

**GUIDELINES
FOR
CHARACTERIZING
UNDERGROUND INJECTION CONTROL
VIOLATIONS**

May 2023

Guidelines for Characterizing UIC Violations

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Rule Citations

TERMS	FLORIDA ADMINISTRATIVE CODE (F.A.C.) RULE CITATION
aquifer exemption	62-528.300(3)
abnormal event	62-528.415(4)
confinement	62-528.100(1), 62-528.405(2)(a), and 62-528.425(1)(g)
confining zone	62-528.200(14), 62-528.405(2), and 62-528.440(2)(c) and (d)
emergency disposal	62-528.200(22), 62-528.415(4)(c), 62-528.450(2)(k), and 62-528.455(1)(d)
exempted aquifer	62-528.200(23) and 62-528.300(3)
financial responsibility	62-528.435(9)
hazardous waste well	62-528.200(35), 62-528.300(1), 62-528.400(1), and 403.7222(1), F.S.
industrial well	62-528.410(1)(e)
injection well	62-528.120, 62-528.200(39), 62-528.200(69), 62-528.300(1), and 62-528.600(2)
injection well system	62-528.200(40)
injection zone	62-528.200(41)
maximum injection pressure	62-528.410(7)(c) and 62-528.415(1)(a)-(c)
maximum injection velocity	62-528.415(1)(f)
mechanical integrity	62-528.300(6)
mechanical integrity testing (MIT)	62-528.300(6) and 62-528.425(1)(d)
monitor well	62-528.200(44),(47),(55), & (57), and 62-528.420
multihorizon monitor well	62-528.200(44)
municipal well	62-528.200(45) and 62-528.410(1)(e)

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Continuation of Rule Citations

TERMS	FLORIDA ADMINISTRATIVE CODE (F.A.C.) RULE CITATION
operation and maintenance (O&M) manual	62-528.415(3)
plugging and abandonment	62-528.435(Class I); 62-528.645(Class V)
public notice	403.815
temporary operation	403.088, 40 CFR 144.34, and Secretary Browner 7/1/91 Enforcement memorandum
tubing and packer	62-528.200(50) & (65), and 62-528.410(1)(e)
well construction standards	62-528.410 (Class I); 62-528.605 (Class V)
well monitoring	62-528.200(71)
well casing	62-528.200(68)
well injection	62.528.120 and 62-528.200(69)
Underground Sources of Drinking Water (USDW)	62-528.200(66)

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ADDITIONAL DEFINITIONS

- | | |
|----------------------|--|
| Alternate disposal | - All other means of disposal except well injection. |
| Confinement | - A rock unit that is above/below the injection zone that is capable of containing the injection fluids within the injection zone. |
| Public comment | - Any timely written comments submitted to the Department by the public. |
| Public notice | - Publication of notice of proposed agency action stating the purpose of proposed action, published no less than 30 days prior to agency action. |
| Mechanical Integrity | - Successful completion of the internal and the external test. |

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GENERAL GUIDELINES

This document along with the Department of Environmental Protection Directive 923, revised February 14, 2013 (DEP Directive 923) is to be used for the Underground Injection Control (UIC) Program to determine if enforcement action is appropriate and penalty amounts if an enforcement action is initiated. The following sections identify specific guidelines to assist in determining UIC violations and appropriate penalties. These sections and guidelines may be more fully developed as experience in applying the program specific guidelines dictates and do not include every possible violation.

As stated in DEP Directive 923, it should be noted that “Assisting with prompt return to compliance without formal enforcement is the preferred means to correct a violation committed by a person who did not know that the person’s actions were contrary to law, or whose actions were inadvertent, if the violation caused no more than ‘minor harm’ as identified in the guidelines below. An inadvertent violation is one that occurs despite the good faith efforts of the responsible party to comply with the applicable requirements.”

If formal enforcement is pursued Department staff must then decide whether a civil penalty is appropriate using the guidelines below. These guidelines do not require imposition of a civil penalty in every enforcement action. Penalties are to be used to insure immediate and continued compliance by the violator and others who may face a similar situation in the future. Refer to Directive DEP 923 for specific details on assessing a civil penalty.

Certain (UIC) program violations may result in the generation of wastewater that can cause surface water quality violations. Surface water quality violations resulting from UIC related activities should be referred to other Department programs for coordination of enforcement efforts.

****While as a general matter, Florida does recognize that “the statute of limitations in environmental contexts where there is a continuing invasion of rights does not begin to run until the wrongful invasion of rights that constitutes the violation ceases,” instances where violations are approaching the 4 year mark should be reviewed as soon as possible with the Office of General Counsel to preserve all legal options.**

Multi-day Assessments and Adjustment Factors

DEP Directive 923 discusses when and how to assess multi-day penalties. The directive also sets out various adjustment factors to be used when calculating a penalty based on the matrix. These factors include:

- Knowing, deliberate, or chronic violations.
- Good faith efforts to comply (or lack of good faith efforts to comply) either prior to or after Department discovery of the violation.
- History of noncompliance.
- Economic benefit of noncompliance.
- Ability to pay.
- Other unique factors.

In-Kind Penalties and Pollution Prevention Projects

In-Kind Penalties and Pollution Prevention Projects should be considered as provided in Directive 923.

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E N V I R O N M E N T A L H A R M	EXTENT OF DEVIATION FROM REQUIREMENT			
		MAJOR	MODERATE	MINOR
	MAJOR	\$15,000 to \$12,000	\$11,999 To \$9,000	\$8,999 to \$6,900
	MODERATE	\$6,899 to \$4,800	\$4,799 to \$3,000	\$2,999 to \$1,800
MINOR	\$1,799 to \$750	\$750*	\$750*	

* Environmental Education may be an acceptable substitute

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Matrix Factors

I. Failure to Provide Timely, Complete, and Accurate Reports/Records/Results

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	1. N/A	<ol style="list-style-type: none"> 1. Fraudulent data or information provided. 2. Three consecutive submittals were not provided, regardless of whether written notifications are issued by the Department. 3. 50 percent of required submittals not provided within a twelve-month period, regardless of whether written notifications are issued by the Department. 4. Submittal not provided after two written notifications are issued by the Department. 5. Representative samples are not being collected or submitted.
Moderate	1. N/A	<ol style="list-style-type: none"> 1. Two consecutive submittals not provided, regardless of whether written notifications are issued by the Department. 2. 25 percent of required submittals not provided within a twelve-month period, regardless of whether written notifications are issued by the Department. 3. Submittal not provided after one written notification is issued by the Department. 4. Timely submittal is incomplete or inaccurate but not fraudulent
Minor	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Submittal is provided within four weeks of its due date. 2. Reports/Records/Results not provided are maintained and available at the treatment facility.

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II. Failure to Notify of Abnormal Event or Noncompliance

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Failure which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Abnormal event or noncompliance is discovered by the Department (or local program) without timely notice provided by the permittee or authorized representative. 2. Permittee or authorized representative has been previously notified on the proper reporting of abnormal events or noncompliance. 3. Permittee or authorized representative fails to follow a contingency plan that has been accepted by the Department.
Moderate	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Permittee notifies the Department (and local program) beyond 24 hours of abnormal event or noncompliance. 2. Permittee or authorized representative fails to submit a written report.
Minor	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Permittee notifies the Department (and local program) within 24 hours but not in accordance with Rule 62-528.415(4), F.A.C. 2. Permittee or authorized representative submit a written report >5 days after the abnormal event or noncompliance. 3. Failure to notify the Department of use of the authorized emergency disposal system.

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III. Construction of Well Without a Permit

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> Well placed into service which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> Construction without a valid construction permit. Construction without a Florida water well contractor's license. Submittal of an application after expiration date of construction permit.
Moderate	<ol style="list-style-type: none"> Well placed into service which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> Submittal of an incomplete application less than sixty days of the construction permit expiration date.
Minor	<ol style="list-style-type: none"> Well constructed or well under construction, but not placed in service, which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> N/A

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IV. Short-Term Test Injection Without Prior Authorization

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Injection test which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Test injection without prior written authorization. 2. Test injection written authorization obtained from Department that was based on false, inaccurate, or incomplete data or information submitted by the permittee or the agent of the permittee. 3. Commenced test injection without monitoring effluent or completion of monitor wells.
Moderate	<ol style="list-style-type: none"> 1. Injection test which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Commenced test injection without obtaining background water quality sampling and appropriate analyses. 2. Commenced test injection not in accordance with permit conditions.
Minor	<ol style="list-style-type: none"> 1. Injection test which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. N/A

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V. Unauthorized Operational or Cycle Testing

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Injection which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Did not perform required testing. 2. Release or disposal is deliberate or results from improper operation or maintenance. 3. Facility fails to immediately implement adequate corrective measures.
Moderate	<ol style="list-style-type: none"> 1. Injection which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Did not submit required testing results. 2. Facility immediately implements adequate corrective measures.
Minor	<ol style="list-style-type: none"> 1. Injection which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Submitted complete test results. 2. Release or disposal was a result of failed equipment that had received proper maintenance or due to conditions beyond the control of the permittee.

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VI. Mechanical Integrity Test Violation

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Violation which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Failure of MIT allowing fluid movement into a USDW. 2. Failed MIT where location of leak or extent of vertical fluid movement has not been determined. 3. No MIT performed. 4. MIT completed over 3 months after due date. 5. MIT conducted using unauthorized or inappropriate equipment or tracer material.
Moderate	<ol style="list-style-type: none"> 1. Violation which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. MIT completed within 1 months to 3 months after due date.
Minor	<ol style="list-style-type: none"> 1. Violation which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. MIT completed less than 1 month after due date.

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VII. Failure to Maintain or Operate Equipment

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Failure which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Primary equipment essential to the operation of the well is totally inoperative. 2. Corrective measures not implemented after one written DEP notification is issued. 3. Failure to maintain fully operational Emergency Disposal System in accordance with Chapter 62-528, F.A.C., or permit's specific conditions. 4. Facility failed to perform routine maintenance. 5. More than one substantial deviation exists from the standard practices/procedures or from the operation and maintenance manual. 6. Results in the failure to obtain a UIC permit renewal.
Moderate	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Support equipment, non-essential to the operation of the well, is inoperative. 2. Corrective measures not implemented after one written DEP notification is issued. 3. Failure to maintain fully operational Emergency Disposal System in accordance with Chapter 62-528, F.A.C., or permit's specific conditions. 4. Substantial deviation exists from standard practices/ procedures or from the operation and maintenance manual. 5. Facility failed to document routine maintenance.
Minor	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Equipment is operating at reduced mechanical/structural efficiency. 2. Deviations exist from standard practices/procedures or from the operation and maintenance manual.

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VIII. Failure to Maintain Financial Responsibility

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	1. N/A	<ol style="list-style-type: none"> 1. No plugging and abandonment plan submitted. 2. Expiration of financial mechanism. 3. Department draws on Letter of Credit. 4. Insufficient funding to plug and abandon injection well system when abandonment becomes necessary.
Moderate	1. N/A	<ol style="list-style-type: none"> 1. No current audited financial report. 2. No current plugging and abandonment cost estimates. 3. The permittee failed to submit a satisfactory Certificate of Financial Responsibility Demonstration for each well.
Minor	1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	1. N/A

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IX. Lack of Confinement

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> Fluid movement which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> Fluid moved into the USDW. Water quality or pressure data indicates lack of confinement or deficient mechanical integrity. Mechanical integrity testing indicates lack of confinement or deficient mechanical integrity.
Moderate	<ol style="list-style-type: none"> Fluid movement which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> Fluid moved into an unpermitted zone that is a non-USDW.
Minor	<ol style="list-style-type: none"> Fluid movement which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> Pressure data, water quality data, and mechanical integrity testing provides reasonable assurance that mechanical integrity has been demonstrated and that waters of the State have been afforded protection against contamination. Pressure data, water quality data, and mechanical integrity testing provides reasonable assurance that confinement has been demonstrated and that waters of the State have been afforded protection against contamination.

Guidelines for Characterizing UIC Violations

X. Operation of Well Without a Valid Permit or Authorization

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Operation of the well which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Non-submittal of an application. 2. Submittal of an application after expiration date of operation or construction permit. 3. Injection well system operating without possessing an appropriate valid permit or other valid authorization from the Department.
Moderate	<ol style="list-style-type: none"> 1. Operation of the well which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Submittal of an incomplete application less than 60 days before expiration of the operation or construction permit.
Minor	<ol style="list-style-type: none"> 1. Operation of the well which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. N/A

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XI. Unauthorized Plugging and Abandonment

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Plugging and Abandonment which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Plugging and Abandonment without a permit. 2. Plugging and Abandonment which allows fluid movement between aquifers. 3. Plugging and Abandonment by an unlicensed contractor.
Moderate	<ol style="list-style-type: none"> 1. Plugging and Abandonment which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Use of materials not approved by the Department. 2. Failure to provide required notifications to the Department.
Minor	<ol style="list-style-type: none"> 1. Plugging and Abandonment which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. N/A

Guidelines for Characterizing UIC Violations

XII. Failure to Meet Permit Limitations or Water Quality Standards

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Failure which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Injection of hazardous waste unless permitted to do so. 2. Violation of a federal primary drinking water standard. 3. Violation of a flow or pressure limit. 4. Failure to comply with Department authorized operational testing conditions.
Moderate	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Violation of a water quality criteria exemption limit, a state secondary drinking water standard or the sodium standard. 2. Failure to comply with Department authorized cycle testing schedule.
Minor	<ol style="list-style-type: none"> 1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. N/A

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XIII. Failure to Conduct Water Quality Monitoring

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	1. Failure which actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> 1. Required daily monitoring of a parameter is not conducted for 30 or more monitoring days. 2. Required bi-weekly monitoring of a parameter is not conducted for 12 or more weeks or required weekly monitoring of a parameter is not conducted for 6 or more weeks. 3. Required quarterly monitoring of a parameter is not conducted for 6 or more months or required monthly monitoring of a parameter is not conducted for 3 or more months. 4. Required annual monitoring of a parameter is not conducted for 3 consecutive years, or semi-annual monitoring of a parameter is not conducted for 18 or more months. 5. Failure to obtain background water quality data prior to injection.
Moderate	1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> 1. Required daily monitoring of a parameter is not conducted for 11 to 30 monitoring days. 2. Required bi-weekly monitoring of a parameter is not conducted for 5 to 12 weeks, or weekly monitoring of parameter is not conducted for 3 to 6 weeks. 3. Required quarterly monitoring of a parameter is not conducted for 4 to 6 months, or monthly monitoring of a parameter is not conducted for up to 2 months. 4. Required annual monitoring of a parameter is not conducted for 2 consecutive years, or semi-annual monitoring of a parameter is not conducted for 12 consecutive months.
Minor	1. Failure which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> 1. Required daily monitoring of a parameter is not conducted for 10 or less monitoring days. 2. Required bi-weekly monitoring of a parameter is not conducted for 4 or less weeks, or weekly monitoring of a parameter is not conducted for 2 or less weeks. 3. Required quarterly monitoring of a parameter is not conducted for 3 or less months, or required monthly monitoring of a parameter is not conducted for a month. 4. Required annual monitoring of a parameter is not conducted, or semi-annual monitoring of a parameter is conducted only once in a twelve-month period.

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XIV. Improper Well Construction or Failure to Construct In Accordance With Approved Plans

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	<ol style="list-style-type: none"> 1. Construction which actually results in pollution in a manner that represents a substantial threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Substantial construction deviations are discovered after completion of construction without notice provided. 2. Substantial construction deviations such as location change, casing landing, cementing, or actual drilling occurred during construction.
Moderate	<ol style="list-style-type: none"> 1. Construction which actually results or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. 	<ol style="list-style-type: none"> 1. Substantial construction deviations are discovered during construction with no notice provided and does not involve activities such as casing landing, cementing or actual drilling.
Minor	<ol style="list-style-type: none"> 1. Construction which actually results or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment. 	<ol style="list-style-type: none"> 1. N/A