UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 9 1986

OFFICE OF WATER

MEMORANDUM

SUBJECT: Compliance with §3004(u) and §3005(e) of RCRA

FROM: Paul M. Baltay, Director
State Programs Division Baltay

TO: Water Supply Branch Chiefs
Regions I - X

As you know, amendments to the Resources Conservation and Recovery Act (RCRA) on November 8, 1984, imposed new requirements on owners and operators of Class I hazardous waste injection wells. This memo requests that you:

- determine compliance status with section 3005(e) of RCRA for each Class I hazardous waste well within your Region,

- send the attached sample letter by registered mail to all owners and operators of those wells, and

- report to us by January 24 on compliance status and on potential enforcement candidates.

The discussions of the two relevant requirements that follow are necessarily brief; it is not our intent to explain in full the implementation of either of these requirements. Our main purpose is to determine whether or not facilities have complied with them. For a more thorough discussion of the loss of interim status provision consult the September 25,1985, Federal Register pp. 38946-38949. Corrective action was discussed in detail in a draft guidance distributed in June, 1985, and in the July 15, 1985 Federal Register. Agency policy on implementing this requirement is still evolving, but the guidance, with some exceptions, summarizes current Agency policy. Please refer to these documents for a more complete discussion, should you require it.

Loss of Interim Status

The first of these new requirements states that land disposal facilities which were granted interim status prior to November 8, 1984, lost such status on November 8, 1985, unless the owner or operator submitted an application for a final RCRA permit and certified compliance with applicable ground-water monitoring and financial responsibility requirements (See Section 3005(e)(2)). Owners and operators of injection wells should have satisfied these requirements by applying for a UIC permit from either a State with primacy or from a Federally-administered UIC program, and by certifying to EPA or its delegated authority that the unit is in compliance with 40 CFR 144.28(d), 144.28(g)(1)(iii), and 40 CFR 144 subpart F or, if permitted, 40 CFR 146.13(b)(4). Where the State administers the UIC program, the operator must certify compliance with the appropriate State equivalent.

An operator who 1) received a RCRA permit, 2) received a UIC permit which fulfills §264.101 requirements for the entire facility, or 3) was granted a UIC permit prior to November 8, 1984, has RCRA authorization through permit or permit by rule and is not affected by this requirement.

The statute automatically terminates interim status for any other facility where the owner or operator fails to comply with this provision. Therefore, any owner or operator of a hazardous waste injection well who has not complied lost his authorization under RCRA. Class I hazardous waste wells must be authorized by both RCRA and the Safe Drinking Water Act; an owner or operator who does not maintain both authorizations may not legally inject hazardous wastes.

Corrective Action

The corrective action provision of the amendments, §3004(u), requires that any RCRA permit issued after November 8, 1984, contain corrective action plans for any release of a hazardous waste or constituent from all units at the facility. The amendment allows permits to contain schedules of compliance when corrective action could not have been completed prior to issuing the permit (the use of such a schedule is limited if the facility contains a "regulated unit" (RU's)).

Because the Agency currently intends to implement the corrective action requirement through the UIC permit it is vital that the UIC facility maintain its interim status. If interim status is lost, the UIC permit could no longer be a vehicle for the corrective action requirements.

In some circumstances, as when the UIC unit is the only facility requiring a RCRA permit, it may be desirable to perform corrective action for all solid waste management units (SWMUs) through the UIC permit; in such cases, the UIC permit becomes a RCRA permit by rule. Even where the UIC permit addresses corrective action for the well only, or not at all, and therefore is not a RCRA permit by rule, the well may still retain interim status.

Operating Status Under RCRA

In summary, there are 3 ways an owner or operator could have fulfilled the new RCRA §3005(e) requirements and retained authorization:

1. Obtained a UIC permit before November 8, 1984. Operators who did so have a RCRA permit by rule (See 40 CFR §270.60(b)). (However, other units at the facility may have lost RCRA authorization.)

2. Obtained a UIC permit after November 8, 1984, which contained corrective action conditions in compliance with 40 CFR 264.101. (This paragraph requires every solid waste management unit at the facility to be cleaned up, or have a schedule contained in the permit). If the corrective action provisions of the UIC permit address all solid waste management units at the facility, the UIC permit is a RCRA permit by rule.

3. If the UIC permit contained corrective action requirements for the well unit only, did not address corrective action at all, or if a UIC permit had not been issued, the owner or operator should have certified compliance with the applicable ground-water and financial responsibility requirements and submitted an application for a UIC permit by November 8, 1985. These operators would have maintained interim status under RCRA by complying with §3005(e). The other units at the facility would also have had to maintain authorization under RCRA, by either submitting a Part B application and certifying compliance with applicable ground water monitoring and financial responsibility requirements or by receiving a RCRA permit.

Wells which do not fall into one of the categories outlined in the paragraphs above have lost RCRA interim status and are not authorized to inject hazardous wastes.

Consequences of Loss of Interim Status

Hazardous waste injection wells that have lost interim status and are not otherwise authorized under RCRA must cease injection of hazardous waste. Wells must follow the UIC conditions pertaining to closure, plugging, and abandonment in §§ 144.28(c) and 144.52(a).

The loss of interim status will be determined separately for each unit at a hazardous waste management facility. Thus, at a particular facility a well may have maintained interim status while the waste treatment and storage operations lost it. The well may legally continue to operate, but if it depends upon the continued operation of units which have lost authorization, it may not be practical to do so.

We have attached a list of Class I hazardous waste wells in your Region, including both those in primacy States, and those in Direct Implementation States. For each well, please determine whether it has complied with the above requirements.

Please provide a list of all Class I hazardous waste wells permitted indicating when the permits were issued and by whom (State or EPA). If the well was permitted after November 8, 1984, we need to know:

1. Whether the permit contained corrective action requirements;

2. Whether these were applied to the entire facility, or to the well unit alone;

3. Whether the requirements were applied as part of a compliance schedule, and if so, whether a site investigation was conducted; and

4. Whether the owner or operator certified that the well was in compliance with the applicable groundwater monitoring and financial responsibility requirements (where the well does not have a RCRA permit by rule).

Please note that as yet, no State has been authorized to administer the RCRA 3004(u) corrective action requirements. If however, a primacy State has the appropriate State authority to require corrective action and has applied it in its permits, we would like to know. In such cases, the State should apply to the Agency for authorization to administer these requirements.

If the well <u>has not yet been permitted</u>, please determine whether the owner or operator applied for a UIC permit before November 8, 1985, and certified compliance with applicable ground water monitoring and financial responsibility requirements (for rule authorized wells 40 CFR 144.28(g)(1)(iii) and 144.28(d); or in primacy States the appropriate State analogues). We need the information as soon as possible, but not later than January 24.

There is a sample letter to owners and operators attached. Please send it to the owners and operators listed as being in your region. While the Agency's efforts to notify owners and operators of their responsibilities under HSWA has been thorough, we would like additional documented evidence that owners and operators have been notified and the requirements explained. Accordingly, please send the letter by certified mail, receipt requested.

Operating an injection well without authorization under both the SDWA and RCRA is a criminal offense and we should advise owners and operators to shut down, and initiate enforcement actions against them when appropriate.

For further information, please contact either John Atcheson at 382-5530 or Ellen Berick at 382-5547.

Attachments

cc: UIC Section Chiefs

Dear Owners and Operators of Class I Hazardous Waste wells:

As you know, the Underground Injection Control (UIC) program for Class I hazardous waste injection wells is jointly authorized by the Safe Drinking Water Act (SDWA) and the Resource Conservation and Recovery Act (RCRA). By amendments to RCRA enacted on November 8, 1984, Congress imposed many new requirements, including certain new requirements for Class I hazardous waste wells.

The purpose of this letter is to explain the new requirements for hazardous waste injection wells and the consequences of noncompliance. Wells which are not in compliance with both RCRA and SDWA are not authorized to inject hazardous wastes and must cease doing so immediately.

The RCRA amendments state that facilities which were granted interim status prior to November 8, 1984, automatically lost such status on November 8, 1985, unless the owner or operator had applied for a permit under Subtitle C of RCRA and certified compliance with applicable ground-water monitoring and financial responsibility requirements (See RCRA §3005(e)). As EPA stated in its September 25, 1985 Federal Register notice, (50 Fed. Reg. 38946) owners and operators of injection wells could have met these requirements by applying for a UIC permit and by certifying the unit's compliance with 40 CFR 144.28(g)(1)(iii) (if applicable), 144.28(d) and Part 144 subpart F, and, if permitted under UIC, with 40 CFR 146.13(b)(4) or with the State analogues to these provisions. If a Class I hazardous waste injection well does not have a RCRA permit or a RCRA permit by rule (See 40 CFR §270.60(b) amended at 50 Fed. Reg., July 15, 1985), it must have complied with the new requirements in order to have maintained interim status under RCRA and thus authorization to inject hazardous wastes.

The statute itself automatically terminated RCRA interim status for failure to comply with the above requirements. The Agency need not take any administrative action to implement it. Therefore, if you do not have a RCRA permit or if you have not complied with these new requirements, you lost interim status on November 8, 1985, and were required to cease injection of hazardous wastes on that date. You are subject to civil and criminal penalties for each day of hazardous waste injection without RCRA interim status or a RCRA permit.

The amendments also contain new corrective action requirements which require any RCRA permit issued after November 8, 1984, to include provisions for clean up or a compliance schedule for clean up of releases of hazardous constituents from all solid waste management units at a facility (See RCRA 3004(u)). Corrective action may also be required through the issuance of administrative orders.

Operating Status Under RCRA

There are three ways an owner or operator may have authorization to operate under RCRA:

1. Under a RCRA permit by rule if the operator obtained a UIC permit before November 8, 1984, and, among other requirements, is in compliance with 40 CFR 270.60(b) (amended at 50 Fed. Reg. 28752 (July 15, 1985)); or

2. Under a RCRA permit by rule if the owner or operator obtained a UIC permit after November 8, 1984, and, among other requirements, is in compliance with the corrective action requirements of 40 CFR 264.101 (promulgated at 50 Fed. Reg. 28747). You are referred to the cited rules for details.

3. An owner or operator may have RCRA interim status if, among other requirements, he timely filed his Part A RCRA application, notified EPA as required by RCRA § 3010, certified compliance with applicable ground-water monitoring and financial responsibility requirements by November 8, 1985, and has filed his UIC permit application for the well, and his Part B applications for all non-well units by November 8, 1985. (Of course, permit denial terminates interim status, and interim status may be terminated by other means.)

Owners or operators of wells without individual RCRA permits, RCRA permits by rule, or RCRA interim status who dispose of hazardous waste are subject to stiff civil and criminal penalties for each day of violation. (See RCRA §3008)

Consequences of Loss of Interim Status

Owners and operators of hazardous waste injection wells which have lost interim status and are not otherwise authorized under RCRA must cease injection of hazardous waste. However, cessation of injection will not insulate such operators and owners from penalties for violations prior to cessation or continuing after cessation of injection.

Wells ceasing injection must comply with all applicable regulations including those pertaining to closure, plugging and abandonment in §§ 144.28(c) and 144.52(a).

The loss of interim status will be determined separately for each unit at a hazardous waste management facility. Thus, at a particular facility a well may have maintained interim status while the waste treatment and storage operations lost it. The well may legally continue to operate in accordance with applicable rules (and its permit, if it has one), but if it depends upon the continued operation of units which have lost RCRA authorization, it may not practically do so.

We remind you that operating an injection well without authorization under both the SDWA and RCRA is a civil and criminal offense. Indeed, treatment, storage or disposal of hazardous waste by any means without authorization under RCRA is punishable by civil and criminal penalties, including imprisonment.

For further information or assistance contact your EPA regional office.

HW Facilities w/RCRA IDs

A ID	FACILITY NAME	CITY	State	TYPE	STATUS	# WELLS AT SITE
	Armco Steel Corp.	Middletown	OH	on-site	active	2
	Calhio Chemical Inc.*(Stauffer)	Perry	OH	on-site	active	2
	Hammermill Paper Co.	Hammermill	PA	on-site	abandoned	3
	HERCOFINA	WILMINGTON	NC	ON-SITE	ABANDONED 5/69	
	Parke Davis & Co.	Holland	MI	on-site	abandoned*	4
	SHELL OIL COMPANY	DENVER	CO	ON-SITE	PLUGGED*	
	SONICS INTERNATIONAL	RANGER	TX	OFF SITE	ABANDONED	2
	U.S. CORP. OF ENGINEERS AND CHEMICAL CORP.		CO	ON-SITE	SHUT-IN*	
	WYCON CHEMICAL COMPANY	CHEYENNE	WY		CHANGE-OVER*	
	Arcadian Corporation*	Geismar	LA	on-site	construction	1
704*	Detroit Coke Company	Detroit	MI	on-site	Active	2
261221	Arco Alaska Inc.	Anchorage	AK	OFF-SITE	ACTIVE	3
238875	Stauffer Chemical Co.	Cold Creek	AL	on-site	active	3
022165	Great Lakes Chemical Corp., South plant	El Dorado	AR	on-site	active	3
195429	Great Lakes Chemical Corp., Main plant	El Dorado	AR	on-site	active	1
526809	Ethyl Corp.	Magnolia	AR	on-site	active	1
529501	Rio Bravo Disposal Facility	Bakersfield	CA	off-site	ACTIVE *	1
7013850	Aerojet Strategic Propulsion Company	Sacramento	CA	on-site	ACTIVE*	1
[illegible]	Kaiser Aluminum & Chemical Co.	Mulberry	FL	on-site	active	1
	Monsanto Company	Pensacola	FL	on-site	active1	3
		Pensacola	FL	on-site	active	1
781591	LTV Steel Company*	Hennepin	IL	on-site	active1	1
214573	Velsicol Corp.	Marshall	IL	on-site	active	2
463344	Allied Chem. Co.	Danville	IL	on-site	active	[illegible]
2075333	Cabot Corp.	Tuscola	IL	on-site	active1*	2
3913423	Bethlehem Steel Corporation,Burn Harbor Plant	Chesterton	IN	on-site	active	[illegible]
5159199	Inland Steel Company*	East Chicago	IN	on-site	active	1
444062	United States Steel Corporation	Gary	IN	on-site	active1	1
375352	General Electric	Mt. Vernon	IN	on-site	abandoned*	2
584641	Midwest Steel	Portage	IN	on-site	active	1
908553	Indiana Farm Bureau Cooperative	Mt. Vernon	IN	on-site	active1*	1
551743	Uniroyal Inc. *	Newport	IN	on-site	abandoned	[illegible]
315678	Hoskins Manufacturing Co.	New Paris	IN	on-site	Active	[illegible]
163355	Sherwin Williams	Coffeyville	KS	on-site	abandoned t*	2
482029	Vulcan Materials Co.	Wichita	KS	on-site	active	5
		Wichita	KS	on-site	active	5
924198	E.I. Dupont De Nemours & Co.	Louisville	KY	on-site	active	2
[illegible]	Browning-Ferris Industries (CECOS)	Lake Charles	LA	off-site	active	[illegible]
778514	Rollins Environmental Services of LA,Inc	Placquemine	LA	off-site	active1	1
[illegible]	Ethyl Corp. of Baton Rouge	Baton Rouge	LA	on-site	active	[illegible]
700758	Monsanto Chemical Company,Luling plant	Luling	LA	on-site	active	[illegible]
[illegible]	E. I. Dupont,Laplace	Laplace	LA	on-site	active1	[illegible]
913183	Shell Chemical Company	Geismar	LA	on-site	active1	[illegible]
[illegible]	Borden Chemical Co.	Geismar	LA	on-site	active	[illegible]
	Atlas Processing Co.	Shreveport	LA	on-site	abandoned	[illegible]
[illegible]	Citgo Petroleum Corp.*	Lake Charles	LA	on-site	active	[illegible]
[illegible]	American Cyanamid Co.	Westwego	LA	[illegible]	[illegible]	[illegible]
79707	Tenneco Oil Company	Chalmette	LA	on-site	active	[illegible]

194050	Uniroyal Inc.	Geismar	LA	on-site	active	3
313191	Rubicon Chemical Inc.	Geismar	LA	on-site	active	3
337537	International Minerals and Chemical Corp.	Sterlington	LA	on-site	active	3
[illegible]	Chevron Chemical Co.	Belle Chasse	LA	on-site	active	2

HW Facilities w/RCRA IDs

A ID	FACILITY NAME	CITY	State	TYPE	STATUS	# WELLS AT SITE
776809	BASF Wyandotte Corporation	Geismar	LA	on-site	active1	1
426006*	Witco Chemical Corporation,Gretna	Gretna	LA	on-site	active	1
109449	Universal Oil Products	Shreveport	LA	on-site	active1	3
117434	Georgia-Pacific Corporation	Plaquemine	LA	on-site	inactive	1
470916	Witco Chemical Corporation,Hahnville	Hahnville	LA	on-site	active	3
485146	Texaco Inc.	Convent	LA	on-site	active1	5
490773*	NASA, Michoud Assembly Facility*	New Orleans	LA	on-site	shut in*	3
622104	Shell Oil Company, West site	Norco	LA	on-site	active	5
627061*	Stauffer Chemical Company	St. Gabriel	LA	on-site	active1	3
722425	Velsicol Chem. Corp.	St. Louis	MI	on-site	active	1
734734	Dow Chem. Co.	Midland	MI	on-site	abandoned	-
809640	E.I. Dupont,Montague	Montague	MI	on-site	abandoned*	1
1058130	Total Petroleum Inc.*	Alma	MI	on-site	active*	2
		Alma	MI	on-site	abandoned	1
[illegible]	Parke Davis & Co.	Holland	MI	on-site	active	4
1023366	BASF Wyandotte	Holland	MI	on-site	active	1
1038431	Ford Motor Co., Rouge Steel	Dearborn	MI	on-site	abandoned*	3
1057826*	Hoskins Manufacturing Co.	Mio	MI	on-site	active	1
1143104	Filtrol Corp.	Jackson	MI	on-site	active	1
1227351	OSLHID Chemical Inc.*(Stauffer)	Perry	OH	on-site	active	1
1234450	Amoco Steel Corp.	Middletown	OH	on-site	active	3
1108477	United States Steel Corporation	Ironton	OH	on-site	active	1
		Ironton	OH	on-site	active	1
1273619	Chemical Waste Management, Inc.	Vickery	OH	off-site	ABANDONED T	6
1157644	Sohio Chemical Company, Vistron	Lima	OH	on-site	active	3
1402356	Chemical Resources Inc.	Tulsa	OK	off-site	active1	1
1314524	American Airlines Inc.	Tulsa	OK	on-site	active	-
1320262	Rockwell International	Tulsa	OK	on-site	active	-
1771687	Sooex	Bartlesville	OK	on-site	abandoned*	-
1466568	Kaiser	Pryor	OK	on-site	active	2
1595931*	Agrico Chem. co.	Catoosa	OK	on-site	active	1
1719104	Browning - Ferris Industries	Houston	TX	off-site	pending	-
1719018	Disposal Systems, Inc.	Houston	TX	off-site	active	1
1731152	waste-water Inc.	Bay	TX	off-site	pending	-
1742304	Gibraltar Wastewaters, Inc.	Austin	TX	off-site	active	-
1751172	Vistron Corporation	Port Lavaca	TX	on-site	active	1
1751254	Chemical Waste Management	Corpus Christi	TX	off-site	active	1
1786440	Champlin, Soltex & ICI, Corpus Christi Petro	Corpus Christi	TX	on-site	active1	-
	Monsanto Chemical Co., Chocolate Bayou	Alvin	TX	on-site	abandoned	
	Shell Chemical Co.	Deer Park	TX	on-site	active	-

TXD 007373913	Potash Co. of America Division	Dumas	TX	on-site	active!	1
TXD 008079212	E. I. Dupont, Houston plant	La Porte	TX	on-site	active	3
TXD 008079527	Monsanto Co.	Texas City	TX	on-site	active	3
008079642	E. I. Dupont, Sabine River works	Orange	TX	on-site	active!	6
008080533	Amoco Oil Co.	Texas City	TX	on-site	active!	5
TXD 008081101	E. I. Dupont, Beaumount	Beaumount	TX	on-site	active!	2
TXD 008081597	Badischne Corp. (Dow Badischne Co.)	Freeport	TX	on-site	active	2
TXD 008106999	Merichem co.	Houston	TX	on-site	active	1
TXD 008123317	E. I. Dupont, Victoria	Victoria	TX	on-site	active	10
TXD 026040709	Celanese Chemical Co.	Bay city	TX	on-site	active!	4
TXD 027147115	Malone Service Co.	Texas City	TX	off-site	active	2
TXD 044452324	General Aniline and Film Corp.	Texas City	TX	on-site	active	3
TXD 049213127	Witco Chemical Co., Marshall	Marshall	TX	on-site	active	2

HW Facilities w/RCRA IDs

RCRA ID	FACILITY NAME	CITY	State	TYPE	STATUS	# WELLS AT SITE
TXD 058275769	Arco Chem. Co., Lyondale plant	Channelview	TX	on-site	active	3
TXD 063101794	E. I. Dupont, Ingleside	Ingleside	TX	on-site	active	3
TXD 065078526	Witco Chemical Co., Houston	Houston	TX	on-site	active	2
TXD 067261412	Velsicol Chemical Co.	Beaumont	TX	on-site	Abandoned	3
78432457	Celanese Chemical Co., Clear Lake plant	Houston	TX	on-site	active!	2
31715302	Cominco American Inc.		TX	on-site	changeover*	1
TXD 091263558*	Phillips Chemical Co.	Phillips	TX	on-site	active	2
TXD 091270017	Chaparral Disposal Co. (BFI)*(CEDCS)	Odessa	TX	off-site	active	1
TXD 097873145	Ergak, Inc.	Houston	TX	off-site	active	1
TXD000838895	CHEMICAL WASTE MANAGEMENT, INC	PORT ARTHUR	TX	OFF SITE	ACTIVE	2
					Total:	256