



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

MAR 19 2015

9040.1c
PEP/NRM

PEP - ENVIRONMENTAL COMPLIANCE MEMORANDUM NO. 15-2

To: Heads of Bureaus and Offices

From: Willie R. Taylor, Director
Office of Environmental Policy and Compliance

Subject: Departmental Guidance on Class V Underground Injection Control Wells

Environmental Compliance Memoranda (ECM) are issued under the authority provided to the Office of Environmental Policy and Compliance (OEPC) by the Departmental Manual (381 DM 4.5B) to convey instructions and guidance related to compliance.

BACKGROUND

The bureaus have the responsibility to manage the identified Underground Injection Control Wells (UICs), including Class V Underground Injection Control Wells (Class V UIC wells), under their purview and to meet all appropriate requirements of the lead regulation/implementation authority. This ECM provides guidance to bureaus and offices of the Department of the Interior (Department) to ensure compliance with the Safe Drinking Water Act of 1974, specifically on Class V UIC wells throughout the Department. Any type of underground injection well which does not fit into Classes I through IV is, by default, a Class V UIC well. As explained in EPA's 1987 Report to Congress, there are dozens of different types of Class V UIC wells. Class V UIC wells *usually* are shallow and usually are simply constructed devices, such as a septic system or a drywell. The potential for Class V injection wells to pollute ground water varies widely, depending on variables such as the amount and kinds of fluid going into the well, the construction of the system, type of soil and other underground materials, and depth to ground water. Some types of Class V UIC wells are generally banned. In 1999, EPA added new requirements for the types of Class V UIC wells called large-capacity cesspools and motor vehicle waste disposal wells. The Class V Rule, effective April 5, 2000, prohibited new large-capacity cesspools and new motor vehicle waste disposal wells nationwide and required existing large-capacity cesspools and motor vehicle waste disposal wells to be phased out nationwide by April 2005.

The Office of the Inspector General (OIG) issued the "Draft Evaluation Report-U.S. Department of Interior's Underground Injection Well Control Activities", Report No. CR-EV-MOA-0006-2012. This report contained a recommendation for the Department to "develop and implement policies, procedures, and plans to ensure compliance with EPA's UIC regulations and help bureaus consistently identify, inspect, and manage Class V UIC wells."

The OEPC worked with the Department's Environmental Management Systems and Compliance Technical Working Group (TWG) of the Sustainability Council to develop draft Departmental guidance for compliance with the EPA's UIC regulations for the identification, inspection, and management of UIC Class V wells. At multiple meetings, the Departmental bureaus reported on their individual efforts to respond to the findings in the OIG Report. Discussions covered the following:

1. Each bureau is improving its procedures to identify, monitor, and inspect Class V UIC wells.
2. All banned Class V injection wells, such as motor pool drains which have been identified, are closed or have plans/permits in place for closure.
3. Confusion existed over determining whether pit toilet facilities met the definition of Class V UIC large-capacity cesspools, which are banned. The bureaus determined they needed further guidance on whether or not pit toilet facilities met the definition of large-capacity cesspools. Environmental Compliance Memorandum (ECM) 14-3 was developed to meet this need as well as identify the lead regulator/implementation authority by location. (ECM 14-3 was developed with the EPA's Office of Groundwater and Drinking Water, Division of Drinking Water Protection and was cleared by EPA's Office of General Counsel.)

GUIDANCE

The EPA's UIC website can assist facility managers from the bureaus in identification and management of Class V UIC wells specifically, in addition to providing information on other Classes of wells. EPA's website is located at: <http://water.epa.gov/type/groundwater/uic>.

The bureaus have the responsibility to manage the identified UICs (including Class V UIC wells) under their purview and to meet all appropriate requirements of the lead regulator/implementation authority. The ECM 14-3 includes Figure 2 which identifies the UIC Class V lead regulator/implementation authority on a state by state basis. A lead regulator/implementation authority may require a monitoring component and/or documentation of the liability, monitoring, and budgeting for closure when needed to protect the groundwater resources. Environmental liabilities will be discussed later in this document.

The bureaus are required to maintain and update internal policies and procedures related to groundwater protection and UICs (specifically including Class V UIC wells) per direction of this memorandum and OIG Report No. CR-EV -MOA-0006-2012. Bureaus should include the compliance with this ECM in their environmental compliance audit program. The specific inventory requirement should be implemented as detailed in 40 C.F.R§144.26. This Section requires each owner or operator of a Class V UIC well to provide inventory information containing at least the following information: (1) facility name and location, (2) name and address of legal contact, (3) ownership of the facility, (4) nature and type of injection well and (5) operating status. This need for inventory information might involve updating environmental audit criteria and/or bureau guidance to include additional data relevant to UIC wells. Class V

UIC wells authorized by rule would be in compliance without a permit if the owners/operators submitted the required inventory information, and the injection was not endangering underground sources of drinking water (see the EPA Frequently Asked Questions about UIC Program at <http://www.epa.gov/r5water/uic/faq.htm> regarding wells authorized by rule).

The bureaus need to identify inspection protocols that they will be using to document compliance with internal and external requirements. The bureaus need to provide required inventory information to the lead regulator/implementation authority and track status over time. Bureau UIC well programs should include requirements for what would constitute a complete inventory including an accurate reporting status description for all UIC wells (e.g. permitted, authorized by rule, or closed out). To ensure that all requirements are met, each bureau needs to establish policy to ensure that bureaus:

1. Submit inventory information to their lead regulator/implementation authority and verify that they are authorized (allowed) to use the UIC well. The lead regulatory agency/permitting authority will review the information to be sure that the well will not endanger drinking water.
2. Operate the wells in a way that does not endanger drinking water. Any specific requirements given by lead regulator/implementation authority to track and monitor must be implemented; specific bureau guidance and Environmental Management System audits may be used to track and monitor Class V UIC status.
3. Properly identify and document closure of Class V UIC wells when they are no longer being used. The well should be closed in a way that prevents movement of any contaminated fluids into drinking water sources.

The bureaus should follow the existing policies and procedures in the current version of *the Environmental and Disposal Liabilities (EDL) Identification, Documentation and Reporting Handbook (version in use as of the date of this ECM is v3.0 (2011))*. If newly identified UIC wells (e.g. motor pool drains) are discovered that include potential or actual environmental liabilities, please see <http://www.doi.gov/pmb/oepec/eclm/upload/EDL-Handbook-Version-3-December-2011.pdf>. An EDL is defined in the handbook as an anticipated future outflow or other sacrifice of resources (e.g., costs) where, based on the results of due care, further study or cleanup is warranted due to past or current operations that have environmental closure requirements or contaminated Department lands. The handbook will assist in identification, inspection, management, and ultimately closure of those UIC wells representing liabilities to the Department.

Each bureau's Hazardous Materials Contact(s) or other designated personnel must: (1) identify and report new sites with potential environmental liabilities to the OEPC database, (2) develop environmental response or study cost estimates for newly-reported sites, and (3) update environmental response or study cost estimates for previously-estimated sites. The use of a standard data file structure is mandated for recording information about environmental contamination sites so Department personnel and bureau users can track the progress of cleanup, compare cost estimates developed at similar sites, or generate site statistics for assessing purposes. The OEPC database requires bureaus to provide the following site-specific general information similar but not the same as the data collected for 40 C.F.R§144.26:

- Facility name and site name
- Location (region, city [if applicable], state, zip [if applicable], latitude and longitude)
- Site type (e.g., landfill / dump, firing range, underground storage tank)
- Contaminants of Concern
- Affected Media
- Stage (e.g., the stage of the cleanup process such as study, cleanup /remediation / removal, Long Term Maintenance (LTM))
- Substage (provides more detailed information on the current activity under “Stage”; e.g., Remediation Investigation, EE/CA, and Record of Decision would be substages of study)
- Central Hazardous Materials Fund (CHF) Site (identifies the EDL site as receiving cleanup funds under the Department’s CHF Program)
- Law/Regulation (Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), Underground Storage Tanks (UST), CWA (Clean Water Act), CAA (Clean Air Act), TSCA (Toxic Substances Control Act), or Other)
- EPA’s Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) ID and name, or Federal Docket name (if applicable).

The bureaus would have to coordinate with their lead regulator/implementation authority any anticipated new construction of UIC wells prior to construction to ensure that the design criteria meets current permitting regulations and requirements. Many States have additional requirements and guidance posted on their state specific environmental websites.