

19,920

AUG 12 1983

MEMORANDUM

SUBJECT: Repermitting of Existing Class I wells.
 Ground Water Program Guidance # 32 (GWPG #32)

FROM: Victor J. Kimm, Director
 Office of Drinking Water

TO: Water Division Directors
 Water Supply Branch Chiefs
 Regions I-X

As you know Class I wells have become an important issue and several committees in Congress have started asking questions about this part of the UIC program.

In this respect I want to remind you of the need for speedy action in repermitting some of these wells. More specifically, §144.14(b) of the UIC regulations provides that:

The owner or operator of any well that is used to inject hazardous waste that is required to be accompanied by a manifest or delivery document shall apply for authorization to inject as specified in §144.31 within six months after approval or promulgation of the State UIC program.

This means that owners/operators of off-site Class I wells used to inject hazardous waste (i.e. most wells commonly referred to as commercial wells) should submit a complete permit application during the first six months after a program has been approved. The regulations also provide that failure to do so results in termination of authorization by rule, that is, the operation becomes illegal and subject to enforcement action. Even though it is not a requirement of the regulations, it was always our intention considering time frames involved in permitting, that States would issue permits for these wells during the first year of the program.

In several States, namely Texas, Oklahoma, Louisiana, Arkansas, New Hampshire, Utah and Massachusetts, programs have been approved for more than six months and all off-site operators in these States should have submitted an application. Furthermore, in Texas, Louisiana and Oklahoma where programs have been approved for more than a year, the State should be well under way in processing these applications.

As part of your oversight of State programs, I recommend that you keep close tabs on this issue and I would like to be informed of any problems you may be encountering. In Direct Implementation States, repermitting these wells will have to take first priority. If you have any questions about this memorandum, please call Françoise Brasier of my staff (PTS 382-5560).

A. In direct implementation States, Regions should:

1. establish communications with all the tribal governments in each State as part of an active consultation policy and with such agencies as Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), and the Indian Health Service (IHS);
2. ensure that appropriate personnel in the tribal hierarchy are aware of the impact of the UIC program, especially on energy producing reservations with injection facilities;
3. keep a file for each Indian group, documenting all contacts;
4. hold a single public hearing for both the general public and the Indians; and
5. hold additional meeting(s) to satisfy the request by Indian governments or the public, at a time and locale convenient to the requestors, if there is sufficient interest.

B. In primacy States containing Indian lands,

1. The Regions should establish communications with all the Indian governments in each State as part of the active consultation policy, as well as with cognizant Federal agencies (BIA, BLM, and IHS) and the State; as in direct implementation States a careful record of these consultations should be kept.
2. In the preamble, we will announce public hearings (based on your advice) for Indian lands in each primacy State where EPA will have to implement programs in a location convenient for the Indians. We will, however, set it up so that the hearing can be cancelled if there is not sufficient public interest.
3. Regions will have to make the decision to cancel the hearing based on communication with Tribal governments and other interested parties.

II. Timetable

When the proposed 40 CFR Part 147 is published, it will contain a 60 day comment period. The ROs should schedule a public hearing sometime within the 60 day comment period, but making sure that at least a 30 day notice is given on the hearing. Following is a tentative timetable which would allow the ROs to logically and effectively meet the public hearing requirements for implementation of an UIC program on Indian lands.

Proposed 40 CFR Part 147 goes to AX	7/15/83
The Administrator signs package	7/28/83
The ROs inform HQ on hearing dates*	7/28/83
The proposed regulations are published in <u>FR</u>	8/05/83
Direct Implementation National Meeting	8/10/83
Public hearings	9/15 - 9/26/83
End public comments on 40 CFR Part 147	10/04/83

IMPLEMENTATION

The ROs should plan the public hearings in accordance with the suggestions in this guidance. They should also be ready to inform HQ on the proposed dates of the hearings. In order to expedite the process, the ROs should have decided on the dates for the hearings by the 21st of July, just in case the review by the Administrator is shortened. If this can be accomplished, the phone calls to the ROs can be made in less than a day and there would not be any delay before forwarding the package. The ROs were instructed to put aside an adequate portion of the Direct Implementation funds earlier in the year, to cover all these expenses.

FILING INSTRUCTIONS

This guidance should be filed under Ground Water Program Guidance No. 33 (GWPG No. 33).

ACTION RESPONSIBILITY

For further information on this guidance contact:

Mario Salazar, Environmental Engineer
Office of Drinking Water (WH-550)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20460
FTS 382-5550

* A phone call will be made to get dates from ROs.

cc: Groundwater Section Chiefs
Tom Belk
Jentai Yang

AUG 12 1983

MEMORANDUM

SUBJECT: Repermitting of Existing Class I wells.
Ground Water Program Guidance # 32 (GWPG #32)

FROM: Victor J. Kimm, Director
Office of Drinking Water

TO: Water Division Directors
Water Supply Branch Chiefs
Regions I-X

As you know Class I wells have become an important issue and several committees in Congress have started asking questions about this part of the UIC program.

In this respect I want to remind you of the need for speedy action in repermitting some of these wells. More specifically, §144.14(b) of the UIC regulations provides that:

The owner or operator of any well that is used to inject hazardous waste that is required to be accompanied by a manifest or delivery document shall apply for authorization to inject as specified in §144.31 within six months after approval or promulgation of the State UIC program.

This means that owners/operators of off-site Class I wells used to inject hazardous waste (i.e. most wells commonly referred to as commercial wells) should submit a complete permit application during the first six months after a program has been approved. The regulations also provide that failure to do so results in termination of authorization by rule, that is, the operation becomes illegal and subject to enforcement action. Even though it is not a requirement of the regulations, it was always our intention considering time frames involved in permitting, that States would issue permits for these wells during the first year of the program.

BRASIER:8/8/83:GWPB 76

In several States, namely Texas, Oklahoma, Louisiana, Arkansas, New Hampshire, Utah and Massachusetts, programs have been approved for more than six months and all off-site operators in these States should have submitted an application. Furthermore, in Texas, Louisiana and Oklahoma where programs have been approved for more than a year, the State should be well under way in processing these applications.

As part of your oversight of State programs, I recommend that you keep close tabs on this issue and I would like to be informed of any problems you may be encountering. In Direct Implementation States, repermitting these wells will have to take first priority. If you have any questions about this memorandum, please call Françoise Brasier of my staff (RTS 382-5560).

