

Key Words: Definitions

Regulations:

Subject: (Permit Policy Question and Answer Quarterly Report) Definition

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Summary:

EPA cannot declare a Part B application complete without ground-water monitoring data. It can use enforcement to secure a facility's compliance with Part 265 ground-water monitoring requirements, §3013 orders if a substantial hazard is suspected, and §270.14(c) to obtain necessary ground-water monitoring information.

PERMIT POLICY QUESTION & ANSWER
 QUARTERLY REPORT

Groundwater Protection Standards

1. Question: Do the definitions of "uppermost aquifer" and "aquifer" include the top most saturated clay layer even though that stratum is not used as a groundwater resource? 40 CFR 260.10.

Answer: The 26 July 1982 preamble suggests that "significant yield" of groundwater is determined on a case by case basis, depending on site specific factors. Significant yield in the southwest is likely to be a much lower quantity than significant yield in the east. In addition, the flow from a number of well systems can be totaled in order to reach the level of significance. Thus, if the saturated clay layer can produce a significant yield of groundwater from a single well or from a combination of wells, then that layer may meet the definition of an aquifer. If that layer is also the formation nearest to the natural ground surface or is hydraulically interconnected to such a surface, it meets the definition of uppermost aquifer.

9431.01(84)

2. Question: Can EPA declare a Part B application complete even though the applicant has not submitted ground-water monitoring (GWM) data? 40 CFR 264 Subpart F and 40 CFR 270.14(c)

Answer: No. The Agency cannot declare a permit application complete without ground water monitoring data. The Agency can use enforcement to secure facilities' compliance with Part 265 ground water monitoring requirements, §3013 orders if a substantial hazard is suspected, and the authority of 40 CFR 270.14(c) to obtain the necessary ground water monitoring information. More detailed guidance on this issue will be issued shortly.

DESIGN AND OPERATING STANDARDS

9523.07(84)

1. Question: Can a facility comply with the liner requirements by placing waste below the saturated zone so that ground water flows into the cell, thus preventing waste migration out of the cell. 40 CFR 264.301(a).

Answer: No. The regulatory intent is that compliance with 264.301(a) is to be achieved by construction of a liner rather than reliance on hydrogeologic forces.

9487.03(84)

2. Question: Can an applicant receive a variance from a specific design or operating requirement when the regulations do not contain a variance provision for that standard?

Answer: No. The regulations have no general provision for waiving specific sections on a case by case basis. There are, however, instances where the regulations provide alternative means for complying with, or waiving, a specific section.

9487.03(84)