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Class II Injection Well Permitting: Earthjustice Petitions U.S. Environmental Protection Agency to Revoke Ohio's Delegated Program

10/25/2022

Earthjustice ("EJ") filed an October 11th document titled:

Petition to Determine by Rule that Ohio's Class II Injection Well Permitting Program No Longer Represents an Effective Program to Prevent Underground Injection that Endangers Drinking Water Sources and Fails to Comply with the Requirements of the Safe Drinking Water Act ("Petition")

The *Petition* is filed on behalf of a number of other organizations.

Class II wells are used to inject fluids associated with oil and natural gas production. Such fluids primarily consist of brines (salt water) that are brought to the surface while producing oil and gas.

The Federal Safe Drinking Water Act established minimum requirements for effective state underground injection control programs. Regulations require the consideration of a variety of measures to ensure that injection wells will not endanger underground sources of drinking water. They establish specific performance criteria for each well class (including Class II) to ensure that drinking water sources, actual and potential, are not rendered unfit for such use by underground injection of the fluids common to that particular category.

EJ argues in its *Petition* that EPA should initiate procedures to revoke Ohio's Class II injection well program, arguing that it has serious deficiencies. The deficiencies it alleges include:

- Ohio Fails to Carry Out an Effective Enforcement Program because it:
 - lacks unilateral penal authority
 - consistently refuses to enforce violations
 - cannot permanently suspend operations even in the case of egregious violations due to other state law provisions
- does not allow for public participation in enforcement actions
- Ohio's Permitting Process Lacks the Regulatory Requirements to Prevent Endangerment of Drinking Water and Comply with Sections 125 and 1421 of the Safe Drinking Water Act because the program fails to:
 - apply an area of review sufficient to address overpressurization and capture potential migration pathways
 - characterize injected wastes

- identify extents of underground sources of drinking water and appropriately characterize local geology
- prohibit injection into formations known to be unsuitable for waste disposal
- require adequate mechanical integrity testing
- Ohio's program disproportionately burdens low income Appalachian communities by almost exclusively locating Class II disposal wells in Appalachian Ohio, and fails to address such burdens and provide meaningful participation in siting, operating, and enforcement decisions

A copy of the Petition can be downloaded [here](#).