




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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MEMORANDUM

OFFICE OF
WATER

SUBJECT: Clarification of Status of Individual or Single Family Waste Disposal Systems Regulatory Exclusion

FROM: 
Stephen F. Heare, Director
Drinking Water Protection Division

TO: Underground Injection Control Program Regional Managers I-X

EPA's Underground Injection Control (UIC) program has received requests for clarification regarding the scope of the regulatory exclusion for "individual or single family residential waste disposal systems such as domestic cesspools or septic systems" in 40 Code of Regulations (CFR) 144.1(g)(2)(ii). The purpose of this memorandum is to provide clarification on this exclusion and to promote consistency among regions in implementing the UIC regulations.

Section 1421(d)(1) of the Safe Drinking Water Act (SDWA) defines underground injection as "the subsurface emplacement of fluids by well injection". While this definition appears to be broad enough to cover individual or residential waste disposal systems, the legislative history of SDWA indicates that Congress did not intend EPA to regulate septic systems or other residential waste disposal systems at individual or single family homes. House Committee Report No. 93-1185, (10 July 1974) states:

"While the Committee does not intend this definition to apply to septic tanks or other individual residential waste disposal systems, it does intend that the definition apply to a multiple dwelling, community, or regional system of injection of waste".

Based on this legislative history, EPA established the specific exclusion from the UIC regulations for individual or single-family residential waste disposal systems and cited "domestic cesspools or septic systems" as examples. While EPA's regulation and the Congressional intent are clear regarding septic systems at individual or single-family residences, the scope of the exclusion for "other individual residential waste disposal systems" is not entirely clear.

EPA believes that individual or single-family waste disposal systems excluded under 144.1(g)(2)(ii) include wells that accept residential waste from one individual or single-family residence. Such residential waste disposal wells at an individual or single family

residence include (1) heat pump and /air conditioning return flow wells (2) geothermal wells, (3) residential storm water drainage wells, and (4) residential swimming pool drainage wells as long as the waste disposal systems serve only one individual or single family residence.

This exclusion does not apply to multiple-family residential waste disposal systems such as septic systems or cesspools, regardless of the number of people served by such systems. Multiple family residential waste disposal systems are specifically included by EPA's UIC regulations regardless of the number of people served by the system. See 40 CFR 144.1(g)(1)(iv)). Nor does the exclusion apply to any storm water drainage well that receives offsite runoff, or runoff from multiple residences.

In addition, this exclusion does not apply to injection at individual or single-family homes if the waste disposal system is associated with a home-based business activity such as a beauty salon, mortuary, auto repair shop, taxidermy service, medical or dental care facility, or furniture refinishing service. If such businesses are carried out in a residential setting and wastes from those businesses are discharged to a septic system or other underground injection well, the UIC regulations would apply.

EPA understands that there may be other individual residential waste disposal systems covered by the scope of this exclusion. This memorandum attempts to clarify the scope of the regulatory exclusion rather than identify an all inclusive list.

EPA recognizes that there is the potential for individual or single-family septic systems and other types of individual or single-family residential waste disposal systems to affect an underground source of drinking water (USDW), particularly if the systems are not properly operated or maintained by homeowners. Given the legislative history of SDWA however, EPA believes it would not be appropriate for the agency to regulate individual or single-family residential waste disposal systems. State and local authorities often regulate the installation, operation and maintenance of these systems and they are responsible for preventing and addressing any problems that may arise.

EPA Regions are still encouraged to provide state and local authorities with technical assistance to address the potential contamination of USDWs as a result of individual or single-family waste disposal systems. In the event that such systems cause an "imminent and substantial endangerment to the health of persons" and the "appropriate State and local authorities have not acted to protect the health of such persons," EPA may take action to address the problem (see SDWA Section 1431).