**R644. Natural Resources, Oil, Gas and Mining; Carbon Sequestration.**

**R644-6 Permitting Process.**

**R644-6-1. Draft Permits.**

(1) Draft Permits:

(a) Once the division has determined an application for a CO2 Sequestration facility is complete, they shall prepare a draft permit for the CO2 Sequestration facility and each of the Class VI wells included in the CO2 Sequestration facility application, or deny the application.

(b) The draft permit shall contain the following information:

(i) Each condition under Rule R644-5 and Rules R644-8 through R644-16;

(ii) Each compliance schedule under Subsection R644-5-8(1); and

(iii) All monitoring requirements listed under Rule R644-13.

(c) Each draft permit prepared under this section shall be accompanied by a statement of basis pursuant to Section R644-6-2 and shall be publicly noticed in accordance with Section R644-6-3 and made available for public comment pursuant to Section R644-6-4.

**R644-6-2. Statement of Basis.**

(1) A statement of basis shall be prepared for every draft permit. The statement of basis shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The division shall send this statement of basis to the applicant and, on request, to any other person.

(2) The statement of basis shall include, when applicable:

(a) A brief description of the type of CO2 Sequestration facility or activity that is the subject of the draft permit;

(b) The quantity and quality of the carbon dioxide, and other constituents, proposed to be injected and stored;

(c) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;

(d) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(e) A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under Section R644-6-4 and where comments will be received;

(ii) Details of the public hearing required under Section R644-6-5; and

(iii) Any other procedures by which the public may participate in the final decision;

(f) Name and telephone number of a person to contact for information.

(3) All persons identified in Subsections R644-6-3(3)(a)(i) through (3)(a)(iv), shall be mailed or emailed a copy of the statement of basis, the draft permit, and a notice that the permit application will be available online.

**R644-6-3. Public Notice of Permit Actions and Public Comment Period.**

(1) Public Notice:

(a) The division shall give public notice that the following actions have occurred:

(i) A draft permit has been prepared

(ii) A public hearing has been scheduled.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. Written notice of that denial shall be given to the requester and to the operator.

(c) Public notices may describe more than one permit or permit action.

(2) Timing:

(a) Public notice of the preparation of a draft permit required under Subsection (1) shall allow 30 days for public comment.

(b) Public notice of a public hearing shall be given 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(c) An applicant shall comply with the notice requirements under Subsection 40-11-7(4) for the public hearing.

(3) Methods. Public notice of activities described in Subsection (1) shall be given by the following methods:

(a) By emailing or by mailing a copy of a notice to the following persons:

(i) The applicant;

(ii) Any other agency that the division knows has issued or is required to issue a RCRA, UIC, PSD, or other permit under the Clean Air Act, NPDES, 404, or sludge management permit for the same CO2 Sequestration facility or activity, including EPA;

(iii) Federal and state agencies with jurisdiction over the Advisory Council on Historic Preservation, the Utah State Historic Preservation Office, the Utah Department of Environmental Quality, the Department of Natural Resources, and other appropriate government authorities, including any unit of local government having jurisdiction over the area where the CO2 Sequestration facility is proposed to be located, any affected states or Indian Tribes; and

(iv) Persons on a Class VI well mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for "area lists" means from participants in past permit proceedings in that area; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals. The division may update the mailing list from time to time by requesting written indication of continued interest from those listed. The division may delete from the list the name of any person who fails to respond to such a request.

(v) Any person otherwise entitled to receive notice under this section may waive their right to receive notice

(b) Publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity;

(c) In a manner constituting legal notice to the public under state law; and

(d) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other form or medium to elicit public participation.

(4) Contents:

(a) All Public Notices. Public notices issued under this section shall contain the following information:

(i) Name and address of the division;

(ii) Name and address of the owner or operator and, if different, of the CO2 Sequestration facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the CO2 Sequestration facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain copies of the draft permit, the statement of basis, the application, and further information concerning the application;

(v) A brief description of the comment procedures required under Section R644-6-4 and the time and place of any hearing that will be held, and other procedures by which the public may participate in the final permit decision; and

(vi) Any additional information considered necessary or proper.

(b) Public Notices for Hearings. In addition to the general public notice described in Subsection (4)(a), the public notice of a hearing under Section R644-6-5 shall contain the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing; and

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

**R644-6-4. Public Comments and Requests for Public Hearings.**

During the public comment period provided under Section R644-6-3, any interested person may submit written comments on the draft permit. Each comment shall be considered in making the final decision and shall be answered as provided in Section R644-6-7.

**R644-6-5. Public Hearings.**

(1) The board shall hold a public hearing before authorizing the division to issue a permit. The public hearing held under this section will be initiated by the division and conducted by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(a) The public hearing may include all draft permits associated with the CO2 Sequestration facility.

(2) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period shall automatically be extended to the close of any public hearing.

(3) A recording of the hearing shall be made available to the public.

**R644-6-6. Permit Issuance and Effective Date.**

(1) After closure of the public comment period and after the conclusion of the public hearing on the draft permit under Section R644-6-5, the board shall issue a final permit decision within 45 days. The board shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedure for appealing a decision on a CO2 Sequestration facility permit and any associated UIC Class VI well permits under Section 63G-4-302. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(2) A final permit decision shall become effective on the date of issuance.

(3) Upon a final permit decision by the board to grant the permit, the division shall be authorized to issue the permit.

(4) A permit to construct a CO2 Sequestration facility, and permits to construct each of the associated Class VI wells, shall be valid for a period of five years and if not begun in that time, the permit shall be null and void. The permittee may request an extension of this five-year requirement; however, the division shall approve the request for extenuating circumstances only.

**R644-6-7. Response to Comments.**

(1) At the time that any final permit is issued the division shall issue a response to comments. This response shall:

(a) Specify which provisions; if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(b) Briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

(2) The response to comments shall be available to the public.

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