

**WAC 173-218-090 Specific requirements for Class V wells to meet the nonendangerment standard.** Specific requirements for Class V wells are organized by wells that are used for stormwater management and wells that are used for other purposes. This section does not apply to the Class V wells in WAC 173-218-100.

(1) **New** Class V UIC wells used for **stormwater management** must:

(a) Meet additional groundwater protection area requirements as determined by other state laws or by local ordinances;

(b) Not directly discharge into groundwater. A separation between the bottom of the well and the top of the groundwater is required. The treatment capacity of the unsaturated zone or the zone where the fluid is discharged, and the pollutant loading of the discharge must be considered when determining the vertical separation; and

(c) The owner or operator of a new Class V well used to manage stormwater must meet the nonendangerment standard as defined under WAC 173-218-080. The owner or operator of a new Class V well must show compliance with the nonendangerment standard prior to placing a new well into service. Compliance with the nonendangerment standard may be met through one or a combination of the following two approaches:

(i) **Presumptive approach:** The presumptive approach means compliance with the nonendangerment standard is presumed, unless discharge monitoring data or other site specific information shows that a discharge causes or contributes to a violation of chapter 173-200 WAC Water quality standards for groundwaters of the state of Washington, when:

(A) The well activity is in compliance with this chapter; and either

(B) The well is designed and installed to the stormwater manual current at the time of construction and is operated in conformance with stormwater best management practices including the proper selection, implementation, and maintenance of all on-site pollution control using the current stormwater manual published by the department for your region or an equivalent department approved local manual.

(C) Owners or operators of municipal separate storm sewer systems regulated under section 1342(p) of the Federal Water Pollution Control Act which also own or operate Class V UIC wells may satisfy the presumptive approach by applying the stormwater management programs developed to comply with the Federal Water Pollution Control Act to their new UIC wells. For new UIC wells, construction phase and post-construction stormwater controls must be applied in accordance with applicable stormwater manuals.

(D) The presumptive approach may not be used when best management practices do not exist to remove or reduce a contaminant, the vadose zone has no treatment capacity and/or the stormwater quality is such that a best management practice does not exist to reduce or eliminate the concentration.

(ii) **Demonstrative approach:** The demonstrative approach means that the technical bases for the selection of stormwater best management practices are documented. The documentation must include:

(A) The method and reasons for choosing the stormwater best management practices selected;

(B) The pollutant removal performance expected from the practices selected;

(C) The technical basis supporting the performance claims for the practices selected, including any available existing data concerning field performance of the practices selected;

(D) An assessment of how the selected practices will satisfy the requirements of WAC 173-218-080 and chapter 173-200 WAC; and

(E) An assessment of how the selected practices will satisfy state requirements to use all known, available, and reasonable methods of prevention, control and treatment.

(2) **Existing** Class V UIC wells used for **stormwater management** do not have to meet the new well requirements. If the UIC wells are not already registered, the owner or operator must register the wells with the department and complete a well assessment. The following timelines must be met unless otherwise approved from the department:

(a) If you own or operate less than or equal to fifty wells:

(i) You have three years after the adoption date of this rule to register your UIC wells unless an extension has been approved by the department;

(ii) You have five years after the adoption date of this rule to complete a well assessment. The approach to conducting the well assessment will be determined by the owner. The well assessment evaluates the potential risks to groundwater from the use of UIC wells and includes information such as the land use around the well which may affect the quality of the discharge and whether the UIC well is located in a groundwater protection area. It may include the local geology, and depth of the groundwater in relation to the UIC well if the well is considered a high threat to groundwater. The well assessment requirements will be met if an owner or operator applies the stormwater best management practices contained in a guidance document approved by the department to their UIC wells and determines if the UIC well is located in a groundwater protection area;

(iii) Any well assessment that identifies a well as a high threat to groundwater must include a retrofit schedule; and

(iv) You must immediately take action to correct the use of a well that is determined to be an imminent public health hazard, for example when a drinking water supply is contaminated and causes a public health emergency. The department must be notified within thirty days from the determination and may determine a retrofit schedule. The department's enforcement procedure (see WAC 173-218-130) will be followed when a retrofit schedule is needed.

(b) If you own or operate more than fifty wells:

(i) You have five years after the adoption date of this rule to register your UIC wells unless an extension has been approved from the department;

(ii) You have seven years after the adoption date of this rule to complete a well assessment. The approach to conducting the well assessment will be determined by the owner. The well assessment evaluates the potential risks to groundwater from the use of UIC wells and includes information such as the land use around the well which may affect the quality of the discharge, and whether the UIC well is located in a groundwater protection area. It may include the local geology, and depth of the groundwater in relation to the UIC well if the well is considered a high threat to groundwater. The well assessment requirements will be met if an owner or operator applies the stormwater best management practices contained in a guidance document approved by the department to their UIC wells and determines if the UIC well is located in a groundwater protection area;

(iii) Any well assessment that identifies a well as a high threat to groundwater must include a retrofit schedule; and

(iv) You must immediately take action to correct the use of a well that is determined to be an imminent public health hazard, for

example when a drinking water supply is contaminated and causes a public health emergency. The department must be notified within thirty days from the determination and may establish a retrofit schedule. The department's enforcement procedure will be followed when a retrofit schedule is needed.

(c) If you own or operate a site that uses, stores, loads, or treats hazardous substances or is an industrial facility that has a Standard Industrial Classification as regulated by Federal Regulations, 40 C.F.R. Subpart 122.26 (b)(14) (excluding construction sites), you may use the following to satisfy the documentation requirements for meeting the nonendangerment standard:

(i) If the facility has or will have a waste water discharge permit issued pursuant to chapter 90.48 RCW, including a National Pollutant Discharge Elimination System (NPDES) permit, the associated stormwater pollution prevention plan may be used in place of the well assessment to meet the nonendangerment standard provided the stormwater pollution prevention plan specifically addresses stormwater discharges to UIC wells; or

(ii) For unpermitted facilities, the preparation and implementation of a stormwater pollution prevention plan can be used in place of the well assessment to meet the nonendangerment standard if applied to the UIC wells or documentation must be provided to show that the well does not pose a threat to groundwater. Examples of documentation include, but are not limited to, a site drainage map for the UIC wells or a no-exposure certification form completed for discharges to ground.

(d) Owners or operators of municipal separate storm sewer systems regulated under section 1342(p) of the federal Water Pollution Control Act which also own or operate Class V UIC wells may satisfy the nonendangerment standard by applying the stormwater management programs developed to comply with the federal Water Pollution Control Act to their UIC wells. For existing UIC wells receiving new sources of stormwater, construction phase and post-construction stormwater controls must be applied to all development and redevelopment projects in accordance with applicable stormwater manuals.

(3) Class V UIC wells **not** used for **stormwater management**:

(a) **New** UIC wells that are **not** used for stormwater management must:

(i) Not directly discharge into an aquifer, except for wells listed in WAC 173-218-040 (5)(a)(ii) through (iv), (vii) through (xi), (xiii), (xiv) and (xv). A separation between the bottom of the well and the top of the aquifer is required; and

(ii) Meet additional groundwater protection requirements if the UIC well is located in a groundwater protection area (see WAC 173-218-030) as determined by other state laws or by local ordinances.

(b) **Existing registered** UIC wells that are **not** used for stormwater management are already considered to be rule authorized. To verify that current site practices are protective of groundwater quality, the owner or operator must complete a survey from the department except for UIC wells used at CERCLA sites. The department will provide written notification that the current site practices are adequate.

(c) **Existing** UIC wells that are **not registered** and **not** used for stormwater management must meet the requirements for new wells.

[Statutory Authority: Chapter 80.80 RCW. WSR 08-14-011 (Order 07-11), § 173-218-090, filed 6/19/08, effective 7/20/08. Statutory Authority: Chapters 43.21A and 90.48 RCW. WSR 06-02-065 (Order 01-10), §

173-218-090, filed 1/3/06, effective 2/3/06. Statutory Authority: RCW 43.21A.445. WSR 84-06-023 (Order DE 84-02), § 173-218-090, filed 2/29/84.]