unclear. |
| | Response to comment 0334-6: The Division has a number of statutory mechanisms available to it for enforcement of regulations, including but not limited to imposition of civil penalties. |
| | 0334-9 DOGGR already has authority to issue orders requiring operators to halt injection into non-exempted aquifers. Therefore, the proposed regulations are needlessly duplicative. |
| | Response to comment 0334-9: Rejected. The proposed regulations are not duplicative of the State Oil and Gas Supervisor's broad authority to issue administrative orders. The proposed regulations clarify the circumstances under which the Supervisor will exercise administrative order enforcement authority, and add specificity regarding the severity of the civil penalty likely to accompany any exercise of administrative order enforcement authority under those circumstances. Further, as explained in the Initial Statement of Reasons, the proposed regulations are a critical component of a multi-prong, interagency effort intended to address the identified problem of injection activities occurring in non-exempt zones classified as underground sources of drinking water. The Division believes the proposed regulations will facilitate a prioritized exercise of its administrative enforcement resources so as to achieve compliance in the most efficient, balanced, and effective manner. |
| | 0019-1 The proposed regulation should include payback to the state for the costs associated with illegal use of aquifers. Add the cost of severe regulation to this, it's needed and not there. |
| | 0020-3 Oil extraction companies should be made to clean up the polluted aquifers and state what those cleaning requirements are. The penalty of \$25,000 per day isn't enough since oil companies have billions in assets and it isn't enough of a deterrent. The penalty needs to be enough too satisfactorily cleanup the pollution. It seems as if Industry has asked for this compliance schedule since the proposed action is useless because |

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| | <p>Industry can stop dumping at no cost impact now or the dumping will continue and be done before the deadlines are up.</p> |
| | <p>0333-5 In order to have a deterrent effect, the maximum civil penalty must be significant enough so that there may be no short term or long term calculation in which an operator may decide to pay the maximum civil penalty as a cost of doing business. The price of oil and the price of wastewater disposal are two indicators that should be fed into the penalty calculation. We suggest that the following sentence be appended to section 1779.1, subdivision (d), "While the maximum civil penalty shall not be adjusted by the Division under \$25,000, the Division shall convene and reexamine whether the maximum civil penalty should be increased given the price of oil, the price of wastewater disposal, and other economic factors."</p> |
| | <p>Response to comments 0019-1, 0020-3, 0333-5:</p> <p>Public Resources Code section 3236.5, subdivision (a), places a cap of \$25,000 on the civil penalty that the State Oil and Gas Supervisor may impose for any given instance of violation. This code section also requires the State Oil and Gas Supervisor to consider several factors when determining the amount of civil penalty appropriate in given situation. These factors include the extent of the harm caused by the violation, the persistence of the violation, the pervasiveness of the violation, and the number of prior violations by the same violator, in addition to any other relevant circumstances.</p> <p>Based upon relevant circumstances already identifiable as necessarily implicated by a violation consisting of injection into a non-exempt zone after the pertinent compliance deadlines, as well as the importance of creating an effective deterrent outweighing potential economic incentives for conducting injection operations in a non-exempt zone, the State Oil and Gas Supervisor has established a minimum civil penalty of \$20,000 for each well for each day injection occurs. Section 1779.1, subdivision (d), of the proposed regulations makes clear that the State Oil and Gas Supervisor retains discretion to increase the civil penalty, up to the statutory maximum, based upon further consideration of the statutory factors and other relevant circumstances applicable in any given situation.</p> <p>The Division believes the civil penalty provision set forth in section 1779.1, subdivision (d), of the proposed regulations is well-tailored to incentivize compliance.</p> |
| | <p>0334-9 To the extent they impose penalties on injection into protected aquifers after a particular date, the proposed regulations are needlessly duplicative of state and federal laws that establish criminal sanctions for injection activities that cause contamination of drinking water.</p> |

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| | <p>Response to comment 0334-9:</p> <p>Public Resources Code section 3236.5 authorizes the State Oil and Gas Supervisor to impose a civil penalty against a person who violates any statute contained in Chapter 1, Division 3, of the Public Resources Code, or who violates any regulation implementing a statute contained in that Chapter. This legislative authority is separate and distinct from any other provisions of state or federal law authorizing imposition of criminal sanction in connection with injection activities that cause contamination of drinking water.</p> <p>The proposed regulations serve to specify and clarify the statutory authority provided by Public Resources Code section 3236.5.</p> <p>Public Resources Code section 3236.5, subdivision (a), places a cap of \$25,000 on the civil penalty that the State Oil and Gas Supervisor may impose for any given instance of violation. This code section also requires the State Oil and Gas Supervisor to consider several factors when determining the amount of civil penalty appropriate in given situation. These factors include the extent of the harm caused by the violation, the persistence of the violation, the pervasiveness of the violation, and the number of prior violations by the same violator, in addition to any other relevant circumstances.</p> <p>Based upon relevant circumstances already identifiable as necessarily implicated by a violation consisting of injection into a non-exempt zone after the pertinent compliance deadlines, as well as the importance of creating an effective deterrent outweighing potential economic incentives for conducting injection operations in a non-exempt zone, the State Oil and Gas Supervisor has established a minimum civil penalty of \$20,000 for each well for each day injection occurs. Section 1779.1, subdivision (d), of the proposed regulations makes clear that the State Oil and Gas Supervisor retains discretion to increase the civil penalty, up to the statutory maximum, based upon further consideration of the statutory factors and other relevant circumstances applicable in any given situation.</p> <p>The Division believes the civil penalty provision set forth in section 1779.1, subdivision (d), of the proposed regulations is well-tailored to incentivize compliance.</p> |
| | <p>0335-9</p> <p>The Review schedule should reflect the fact that most of the 2500 wells under review, 90% are either reinjecting produced water right back to where they came from, or injecting into zones exempt by US EPA in 1985.</p> |
| | <p>Response to comment 0035-9: Rejected.</p> |

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| | <p>The proposed regulations, as well as the ongoing interagency review of the State UIC program, do incorporate consideration of the characteristics of the non-exempt zones receiving injection, and the relative number of wells operating in various categories of non-exempt zones. The Division does not believe any revision to the proposed regulations is necessary on this basis.</p> |
| | <p>0333-4 Section 1779.1, subdivision (c) should be clarified. The phrase "notwithstanding subdivisions (a) and (b)," may be interpreted to mean that the general timelines for terminating injections found in subdivisions (a) and (b) may be altered or extended in individual cases through the Division's discretion. In order to clarify, we suggest that the following language (derived from the Initial Statement of Reasons) be added to the beginning of subdivision (c): "Compliance deadlines found in subdivisions (a) and (b) are not an entitlement to inject up until the deadline. The Division retains discretion in permitting and regulating underground injection projects and may rescind or restrict approvals."</p> |
| | <p>Response to comments 0333-4: Rejected.</p> <p>The Division believes the meaning of the regulatory text is clear in its current form. The Division added the phrase "pursuant to existing law" to the text of section 1779.1, subdivision (c), of the proposed regulations. This non-substantive revision clarifies that the authority for the Division's exercise of discretion regarding approval of an underground injection project, rescission of an approval of an underground injection project, and restriction of an approval of an underground injection project derives from existing law, rather than from the proposed regulations.</p> |
| | <p>0333-6 <i>Section 1779.1, subdivision (d)</i> Add a statement of intent to allow enforcement by private attorneys general. Doing so would facilitate the recovery of attorneys' fees under Civil Code section 1021.5 by private parties seeking to independently enforce the regulations.</p> |
| | <p>Response to comments 0336-6: Rejected.</p> <p>The Civil Code section referenced in this comment does not exist. While California Code of Civil Procedure section 1021.5 allows for the recovery of attorneys' fees in appropriate circumstances, the proposed regulations are not intended to enable or to encourage enforcement by private parties. Further, the Department does not agree that a broad regulatory statement presupposing a judicial determination regarding the availability of attorney's fees in any given case is necessary or proper in this context. The comment has not cited any authority suggesting such a regulatory statement is appropriate, nor is the Division aware of such authority.</p> |

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| | <p>0335-1, 0336 [Oil producers] have continuously engaged in underground injection in good faith reliance on the permits issued by DOGGR. By seeking to rescind specified permits, the proposed regulations invoke serious questions concerning the constitutionality of DOGGR’s ability to infringe upon the vested rights acquired by [oil producers]. Even assuming that these regulations may revoke injection permits in such a manner, [oil producers] would still be entitled to just compensation from DOGGR to the extent that its actions deprive [oil producers] of any economically reasonable use of its property.</p> |
| | <p>Response to comments 0335-1, 0336: Rejected.</p> <p>This comment misconstrues the effect of the proposed regulations.</p> <p>The proposed regulations would not rescind any permits or other approvals for underground injection projects. Rather, the proposed regulations would require that an underground injection project approved for injection into an aquifer that has not received an aquifer exemption to cease injection activities by a specific date, unless and until an aquifer exemption is in place. Once an aquifer exemption is in place, injection activities may resume under the existing project approval.</p> <p>The requirement that an approved underground injection project have an aquifer exemption in place in order to proceed with injection activities is an existing requirement of California’s UIC program. It is not a new condition created by the proposed regulations. The proposed regulations would establish a schedule according to which the Department will take enforcement action to compel underground injection projects currently not operating in compliance with that existing requirement to become compliant in order to continue injection activities.</p> |
| | <p>0335-3, 0336 The proposed regulations also do not allow for permit-holders’ to appeal the termination of their injection permits. Permit-holders have a right to appeal any order issued by DOGGR affecting injection activities. The Schedule Regulations purport to stop certain injection activities regardless of whether such an order is “necessary to protect life, health, property or natural resources” and makes no provision for the permit-holders’ right to appeal such an order and to seek a stay of such an order should one be issued. The Schedule Regulations cannot supersede these procedural protections.</p> |
| | <p>Response to comments 0335-3, 0336: Rejected.</p> <p>This comment misconstrues the effect of the proposed regulations.</p> <p>The proposed regulations would not terminate any permits or other approvals for underground injection projects. Rather, the proposed</p> |

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| | <p>regulations would require that an underground injection project approved for injection into an aquifer that has not received an aquifer exemption to cease injection activities by a specific date, unless and until an aquifer exemption is in place. Once an aquifer exemption is in place, injection activities may resume under the existing project approval.</p> <p>The requirement that an approved underground injection project have an aquifer exemption in place in order to proceed with injection activities is an existing requirement of California’s UIC program. It is not a new condition created by the proposed regulations. The proposed regulations would establish a schedule according to which the Department will take enforcement action to compel underground injection projects currently not operating in compliance with that existing requirement to become compliant in order to continue injection activities.</p> <p>Existing statutory authority allows the Department to issue orders for the purpose of enforcing its regulations. The Department does not believe there is any need to include additional verbiage in the text of the proposed regulations regarding this standard enforcement mechanism. Orders issued for enforcement of the proposed regulations would be subject to applicable procedures for appeal, including those set forth at Public Resources Code section 3350 et seq.</p> |
| | <p>0335-8, 0336 <i>Section 1779.1, subdivision (d)</i> DOGGR does not have the authority to adopt a regulation that imposes a civil penalty for the violation of those regulations unless specifically authorized by statute. The Legislature has not authorized DOGGR to impose a multiplier for each day and each well that injection occurs. As the proposed regulations do not concern well stimulation activities, the Legislature has not authorized use of a daily multiplier in this instance.</p> |
| | <p>Response to comments 0335-8, 0336: Rejected.</p> <p>Imposition of a civil penalty on a per day basis in section 1779.1, subdivision (d), of the proposed regulations does not exceed the Division’s statutory authority.</p> <p>Public Resources Code section 3106 charges the State Oil and Gas Supervisor with supervising the operation and maintenance of oil and gas wells so as to prevent, as far as possible, damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of detrimental substances. To facilitate that function, Public Resources Code section 3236.5, subdivision (a), authorizes the Supervisor to impose a civil penalty of up to \$25,000 for each violation of chapter 1 of the Public Resources Code or a regulation implementing the statutory authority of that chapter. As the commenters note, section 3236.5 does include additional parameters of a minimum penalty amount and a maximum per day per violation amount specifically applicable to</p> |

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| | <p>violations of well stimulation provisions appearing in article 3. Contrary to the commenters' implication, however, these parameters are not special grants of additional civil penalty authority beyond the scope of what section 3236.5 otherwise authorizes. Rather, these parameters act as legislatively-imposed <i>limitations</i> on the Supervisor's existing discretion to establish a civil penalty for those specific types of violations. Outside of those specific limitations, the legislature has entrusted to the Supervisor broad discretion to determine what acts constitute a violation, and to establish the appropriate penalty amount. Indeed, Public Resources Code section 3013 states that the Division's statutory authorities shall be liberally construed to meet their purposes, and that the Supervisor shall have all powers, including the authority to adopt rules and regulations, which may be necessary to carry out those statutory purposes.</p> <p>Here, the Supervisor has determined that, in order to carry out the purposes of section 3106, it is necessary to treat each day injection occurs contrary to the regulatory requirements, at each well engaged in injection, as a separate instance of violation. This determination is consistent with the broad scope authority provided by Public Resources Code section 3013. It is not contrary to either the word or the intent of Public Resources Code section 3236.5.</p> |
| | PROPOSED REGULATIONS DO NOT ADD CLARITY |
| | <p>0020-8 Due to the action taken by EPA, the citizens of California became informed about legalizing the illegal injection until a required deadline, so it is unclear how the proposed regulations improve transparency.</p> |
| | <p>0334-5 While circumventing the mandates of the SDWA through the promulgation of the proposed regulations, DOGGR fails to provide any clarity in the proposed regulations with respect to how, or if at all, the SDWA will be enforced during the two years that illegal injections are allowed to continue into protected aquifers.</p> |
| | <p>Response to comments 0020-8, 0334-5: Rejected.</p> <p>The compliance schedule set forth in the proposed regulations is a tool for achieving the objectives of the Safe Drinking Water Act. As described in the Initial Statement of Reasons, the compliance schedule includes deadlines that take effect in 2015, 2016, and 2017, based upon a risk prioritization.</p> <p>The Division believes that this set of clearly-stated regulatory deadlines is an efficient and effective compliance mechanism. As described in the Initial Statement of Reasons, an operator who fails to meet an applicable compliance schedule deadline will receive an administrative order to halt</p> |

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| | <p>injection operations. The proposed regulations also establish a substantial minimum civil penalty for such failure to comply with the deadlines. The regulations provide transparency by publicly establishing dates certain by which aquifer exemption issues will be finally resolved. Moreover, recent experience shows that the regulatory compliance schedule is effective. Under the authority of identically-worded emergency regulations, the first of these deadlines has already taken effect, resulting in compulsory shut-in of all of the 33 wells determined to have been still injecting into non-exempt USDW aquifers of the applicable category.</p> |
| | <p>PROPOSED REGULATIONS ARE CONTRARY TO EXISTING AUTHORITY</p> |
| | <p>0330-1 Federal UIC regulations strictly prohibit underground injection, unless supported by a permit in compliance with an authorized UIC program. Nevertheless, DOGGR approved more than 2,500 injection wells into non-exempt aquifers. Because such permits were inconsistent with California's approved UIC program, such permits were not valid.</p> |
| | <p>0330-2 EPA regulations strictly prohibit any expansion of any injection of Class II wells into underground sources of drinking water. While DOGGR or the Department can identify additional aquifers to be exempted as part of an update to the UIC program, it must do so prior to allowing injection operations into underground sources of drinking water. The 1982 MOA with the EPA specifically spells this out.</p> |
| | <p>0330-3 The proposed compliance schedule is directly contradictory to the MOA that was part of the approval of the original "State Primacy" application.</p> |
| | <p>0334-9 The proposed regulations are contrary to the requirements of the federal Safe Drinking Water Act. Specifically, part 144 and section 145.11(a) of Title 40 of the Code of Federal Regulations impose numerous requirements on state UIC programs granted primacy authority under the Safe Drinking Water Act. The proposed regulations conflict with these requirements.</p> |
| | <p>0334-10 The proposed regulations are contrary to the requirements of the federal Safe Drinking Water Act. DOGGR has no authority to relax the requirements of the Safe Drinking Water Act.</p> |
| | <p>Response to comments 0330-1, 0330-2, 0330-3, 0334-9, 0334-10: Rejected.</p> |

As explained in the Initial Statement of Reasons, the proposed regulations are necessary to correct, in an orderly and effective fashion, the situation of underground injection activities occurring in zones that have not received an aquifer exemption. Additionally, the U.S. EPA has made clear that the Department must take corrective action to address this situation or else jeopardize the federal government's ability to provide ongoing approval of California's UIC program. The compliance schedule set forth in the proposed regulations was developed in consultation with the U.S. EPA, and has received the federal agency's support as an effective corrective action to bring California's UIC program into compliance with federal Safe Drinking Water Act objectives and with the intent of the memorandum of agreement between the Department and the U.S. EPA. The compliance schedule sets prioritized deadlines, allowing the Department to focus its resources on those injection activities posing the greatest potential risk to aquifers that may contain drinking water sources, while also providing fair notice to the regulated industry so as to incentivize cooperation and speed compliance. The Department believes this approach will provide the greatest protection of natural resources while also minimizing collateral harm to the public.

The United States granted California primacy to enforce the Safe Drinking Water Act through its State UIC program pursuant to section 1425 of the Act, codified at section 300h-4 of title 42 of the United States Code. Section 1425, added to the Safe Drinking Water Act in 1980, created a simplified alternative to the original method for approving state program primacy over Class II injection wells, which appears in section 1422 of the Safe Drinking Water Act.(42 U.S.C. § 300h-1.)

Under section 1425 primacy, in lieu of satisfying all the specific requirements set forth in federal UIC statutes and regulations applicable under the original section 1422 procedures, a state may instead qualify for Class II primacy approval by demonstrating that its existing state laws and regulations are adequate to effectively carry out the Safe Drinking Water Act's objective—i.e., to prevent underground injection which endangers drinking water sources. (See 42 U.S.C. § 300h-4, subs. (a) and (c); cf. 42 U.S.C. § 300h-1, subd. (b).)

Thus, while federal law provides some of the criteria that the Department uses to enforce California's UIC program, such as the definition of an underground source of drinking water, because California obtained primacy authority under section 1425 and not section 1422, the specific parameters of the federal regulations do not apply to California's UIC program. These federal regulations apply only to state programs approved under section 1422, or to programs administered directly by the U.S. EPA. (See 40 C.F.R. §§ 144.1 [explaining that regulations under part 144 describe requirements to obtain section 1422 primacy as further set forth in part 145]; 145.1 [specifying that regulations under part 145, including numerous requirements made applicable to states via cross-reference in section 145.11, apply to section 1422 programs].)

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| | <p>0332-1 The aquifer exemption compliance schedule regulations proposed by the Division are not necessary to effectuate the purpose of the Safe Drinking Water Act or federal implementing regulations, nor are they supported by substantial evidence demonstrating “necessity” as required by the APA. The “need” for the proposed regulations is based off a new interpretation of EPA/DOGGR of the MOA that exempt aquifer status is limited to within the shaded areas and injection wells outside of the shaded areas are non-exempt.</p> |
| | <p>0332-2 A judicial review is necessary before injection wells that fall outside the shaded areas can be classified as injecting into non-exempt portions of aquifers in violation of the SDWA and thus forced to cease operating per the Aquifer Exemption Compliance Schedule.</p> |
| | <p>Response to comments 0332-1, 0332-2: Rejected.</p> <p>The proposed regulations are reasonably necessary to effectuate the statutory purposes of Public Resources Code sections 3106, 3220, 3222, and 3236.5. Additionally, the proposed regulations will help to achieve the objectives of the federal Safe Drinking Water Act and the State UIC program, including the memorandum of agreement between the Department and the U.S. EPA.</p> <p>As explained in the Initial Statement of Reasons, the proposed regulations are a critical component of an interagency effort intended to address the identified problem of injection activities occurring in non-exempt zones classified as underground sources of drinking water. The Division believes the proposed regulations will facilitate a prioritized exercise of its administrative enforcement resources so as to achieve compliance in the most efficient, balanced, and effective manner.</p> <p>The regulations do not include any interpretation of the meaning of the shaded-area maps referenced in the primacy agreement between the Division and US EPA, and these regulations are in no way based on such an interpretation. To the extent the commenter intends to assert that judicial review is required before the proposed regulations may be adopted, the Division disagrees.</p> |
| | <p>0334-9, 0334-10 The proposed regulations allow illegal injections to continue, and therefore are contrary to state law calling for the prevention of well operations causing damage to life, health, property, or natural resources, including Public Resources Code section 3106 and various regulations implementing its authority.</p> |

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| | <p>Response to comments 0334-9, 0334-10: Rejected.</p> <p>The proposed regulations are not contrary to state law calling for the prevention of damage to life, health, property, or natural resources. The proposed regulations do not “allow” underground injection projects to operate in non-exempted aquifers. Rather, the proposed regulations establish a schedule by which injection into an aquifer that has not received an aquifer exemption must cease, unless and until an aquifer exemption is in place. The proposed regulations also clarify, at section 1791.1, subdivision (c), that the compliance schedule does not limit the Department’s discretion to take enforcement action—including rescission or restriction of project approvals—with respect to any particular operator or well, at any time the Department determines that such action is necessary.</p> <p>Indeed, the proposed regulations are reasonably necessary to effectuate the statutory purposes of Public Resources Code sections 3106, 3220, 3222, and 3236.5. Additionally, the proposed regulations will help to achieve the objectives of the federal Safe Drinking Water Act and the State UIC program, including the memorandum of agreement between the Department and the U.S. EPA.</p> <p>As explained in the Initial Statement of Reasons, the proposed regulations are a critical component of an interagency effort intended to address the identified problem of injection activities occurring in non-exempt zones classified as underground sources of drinking water. Although commenters argue that it is not aggressive enough, the Division believes the compliance schedule set forth in the proposed regulations, operating in conjunction with ongoing interagency review and targeted exercise of administrative enforcement tools, is the most efficient, balanced, and demonstrably effective mechanism by which to achieve the relevant federal and state objectives for protection of groundwater resources. The Division believes the proposed regulations will facilitate a prioritized exercise of its administrative enforcement resources so as to achieve compliance in the most efficient, balanced, and effective manner.</p> |
| | <p>0334-1</p> <p>The regulations allow for the continued operation of more than 2,500 wells that have been determined to be injecting into non-exempt aquifers for up to an additional two years. The regulations not only condone a violation of the SDWA, but have a potential impact on drinking water sources.</p> |
| | <p>0334-2, 0334-3</p> <p>The SDWA requires an aquifer exemption to be approved before injection in to an underground source of drinking water may be allowed. The SDWA expressly prohibits a state agency’s promulgation of regulations that relieve it or other parties from the SDWA’s requirements, stating, “no law or regulation” adopted or enforced by a state agency “shall relieve any person of any requirement otherwise applicable under” the SDWA. The</p> |

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| | <p>proposed regulations improperly allow operators an extension of time to attempt to meet their burden of demonstrating the legality and safety of their illegal injection activities. This reverses the SDWA's procedural and substantive protective requirements patently violates the minimum requirements of the Act, The proposed regulations are consequently unauthorized and void.</p> |
| | <p>0334-4 The proposed regulations cannot be reasonably viewed as necessary to effectuate the purpose of the governing SDWA because the Regulations will allow illegal and harmful injections to continue for nearly two more years, thereby increasing the damage to protected sources of drinking water.</p> |
| | <p>0359-1 The proposed regulations are illegal. They condone violations of state and federal law by allowing injection into non-exempt aquifers to continue, prioritizing corporate interests instead of the interests of the state as a whole. DOGGR should immediately send out shut-down orders for all wells that have injected into non-exempt aquifers.</p> <p>(The comment letter refers to 547 attached letters and 600 electronic submissions all stating that injection into potential sources of drinking water should cease immediately. The Division did receive numerous comments to that effect, but they were not received as attachments to this comment letter. The Division has summarized and responded to all comments received.)</p> |
| | <p>Response to comments 0334-1, 0334-2, 0334-3, 0334-4, 0359-1: Rejected.</p> <p>The proposed regulations do not “allow” underground injection projects to operate in non-exempted aquifers. Rather, the proposed regulations establish a schedule by which injection into an aquifer that has not received an aquifer exemption must cease, unless and until an aquifer exemption is in place. The proposed regulations also clarify, at section 1791.1, subdivision (c), that the compliance schedule does not limit the Department’s discretion to take enforcement action—including rescission or restriction of project approvals—with respect to any particular operator or well, at any time the Department determines that such action is necessary.</p> <p>As explained in the Initial Statement of Reasons, the proposed regulations are necessary to correct, in an orderly and effective fashion, the situation of underground injection activities occurring in zones that have not received an aquifer exemption. Additionally, the U.S. EPA has made clear that the Department must take corrective action to address this situation or else jeopardize the federal government’s ability to provide ongoing approval of California’s UIC program. The compliance schedule set forth</p> |

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| | <p>in the proposed regulations was developed in consultation with the U.S. EPA, and has received the federal agency’s support as an effective corrective action to bring California’s UIC program into compliance with federal Safe Drinking Water Act objectives and the intent of the memorandum of agreement between the Department and the U.S. EPA. The compliance schedule sets prioritized deadlines, allowing the Department to focus its resources on those injection activities posing the greatest potential risk to aquifers that may contain drinking water sources, while also providing fair notice to the regulated industry so as to incentivize cooperation and speed compliance. The Department believes this approach will provide the greatest protection of natural resources while also minimizing collateral harm to the public.</p> |
| | <p>0334-8, 0334-9 Commenter 0334 incorporated by reference a letter sent by the Center for Biological Diversity to OAL and DOC regarding proposed emergency regulations. This letter argues that the proposed regulations cannot be approved because they do not serve to address an emergency. Rather than helping to conserve water during an unprecedented drought, the proposed regulations will exacerbate the water shortage by allowing continued contamination of precious underground sources of drinking water.</p> |
| | <p>0334-10 Commenter 0334 incorporated by reference a letter sent by the Sierra Club to OAL and DOC regarding proposed emergency regulations. This letter argues that the proposed regulations cannot be approved because they do not serve to address an emergency. Rather than helping to conserve water during an unprecedented drought, the proposed regulations will exacerbate the water shortage by allowing continued contamination of precious underground sources of drinking water.</p> |
| | <p>Response to comments 0334-8, 0334-9, 0334-10: Rejected.</p> <p>The proposed regulations are not emergency regulations. Accordingly, comments pertaining to a finding of emergency or other requirements specific to the emergency rulemaking process are irrelevant.</p> <p>The Division provided a response to both of the referenced letters when they were originally submitted in connection with the emergency rulemaking process for the Aquifer Exemption Compliance Schedule emergency regulations in April of 2015. Because the commenter has now reintroduced these letters in the form of comments regarding the proposed regulations, the Division reiterates its response to those letters by repeating it in full, below.</p> <p><i>The Division appreciates and shares the commenters’ concerns with the protection of our state’s groundwater resources. Protecting public health and the state’s groundwater resources is this Administration’s primary</i></p> |

goal, particularly in this time of unprecedented drought. We take very seriously any practices that undermine our efforts to achieve that goal. That is why, in June of last year, we immediately assembled an interagency team to assess the scope of the problems related to the management of the UIC program and to address any potential risk to public health and the state's groundwater supplies. The initial response included immediately shutting down 11 injection wells that represented the greatest risk of contamination, halting approvals of new wells in non-exempt areas and initiating a systematic review of other wells to ensure protection of public health and environmental safety. This review process has included analyzing the water quality in the injection zones and identifying the potential for contamination of water supply wells. Analyses of groundwater samples collected from water supply wells by Central Valley Regional Water Board staff have not identified elevated concentrations of chemical constituents that appear to have been caused by injection of produced waters. We are requiring additional groundwater sampling by injection well operators in areas that show potential risk to water supply wells.

On March 9, 2015, the US EPA agreed to a compliance plan jointly submitted by the Division and the State Water Resources Control Board for the state's UIC program. This plan included a compliance schedule, prioritization and criteria utilized for injection well reviews, and criteria for triggering the closure of an injection well. All aspects of this plan were developed as a result of extensive discussions and collaboration with US EPA. With respect to the approximately 2,500 injection wells that are under review at the Division and the State Water Resources Control Board, it is critical to not treat them uniformly, but rather evaluate them more precisely based on their individual characteristics. For example, approximately 80 percent of these wells have been identified as injecting into water that naturally contains oil-related compounds (i.e. hydrocarbon producing zones). Groundwater within hydrocarbon producing zones may not be suitable for drinking water or other beneficial uses. Because of that, these injection zones (aquifers) are candidates for exemption from the Safe Drinking Water Act.

The remaining injection wells that are disposing wastewater into non-hydrocarbon producing zones are being reviewed on a priority basis. One category of these disposal wells are those injecting into non-hydrocarbon-producing zones with 3,000 to 10,000 milligrams per liter of total dissolved solid (TDS). In certain cases, this water can be suitable for agricultural and other beneficial uses, but we are not aware of any instances where this water has been deemed suitable for drinking purposes in the state. There are 356 wells in this category and in some cases, the aquifers into which injection is taking place may contain hydrocarbons. These are high priority wells, after those in areas that are potentially impacting water supply wells as explained below.

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| | <p><i>The wells that have received immediate review and action by the State are those disposing produced water into non-hydrocarbon-producing zones with water quality of less than 3000 TDS. As part of that review, the Division and the State Water Board have identified 176 injection wells that fall into this category. The agencies have almost completed the review of these wells and, to date, have taken actions to shut in 23 injection wells and have issued orders requesting information from the operators on aquifer water quality and injected fluid characteristics. The prioritization of the well reviews and the criteria being used to determine shutting down injection wells is the result of focused collaboration among US EPA, the Division and the Water Board. This review process will continue to ensure that additional shut downs of injection wells occur as soon as an unacceptable risk is identified.</i></p> <p><i>This rulemaking is in addition to the ongoing well review and one-by-one closure of injection wells, and the purpose of this rulemaking action is to bring all injection operations in compliance with the Safe Drinking Water Act in an efficient manner. The wells injecting into non-exempt USDW aquifers were approved by the State, and administrative action is required to reverse those approvals. This rulemaking will unwind approvals on a statewide basis by dates certain, and will impose maximum civil penalties for injection after those dates.</i></p> <p><i>Compliance schedules are routinely used by all sorts of regulators, and are a legitimate exercise of prosecutorial discretion. The compliance schedule that US EPA approved and directed the Division to follow prioritizes protection of the state’s groundwater resources while avoiding unnecessary disruption of operations where there is no apparent threat to groundwater that might reasonably be expected to be a source of drinking water. In conjunction with the ongoing well review and immediate closure of injection wells that pose even a potential threat to public safety, the compliance schedule will effectively and efficiently meet federal and state mandates to protect groundwater resources.</i></p> <p><i>Although commenters believe that the compliance schedule is not aggressive enough, invalidation of this rulemaking action would not bring us closer to achieving compliance with the Safe Drinking Water Act. Without the use of rulemaking, the Division would have to use individual enforcement orders to unwind existing approvals and achieve compliance. Adjudication of enforcement orders takes time and resources, and, given the number of wells in question, it would be a substantial undertaking for the Division to achieve statewide compliance without the use of rulemaking. Without this rulemaking, it would likely take longer, and would certainly require greater State resources, to completely unwind all State-approved injection into non-exempt USDW aquifers.</i></p> |
| | <p>0335-2, 0336 Injection permits issued by DOGGR may only be modified, revoked and reissued, or terminated in accordance with the specific reasons set forth in</p> |

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| | <p>title 40 of the Code of Federal Regulations, sections 144.39 or 144.40. (See 40 C.F.R. §§ 122.5, subd. (d)(1); 124.5, subd. (a); 144.39; 144.40; 145.11.) The proposed regulations put into place a process that could result in the termination of hundreds, if not thousands, of existing injection permits. Yet, the proposed regulations do not require that DOGGR make any of the specific findings required by the federal regulations prior to the issuance of orders terminating the activities authorized by the existing injection permits. DOGGR may not terminate any of the injection permits without making a determination that one of the required causes exist for termination, as provided by the federal regulations. DOGGR’s obligation to make these determinations is not affected by the fact that an aquifer may not have received an aquifer exemption from EPA. Even assuming that DOGGR failed to properly obtain EPA authorization for the exemption of certain aquifers, DOGGR cannot now simply terminate existing injection permits without following the proper procedural safeguards guaranteed to the permit-holders and making the required substantive findings.</p> |
| | <p>Response to comments 0335-2, 0336: Rejected.</p> <p>The underlying legal premise of this comment is flawed. The federal regulations referenced in the comment do not apply to California’s UIC program for Class II injection wells.</p> <p>The United States granted California primacy to enforce the Safe Drinking Water Act through its State UIC program pursuant to section 1425 of the Act, codified at section 300h-4 of title 42 of the United States Code. Section 1425, added to the Safe Drinking Water Act in 1980, created a simplified alternative to the original method for approving state program primacy over Class II injection wells, which appears in section 1422 of the Safe Drinking Water Act.(42 U.S.C. § 300h-1.)</p> <p>Under section 1425 primacy, in lieu of satisfying all the specific requirements set forth in federal UIC statutes and regulations applicable under the original section 1422 procedures, a state may instead qualify for Class II primacy approval by demonstrating that its existing state laws and regulations are adequate to effectively carry out the Safe Drinking Water Act’s objective—i.e., to prevent underground injection which endangers drinking water sources. (See 42 U.S.C. § 300h-4, subds. (a) and (c); cf. 42 U.S.C. § 300h-1, subd. (b).)</p> <p>Thus, while federal law provides some of the criteria that the Department uses to enforce California’s UIC program, such as the definition of an underground source of drinking water, because California obtained primacy authority under section 1425 and not section 1422, the federal regulations describing procedures for modifying and terminating injection permits do not apply to California’s UIC program. These federal regulations apply only to state programs approved under section 1422, or to programs administered directly by the U.S. EPA. (See 40 C.F.R. §§ 144.1 [explaining that regulations under part 144 describe requirements to</p> |

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| | <p>obtain section 1422 primacy as further set forth in part 145]; 145.1 [specifying that regulations under part 145, including numerous requirements made applicable to states via cross-reference in section 145.11, apply to section 1422 programs]; 145.11 [making applicable to section 1422 programs numerous federal regulations, including permitting procedures set forth in 40 C.F.R. §§ 124.5, 144.39, and 144.40].) The comment’s reference to 40 C.F.R. § 122.5, subd. (d)(1) does not appear to be a valid citation. Section 122.5 does not contain a subdivision (d)(1).</p> |
| | <p>0335-5, 0336 <i>Section 1760.1, subdivision (a)(2) & Section 1779.1, subdivision (a)</i> The definition of “aquifer exemption” must be applied consistently with existing facts and law. This definition must recognize the many prior representations made by DOGGR and federal agencies, such as U.S. EPA and U.S. Department of Energy.</p> |
| | <p>Response to comments 0335-5, 0336: Rejected.</p> <p>Section 1760.1, subdivision (a)(2), of the proposed regulations defines the term “aquifer exemption” as follows: “‘Aquifer exemption’ means an aquifer exemption proposed by the Division and approved pursuant to the Code of Federal Regulations, title 40, section 144.7.” This definition is consistent with applicable facts and law.</p> |
| | <p>0335-6 <i>Section 1779.1, subdivision (b)</i> This section includes the requirement that U.S. EPA must make an exemption determination “subsequent to April 20, 2015” for the 11 aquifers listed in section 1779.1, subdivision (b)(1). By inserting an arbitrary date into the regulations, without any legitimate rationale or explanation of the meaning or origin of this date, DOGGR has acted in an arbitrary and capricious manner. Neither DOGGR nor the U.S. EPA can simply jettison and ignore prior exemption determinations that they made just because such prior decisions may no longer suit their purposes.</p> |
| | <p>Response to comment 0335-6: Rejected.</p> <p>The April 20, 2015 date is not arbitrary. April 20, 2015 is the date that the Aquifer Exemption Compliance Schedule regulations were adopted as emergency regulations. The inclusion of this date is necessary to clarify the requirement for a contemporary exemption determination regarding each of the aquifers listed under subdivision (b)(1).</p> <p>Further, the proposed regulations do not “jettison” prior exemption determinations. Under the federal Safe Drinking Water Act and the California UIC program implementing the objectives of the Act within this state, the determination as to whether an aquifer may or may not be exempted ultimately rests with US EPA. As explained in the Initial Statement of Reasons, US EPA has now determined that the eleven</p> |

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| | <p>aquifers referenced in section 1779.1, subdivision (b)(1) of the proposed regulations may never have been exempted, notwithstanding historical practice to the contrary. Accordingly, US EPA has directed that it and California state agencies, including the Division, must reevaluate these aquifers to ascertain whether they are appropriate to receive ongoing injection. To the extent that there exists identifiable information supporting a prior evaluation of these aquifers for exemption, the Division will consider that information as part of its reevaluation.</p> |
| | <p>0335-7, 0336 <i>Section 1779.1, subdivision (c)</i> This language is inconsistent with U.S. EPA's limited grant of primacy to DOGGR to administer the UIC Program and with the federal law that grants to permit-holders substantial protections against the arbitrary exercise of power by agency decision-makers.</p> |
| | <p>Response to comments 0335-7, 0336: Rejected.</p> <p>The language in the referenced subdivision of the proposed regulations is consistent with the Department's authority to administer California's UIC program for Class II injection wells.</p> <p>The language at section 1779.1, subdivision (c) of the proposed regulations is intended to clarify that the compliance schedule provisions do not alter the Department's existing authority to approve underground injection projects, to rescind approvals for underground injection projects, or to restrict approvals for underground injection projects. It is not, and does not purport to be, an expansion of the Department's authority. Likewise, it is not, and does not purport to be, a license for arbitrary exercise of authority.</p> <p>This language is consistent with the primacy authority entrusted to the Department. The United States granted California primacy to enforce the Safe Drinking Water Act through its State UIC program pursuant to section 1425 of the Act, codified at section 300h-4 of title 42 of the United States Code. Section 1425, added to the Safe Drinking Water Act in 1980, created a simplified alternative to the original method for approving state program primacy over Class II injection wells, which appears in section 1422 of the Safe Drinking Water Act.(42 U.S.C. § 300h-1.)</p> <p>Under section 1425 primacy, in lieu of satisfying all the specific requirements set forth in federal UIC statutes and regulations applicable under the original section 1422 procedures, a state may instead qualify for Class II primacy approval by demonstrating that its existing state laws and regulations are adequate to effectively carry out the Safe Drinking Water Act's objective—i.e., to prevent underground injection which endangers drinking water sources. (See 42 U.S.C. § 300h-4, subs. (a) and (c); cf. 42 U.S.C. § 300h-1, subd. (b).)</p> |

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| | <p>Thus, while federal law provides some of the criteria that the Department uses to enforce California’s UIC program, such as the definition of an underground source of drinking water, because California obtained primacy authority under section 1425 and not section 1422, federal regulations such as those describing specific procedures for modifying and terminating injection permits do not apply to California’s UIC program. The procedures for approval of underground injection projects, rescinding approval of underground injection projects, or restricting approval of underground injection projects are defined by the state laws and regulations that comprise California’s UIC program.</p> |
| | <p>0366-4 Is California actually living up to the agreement with EPA? An independent attorney should compare what's being proposed now versus what was agreed to in 1982.</p> |
| | <p>Response to comment 0366-4: Rejected.</p> <p>As explained in the Initial Statement of Reasons, US EPA directed the Division to take various corrective actions to bring the State UIC program into compliance with the objectives of the federal Safe Drinking Water Act and the memorandum of agreement underlying the State UIC program. The Division worked closely with US EPA to develop the proposed regulations so that they would serve to satisfy the corrective actions deemed necessary by US EPA. Indeed, as reflected in the correspondence listed among the “Documents Relied Upon” in the Initial Statement of Reasons, US EPA has expressly instructed the Division to implement the proposed regulations as part of its corrective actions.</p> |
| | <p>CEQA</p> |
| | <p>0330-4 There is nothing in CEQA that exempts actions taken under the Administrative Procedures Act from compliance with CEQA.</p> |
| | <p>0330-5 The permanent regulations, because they are permanent, must undergo CEQA review. Allowing continued injection of oil field waste and chemicals for enhanced oil recovery into non-exempt aquifers may have an adverse impact on underground sources of drinking water.</p> |
| | <p>0330-6 Because there is a fair argument from the record that the injection wells may have a significant impact on the environment, the Department is required to prepare and circulate for public comment an EIR to support its decision prior to approving the permanent regulations.</p> |
| | <p>0335-4, 0336</p> |

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| | <p>By imposing deadlines for the cessation of certain underground injection activities, including enhanced oil recovery operations, the proposed regulations will likely result in the implementation of alternative methods for disposing produced water and a potential reduction in oil production within the state. These foreseeable changes have the potential of causing potentially significant environmental effects for which further environmental study may be required. Generally, an EIR must be prepared whenever “there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment” The adoption of the Schedule Regulations is a “project” within the meaning of CEQA. DOGGR should , at the very least, conduct an initial study.</p> |
| | <p>0366-1 No effective CEQA compliance was undertaken from 1982-2015. There should be documentation of CEQA compliance.</p> |
| | <p>0334-9 The Proposed Regulations constitute a project under the California Environmental Quality Act (CEQA), thereby triggering environmental review requirements under the Act. The Proposed Regulations do not meet any of the “emergency” criteria defined under CEQA for exemption purposes. Therefore, environmental review under CEQA of DOGGR’s proposed action must be performed in order to disclose to the public the significant adverse environmental impacts of the Proposed Regulations, to identify feasible alternatives and to identify mitigation measures for resulting impacts. Without such environmental review, the regulations cannot be approved by OAL.</p> |
| | <p>Response to comments 0330-4, 0330-5, 0330-6, 0334-9, 0335-4, 0336, 0366-1:</p> <p>The Division of Oil, Gas, and Geothermal Resources (Division) is dedicated to the protection of underground aquifers and the transparent and consistent enforcement of its Underground Injection Control (UIC) program as required by the Safe Drinking Water Act and Primacy Agreement with the U.S. Environmental Protection Agency (EPA). It further takes seriously its responsibilities under the California Environmental Quality Act (CEQA) as stated below.</p> <p>CEQA requires state and local agencies to prepare an environmental impact report when it can be “fairly argued” that a “project” may have a significant impact on the environment. (Pub. Res. Code, § 21100, subd. (a); Cal. Code Regs. tit. 14, § 15003, subd. (a); <i>No Oil, Inc. v. City of Los Angeles</i> (1974) 13 Cal.3d 68, 75; <i>Friends of “B” Street v. City of Hayward</i> (1st Dist. 1980) 106 Cal.App.3d 988, 1001.) The Division acknowledges that the proposed permanent regulations constitute a “project” under CEQA. (See Pub. Res. Code, § 21065.) However, certain “categories” of</p> |

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| | <p>projects are excluded from CEQA analysis. The proposed regulations fall within two such categories designating them exempt from CEQA review. First, the proposed regulations fall within a Class 7 categorical exemption. This exemption applies to actions taken by regulatory agencies as authorized by state and local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. (Cal. Code Regs. tit. 14, § 15307.) The purpose of the proposed regulations is to protect groundwater aquifers that may be suitable for drinking water or irrigation from endangerment caused by the injection of Class II fluids. The proposed regulations would implement a corrective action plain developed through inter-agency coordination with the Division, U.S. EPA, and State Water Resources Control Board to assure the maintenance, restoration, or enhancement of California’s underground aquifers that qualify as underground sources of drinking water – a natural resource. Second, the proposed regulations also fit within a Class 21 categorical exemption. This exemption applies to actions taken by regulatory agencies for “enforcement of law, general rule, standard, or objective, administered or adopted by the regulatory agency.” (Cal. Code Regs. tit. 14, § 15321, subd. (a).) Such actions may include, but are not limited to, the adoption of an administrative decision “enforcing the general rule, standard, or objective” in relation to a “lease, permit, license, certificate, or entitlement for use.” (Cal. Code Regs. tit. 14, § 15321, subd. (a)(2).) Based on the federal Safe Drinking Water Act and Primacy Agreement between the Division and the U.S. EPA, the Division will require an aquifer exemption to be in place prior to injection into aquifers that qualify as underground sources of drinking water. However, a review of the Division’s administration of the State UIC program revealed that, in the past, the Division permitted Class II injection wells into aquifers that were not exempt, which violates the State UIC program.</p> <p>The proposed regulations will enforce a U.S. EPA-approved compliance schedule that prioritizes action and administrative resources on those underground sources of drinking water having the greatest quality and potential to serve as drinking or irrigation water. The regulations also codify the pre-existing requirements of the Safe Drinking Water Act in a transparent, consistent, efficient and permanent manner, rather than through individual enforcement orders as the Division had in the past. In so doing, the Division is applying its regulatory authority to enforce a general standard of the State UIC program.</p> |
| | <p>Response to comment 0334-9:</p> <p>The proposed regulations are permanent, not emergency, regulations. No exemption for emergency provisions under CEQA is asserted by the Division.</p> |
| | <p>CONTAMINATION OF CURRENTLY USED WATER SUPPLIES</p> |

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| | <p>0333-1 The improperly-approved injections are causing damage to farms and crops. The economic impacts on farmers have not been considered.</p> |
| | <p>0333-2 Continued injections risk further damage to the reputation of farm products from the State.</p> |
| | <p>0333-8 Commenter is concerned about the presence of potentially hazardous chemicals in Class II injection fluids. Commenter is further concerned that the proposed cessation schedule places current and potential sources of drinking water at risk for being destroyed because it allows operators to continue to inject Class II waste into "non-exempt aquifers."</p> |
| | <p>Response to comments 0333-1, 0333-2, 0333-8:</p> <p>The Division appreciates and shares the commenters' concerns for the protection of our state's groundwater resources. We take very seriously any practices that undermine our efforts to achieve that goal. Where necessary to protect life, health, property, and natural resources, the Division has taken, and will continue to take, decisive action, including ordering the immediate shut-in of wells.</p> <p>In June of 2014, the Division assembled an interagency team, including representatives from the State Water Resources Control Board and the US EPA, to assess the scope of the problems related to the management of the State UIC program and to address any potential risk to public health and the state's groundwater supplies.</p> <p>The initial response of the interagency team included immediately shutting down several injection wells identified as the most likely to present a risk of contamination to groundwater sources currently used for domestic or irrigation purposes.</p> <p>Subsequently, the interagency team pursued a two-prong effort: (1) initiate a systematic review of injection wells to identify and prioritize for targeted immediate administrative action any wells presenting a cause for elevated concern, and; (2) develop a set of regulatory corrective actions to address on a statewide basis the issue of injection into non-exempt areas with potential use as a source of drinking water.</p> <p>The review process that constitutes the first prong of the interagency effort has included analyzing water quality in the injection zones, and evaluating the potential for contamination of existing water supply wells. Thus far, analyses of groundwater samples collected from water supply wells have not identified any elevated concentrations of chemical constituents that appear to have been caused by injection activities. Nonetheless, the</p> |

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| | <p>Division and the Central Valley Regional Water Board have required additional groundwater sampling by injection well operators in areas that show potential risk to water supply wells, and the Division has ordered or otherwise compelled the immediate shut in of several additional wells specifically identified as presenting a potential risk to public health or environmental safety.</p> <p>The proposed regulations represent the second prong of the interagency effort. All aspects of the compliance schedule set forth in the proposed regulations were developed as a result of extensive discussions and collaboration with the State Water Resources Control Board and the US EPA.</p> |
| | <p>0331-3 The compliance plan developed by DOGGR and USEPA includes general requirements to assess any impacts and threats to drinking water, but the proposed regulations fail to formalize these actions or provide detailed steps as to how this assessment will occur. The proposed regulations must include a detailed process for assessing and responding to any contamination, and notifying any potentially affected water users.</p> |
| | <p>0333-3 The proposed regulations describe three categories of wells/aquifers, based upon the presence of hydrocarbons in the receiving aquifer, and the quality of the water in the receiving aquifer, as measured by total dissolved solids. These factors are inadequate to assure there are no risks associated with injection. The Division should halt injection activity into non-exempt aquifers until a particularized study of aquifer characteristics has been completed, including factors such as size, chemicals present, plume dynamics, etc.</p> |
| | <p>Response to comments 0331-3, 0333-3: Rejected.</p> <p>The Division believes the categories described in the proposed regulations are appropriate factors for prioritization of the compliance schedule. As described in the Initial Statement of Reasons, federal regulations supporting the Safe Drinking Water Act broadly define underground sources of drinking water based upon a total dissolved solids threshold. Those same federal regulations also identify total dissolved solids content and the presence of hydrocarbons as primary factors that will qualify an underground source of drinking water for an exemption. Thus, consideration of total dissolved solids content and the presence of hydrocarbons enables prioritization so as to halt injection first where the receiving aquifers are most likely to be suitable for domestic or irrigation purposes, and where the receiving aquifer is least likely to qualify for an exemption based upon the presence of hydrocarbons.</p> <p>The Division is committed to supervising oil and gas operations within the state so as to prevent damage to life, health, property, and natural</p> |

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| | <p>resources. Section 1799.1, subdivision (c) of the proposed regulations expressly reaffirms the Department’s authority to regulate injection activity during the pendency of the compliance schedule deadlines. This includes the authority to immediately halt, by administrative order, any injection activity determined to pose a potential risk to current water supply wells. As noted in the Initial Statement of Reasons, the compliance schedule contained in the proposed regulations will operate alongside the Division’s ongoing review of wells and individualized enforcement actions. The Division believes this mix of regulation and administrative orders is the most efficient and effective approach to managing the risk posed by improperly permitted injection wells. As part of its ongoing review of the UIC program, in 2014 the Department issued several emergency orders to halt injection, and it will continue to do so when appropriate.</p> <p>A more complex analysis of particular aquifer characteristics, such as the comments suggests, will be included as part of the review for any proposal for Safe Drinking Water Act exemption of an underground source of drinking water. As described in Public Resources Code section 3131, the California component of approval of exemption proposals is a several-stage process, involving review by the Division, the State Water Board, and regional water quality control boards, with an opportunity for public comment on any exemption proposal strongly considered for approval, all prior to the final approval determination to be made by the United States Environmental Protection Agency.</p> |
| | CRITERIA FOR PROTECTION OF DRINKING WATER |
| | <p>0020-5 Commenter concern that protection is limited to only aquifers large enough to qualify as a public water system.</p> |
| | <p>0331-2 The decision to grant exemptions will be based on the aquifer exemption criteria under the federal UIC program regulations. These regulations were written more than 30 years ago and are outdated and inadequate to protect usable groundwater.</p> |
| | <p>0334-10, 0366-5, 0377-3 The 10,000 TDS threshold for classification as potential source of drinking water is outdated and too low. The technology for removing contaminants, including desalination, has become more cost-effective. As a result, has become easier and more practical use water with a higher TDS for consumptive purposes.</p> |
| | <p>Response to comments 0020-5, 0331-2, 0334-10, 0366-5, 0377-3: Rejected.</p> |

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| | <p>For purposes of the federal Safe Drinking Water Act, the classification of “underground source of drinking water,” or USDW, is defined by federal law. Code of Federal Regulations, title 40, part 143.3 states that “underground source of drinking water” means an aquifer or its portion:</p> <p>(a)</p> <ul style="list-style-type: none"> (1) Which supplies any public water system; or (2) Which contains a sufficient quantity of groundwater to supply a public water system; and <ul style="list-style-type: none"> (i) Currently supplies drinking water for human consumption; or (ii) Contains fewer than 10,000 mg/l total dissolved solids; and <p>(b) Which is not an exempted aquifer.</p> <p>The Division does not have authority to revise federal regulations. Development of an alternative, more stringent state definition goes beyond the scope of the proposed regulations. However, the commenters’ observation regarding changing technology and circumstances is well-taken. The Division agrees that revisiting the criteria for classification of groundwater as “drinking water” or otherwise a potential source of supply for human consumption may be an appropriate topic for state or federal agencies to consider in future rulemaking actions.</p> <p>The state-level review of aquifer exemption proposals undertaken by the Division, the State Water Resources Control Board, and regional water quality control boards is not strictly limited to the federal criteria defining an underground source of drinking water. Rather, as described in Public Resources Code section 3131, subdivision (a)(2), this state-level review considers the potential for injection fluids to affect the quality of waters that are used, or reasonably may be used, for any beneficial use.</p> |
| | PUBLIC HEARING PROCEDURES |
| | <p>0020-4, 0378-1 The comment period is too short. Public hearing locations should be in a major populated center. Apparently this was done to limit comments by holding hearing in Bakersfield and Santa Maria.</p> |
| | <p>0366-2 Hearing did not have English/Spanish translation or translation of meeting materials.</p> |
| | <p>0368-2, 0375-1, 0377-2 It doesn't seem like a very diligent attempt was made to get people to come or to hold the meeting in a place where there might be more people that would turn out.</p> |
| | Response to comments on Public Hearing Procedures: |

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| | <p>The timing and content of all notices, length of comment period, and number of public hearings conformed to the requirements of the Administrative Procedures Act.</p> <p>The Department published the Notice of Proposed Rulemaking Action (Notice) in the California Regulatory Notice Register on May 29, 2015. The Department also posted a copy of the Notice on its website, and mailed a copy of the Notice to all persons who either expressed an interest in the topic by signing up for the DOGGR UIC Regulations Information mailing list, or were otherwise identified as likely to be interested in the topic.</p> <p>Following publication of the Notice, the Department provided a 45 day time period for the public to submit written comments on the proposed regulations. This time period was then followed by two public hearings during which the Department accepted additional comments; one in Bakersfield on July 15, 2015, and one in Santa Maria on July 16, 2015. The Department selected these hearing locations based on proximity to communities near oil and gas operations that would be most affected by the proposed regulations.</p> <p>Although the California law does not require the provision of translation services at public hearings for proposed rulemaking actions, the Department nonetheless made special attempts to accommodate such needs. Regarding the availability of translation services, the Notice included the following statement, in both English and Spanish: “Services, such as translation between English and other languages, may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the hearing by calling the staff person referenced in this notice.” The Department received no requests for translation services at the hearings. Nonetheless, copies of a one-page informational sheet in Spanish were available to Spanish speakers at each of the hearings.</p> |
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| | AQUIFER EXEMPTION REVIEW PROCESS |
| | <p>0020-6 More information about what constitutes the criteria for exemption should be supplied.</p> |
| | <p>Response to comment 0020-6: Rejected.</p> <p>In March of 2015, the Division, the State Water Resources Control Board, and the US EPA conducted joint information workshops about the aquifer exemption process in Bakersfield and the L.A. Basin. These workshops</p> |

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| | <p>were intended to provide a brief history of the State's primacy delegation from US EPA, as well as an outline of the data requirements and process for requesting an aquifer exemption under the Safe Drinking Water Act. All three agencies provided short presentations regarding their specific role, and were available to answer general questions about the aquifer exemption application process. Slides from each of the three presentations are available on the Division's website, as well as a variety of additional information pertaining to applications for aquifer exemptions.</p> |
| | <p>0332-3 To prevent a breakdown of the regulatory process (and the effective shutdown of AE application processing), the proposed regulations must set deadlines for DOGGR to follow when reviewing and processing an AE application.</p> |
| | <p>0365-1 In order to achieve the deadlines set forth in the proposed regulations, the pace of processing exemptions must increase significantly. The lack of clear decision-making criteria leads to repeated requests for additional information, inefficiencies, indecision, and lengthy delays in the processing of applications. Commenters are concerned that the review process will collapse under its own weight.</p> |
| | <p>0365-2 To alleviate the risk of harm that would result from <i>de facto</i> denial of an aquifer exemption application simply because time has run out for agencies to complete their review, it is suggested that each of the deadlines in the proposed compliance schedule regulations be qualified by the phrase "or such later date as EPA may specify in writing."</p> |
| | <p>Response to comments 0332-3, 0365-1, 0365-2: Rejected.</p> <p>The Division fully intends to review proposals for aquifer exemption with all deliberate speed. The Division understands that the deadlines in the proposed regulations create the potential for compulsory cessation of injection activities during the pendency of an application for an aquifer exemption. To avoid that scenario, it is imperative that the operators of affected injection wells act promptly to provide the Division with all information necessary to support an exemption application. For any given application, the better the support for an exemption provided by the operator, the faster the reviewing agencies will be able to reach a determination. The Division believes the deadlines in the proposed regulations are achievable, and that they appropriately place the onus for action on operators who desire to engage in injection activities.</p> <p>Further, limiting the timeframe for the Division's review of an aquifer exemption application would not improve the quality of the review, or even likely produce a faster exemption determination. Approval of an aquifer exemption application is a multi-agency process, and the final decision</p> |

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| | ultimately rests with the US EPA. Constraining the time allowed for the Division's share of the review likely would only serve to correspondingly lengthen and complicate the concurrent reviews by the State Water Resources Control Board and regional water quality control boards, as well as the final review and ultimate determination to be made by US EPA. |
| | COMMENTS EXPRESSING GENERAL CONCERN |
| | <p>0002-2, 0004-1, 0010-2, 0015-1, 0019-1, 0020-7, 0023-1, 0024-1, 0025-2, 0026-1, 0027-2, 0028-2, 0031-1, 0031-2, 0031-3, 0032-2, 0036-1, 0040-3, 0043-1, 0044-2, 0049-2, 0054-1, 0063-2, 0065-2, 0072-2, 0076-2, 0081-2, 0088-2, 0094-2, 0099-2, 0101-2, 0103-2, 0105-2, 0120-2, 0132-1, 0133-1, 0150-2, 0153-2, 0154-2, 0155-2, 0156-2, 0157-1, 0158-2, 0159-2, 0160-2, 0161-2, 0162-1, 0164-2, 0166-2, 0170-2, 0171-2, 0172-2, 0173-2, 0184-1, 0185-1, 0189-2, 0192-2, 0193-2, 0194-1, 0196-2, 0197-1, 0211-2, 0225-2, 0231-2, 0244-2, 0246-1, 0254-1, 0259-2, 0260-2, 0266-2, 0275-2, 0277-1, 0277-2, 0280-2, 0291-1, 0297-1, 0303-1, 0311-1, 0317-2, 0319-4, 0320-1, 0322-1, 0328-2, 0341-1, 0342-1, 0348-2, 0350-1, 0351-2, 0352-2, 0356-1, 0357-2, 0358-1, 0360-1, 0367-1, 0369-1, 0372-1</p> <p>The Department received numerous comments which were not specifically directed at the proposed regulations or the rulemaking procedures followed, but rather expressed, in a general fashion, concerns regarding the importance of safe drinking water and a desire for the Division to safeguard drinking water supplies.</p> |
| | <p>0020-1, 0037-2, 0106-2, 0152-2, 0165-2, 0163-2, 0233-2, 0284-2, 0269-2, 0321-1, 0324-1, 0334-9, 0334-10, 0349-1, 0354-2, 0355-1, 0355-3, 0370-2, 0373-1, 0374-1, 0376-1</p> <p>The Department received numerous comments which were not specifically directed at the proposed regulations or the rulemaking procedures followed, but rather expressed a general disapproval of government oversight of oil and gas industry operations as too lenient.</p> |
| | <p>0174-1, 0176-1, 0177-1, 0178-1, 0180-1, 0181-1, 0182-1, 0183-1, 0202-1, 0203-1</p> <p>The Department received numerous comments in the form of drawings that were not specifically directed at the proposed regulations or the rulemaking procedures followed, but rather expressed general concerns regarding the importance of clean water and the risks associated with oil and gas production.</p> |
| | <p>Response to Comments Expressing General Concern:</p> <p>Thank you for your comments. The Division appreciates and shares the commenters' concerns for the protection of our state's groundwater resources. We take very seriously any practices that undermine our efforts to achieve that goal. The Division hopes the commenters will continue to</p> |

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| | take an interest in state governance, and seek out opportunities to apply that interest in a productive fashion. |
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| | FRACKING |
| | 0018-1 Energy companies need transparency, accountability, and regulation for the damage to aquifers. Then maybe stability will ensure rules and stop injections to protect the environment from impacts. Frac-steam injection wells go unmonitored to save money. |
| | 0104-2, 0179-1, 0189-3, 0228-1, 0293-1, 0295-1, 0295-2, 0298-1, 0300-1, 0302-1, 0302-2, 0308-1, 0308-2, 0310-1, 0318-1, 0318-2, 0327-1, 0327-2, Ban/stop fracking in California. |
| | 0319-3 Fracking can never be completely safe because it is so difficult to determine the patterns of water as it seeps through all the large and tiny cracks in our aquifers. |
| | 0303-1, 0357-2 Do something about fracking and polluting aquifers. |
| | 0352-2, Fracking poses threats to health and the environment. |
| | Response to comments regarding Fracking: The proposed regulations do not pertain to hydraulic fracturing. Damage to aquifers and hydraulic fracturing are beyond the scope of this rulemaking. |
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| | OTHER |
| | 0019-1, 0020-9, 0021-1, 0022-1, 0151-2, 0292-1, 0274-1, 0338-1 The Department received numerous comments which were not specifically directed at the proposed regulations or the rulemaking procedures followed, but rather addressed assorted unrelated topics. |
| | Response to comments regarding "Other": Thank you for your comments. |
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