



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

APR 1 1987

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Assuring Continued Compliance of Rule Authorized Class II Wells in Primacy and Direct Implementation States, UIC Program Guidance #55

FROM: Michael B. Cook, Director
Office of Drinking Water *Michael B Cook*

TO: Water Division Directors
Regions I - X

PURPOSE

The purpose of this guidance is to explain how compliance for rule authorized Class II wells was initially determined and to provide Regions and States two options for assuring continued compliance.

BACKGROUND

In the early days of the UIC program (Mid 1970s) the formal workgroup charged with the development of the UIC regulations decided that all wells (except agricultural and municipal drainage wells, now in Class V) would be regulated by permit. However, due to the large number of wells in Class II (40,000 in Texas) the regulations used a combination of rule and permit to regulate all wells.

On the effective date of the program all wells would be authorized by rule. States would be allowed up-to five years to issue permits for each well (area permits were allowed for Class II and III). This five-year period was selected to allow time to issue permits for the 40,000 wells in Texas.

Publication of these requirements brought extensive comment from State regulatory agencies and industry. Consideration of these comments and EPA contractors reports identified two significant facts. First, that there was a difference in contamination potential between secondary

recovery wells and salt water disposal wells. Secondly, that the cost of issuing new UIC permits for Class II wells would be extremely high, and that this expenditure would be a waste of limited resources.

Based on these facts, the Agency made significant changes in the regulations. First, the Agency would consider existing wells differently from new wells. All new wells, whether enhanced recovery or salt water disposal, would be authorized by permit. Second, all existing salt water disposal wells would be authorized by permit because of the greater potential for endangerment. Third, all existing enhanced recovery wells could be regulated by rule for life provided that the Director (whether State or EPA) conducts a file review equivalent to that which would be required for issuance of a permit. The objective of the file review is to ascertain that the well does not endanger USDWs. The advantage of the file review was that the operator would not have to submit a new application and the Director (who already has all the material in his file) would be spared the one-on-one transaction cost (draft permit, public hearing, etc.) of issuing a permit.

Subsequent to these changes, and after the passage of the §1425 amendment to the Act, States successfully argued that salt water disposal wells should also be authorized by rule. In the drafting of the guidance for implementing §1425, this provision was made. This guidance allowed primacy States to authorize all existing Class II wells by rule (i.e., they did not have to re-issue UIC permits for existing wells), providing they conducted a file review on all existing wells (§1425 Guidance at 3.3 (K) see attached Guidance). All §1425 applications were reviewed to assure that States included this in their program description.

Notwithstanding the changes to allow States this flexibility, Federal programs would continue to issue permits to all new Class II wells and existing salt water disposal Class II wells. Existing enhanced recovery wells could be authorized by rule providing an equivalent file review was conducted.

Formal written guidance on the conduct of file reviews was issued to the Regions on August 23, 1984, in a memorandum from Victor J. Kimm on FY 1985 SPMS commitments (attached).

The purpose of the initial file review was to assure that all existing Class II injection wells were sited,

designed, constructed and operated in a way that assured prevention of endangerment to USDWs. Once this is done, why is it necessary to repeat it each five years? Listed below are the things which must be considered:

1. Workover - Wells seldom go through their expected life span without requiring some type of workover. Some wells require many workovers. These may include:
 - a. scraping or cleaning of tubular goods or injection formation face;
 - b. inspection of tubing and/or packer;
 - c. replacement of tubing and/or packer;
 - d. stimulation such as acidizing or fracking;
 - e. repair of leaks in casing by squeeze cement or installing a liner; and
 - f. recompletion.

2. Operational history - occurrences during the life of the well which may have resulted in failure or have a potentially higher risk of failure:
 - a. change in source or character of fluid;
 - b. changing from water flood to use of additives;
 - c. increases or decreases in flow;
 - d. increases or decreases in pressure;
 - e. changes in scope of project;
 - f. changes in ownership; and
 - g. compliance history.

3. Related Activities:
 - a. other injection wells completed above, below or in the same pool;
 - b. production wells completed in pools below injection formation; and
 - c. changes in operation of other wells in or around injection well.

GUIDANCE

Regions or States may choose one of the following options for showing continued compliance:

1. Conduct file reviews every five years to determine that nothing in the above areas, workover, operational history, and related activities could result in an endangerment to USDWs; or

2. Submit to EPA documentation that the State has in place and utilizes statutory authority, regulations, forms, processes, and personnel to:
 - a. review and approve all workovers to assure that the well continues to meet the non-endangerment requirement;
 - b. review and approve all changes in the character of the injection fluid, flow, pressure, scope and type of project, ownership and evaluate overall compliance history; and
 - c. review, approve/disapprove, or require modifications to the construction and operation of all new injection wells completed above, below or in the same pool and production wells completed in pools below the injection formation, or require changes in the operation of other wells in or around the injection well to assure that USDWs will not be endangered by that injection well.

Directors for primacy States shall submit their plans for assuring continued compliance with the non-endangerment requirement for existing Class II wells to the appropriate Regional Office for review and approval. The EPA D.I. programs shall forward their plans to EPA Headquarters.

For further information on this guidance contact:

Thomas E. Belk, Chief
Underground Injection Control Branch
U.S. EPA (WH-550E)
401 M Street, S.W.
Washington, D.C. 20460
(202) 382-5530



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

AUG 23 1984

OFFICE OF
WATER

MEMORANDUM

SUBJECT: FY 1985 SPMS Commitments
FROM: *Victor J. Kimm*
Victor J. Kimm, Director
Office of Drinking Water (WH-550)
TO: Water Division Directors
Water Supply Branch Chiefs
Regions I - X

Recently we received your proposed FY 1985 SPMS commitments for the Underground Injection Control (UIC) program. While we were supposed to submit these commitments to the Office of Management Systems and Evaluation (OMSE) on August 15, we have not yet done so for four reasons:

- o Upon review, it is not clear that all Regions formulated their estimates using consistent assumptions and ground rules.
- o We are having difficulty reconciling the estimates of the universe of existing wells with the numbers supplied by you in the UIC inventory as of August 15.
- o We have been given an additional 19 Regional positions for UIC permitting activities in direct implementation programs which should increase the work we can undertake in FY 1985.
- o The commitments do not in all cases reflect national priorities for permitting.

I believe that it is vitally important that we do the best job we can on these FY 1985 SPMS commitments. Therefore, I ask that each of you review the numbers you provided us for the UIC program one more time. Four items are attached to help you do this:

- o Attachment A contains the allocation of the additional permitting positions for FY 1985. The 19 positions are for permitting. Therefore, we ran the permitting portion of the FY 85 workload model for 60 positions instead of the current 41. Then, we took the marginal resources allocated to Region X (0.7) and Region VII (0.3) where they are not really needed for additional permitting and assigned 0.5 positions each to Regions II and III. We believe this to be a reasonable allocation. If you have major problems, however, let me know.
- o A summary of the universes and commitments you supplied for direct implementation and primacy programs (Attachment B).
- o Clarifications to the instructions for filling out the forms in my July 6 memo. There is one change: instead of asking for commitments on a cumulative basis (all prior year accomplishments plus FY 85 commitments), I think it would be simpler to ask you for incremental commitments for FY 85 only (Attachment C).
- o A short description of my expectations for file reviews and MI tests for existing Class II wells (Attachment D).

I would like to complete this exercise as soon as possible. While it appears that a major effort is needed to clean up the inventory, I do not think we can complete such a task in the next ten days, although we should do so by the end of the calendar year. For the present we should focus on: (1) resolving major discrepancies in the five year universes and making sure that all estimates are based on a common set of assumptions; (2) agreeing on a realistic set of commitments in direct implementation programs taking the new resources into account; and (3) assuring that primacy States agree to commitments that reflect appropriate priorities and adequate progress in carrying out their programs. One important point is that, in order to develop realistic commitments for existing wells in direct implementation programs, we will need your explicit assumptions about the number of new Class II applications you expect in FY 1985. (See Attachment C for the details).

Please submit your revised estimates not later than August 31. My staff will be calling you in the next few days to help you resolve any problems.

Attachments (4)

2. Submit to EPA documentation that the State has in place and utilizes statutory authority, regulations, forms, processes, and personnel to:
 - a. review and approve all workovers to assure that the well continues to meet the non-endangerment requirement;
 - b. review and approve all changes in the character of the injection fluid, flow, pressure, scope and type of project, ownership and evaluate overall compliance history; and
 - c. review, approve/disapprove, or require modifications to the construction and operation of all new injection wells completed above, below or in the same pool and production wells completed in pools below the injection formation, or require changes in the operation of other wells in or around the injection well to assure that USDWs will not be endangered by that injection well.

Directors for primacy States shall submit their plans for assuring continued compliance with the non-endangerment requirement for existing Class II wells to the appropriate Regional Office for review and approval. The EPA D.I. programs shall forward their plans to EPA Headquarters.

For further information on this guidance contact:

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(202) 382-5530

In DI programs (except Osage) we must issue permits for existing saltwater disposal wells, including annular injection wells. Hence, the universe in this case should be the number of permits to be issued. For national planning purposes, we have been assuming one permit for each existing saltwater disposal well. You are free to revise this assumption. However, if you do assume something other than one well per permit, it should be on the basis of some reasonable information (e.g., actual count) and should correlate to the number of saltwater disposal facilities, fields or owners in the inventory. Please state your assumption explicitly. All other existing Class II wells need to be reviewed and must demonstrate mechanical integrity within five years. The universe for these two items should be the same and should equal the number of Class II "other-than-saltwater-disposal" wells in the inventory. Wells must demonstrate mechanical integrity to be permitted. Do not count MI tests related to permit issuance under the MI universe.

C. Class III

Class III wells are eligible for area permits and existing ones must be permitted within five years. The universe in this case should equal the number of facilities in the inventory.

II. The Commitments

A. General

SPMS seeks commitments both from primacy States and Regions (DI) for permit issuance, file reviews and mechanical integrity tests. Primacy States are to make commitments on a calendar year basis to coincide with annual reports. DI programs are to make commitments on a fiscal year basis by quarter.

Since several States have had primacy for two years or more, Forms 4b, 4c, 8b and 8c asked for primacy commitments on a cumulative basis (previous years plus planning year). This seems to have created some confusion. Therefore, please report all commitments for both primacy and DI programs as the incremental number of actions to be taken in the defined time period. In DI programs, quarters should still be cumulative. We will establish the actions taken in the years prior to 1984 from the ? annual reports.

B. File Reviews and MI Tests

File reviews and MI tests are not expected by the workload model to be covered from the 46.2 Regional work years allocated for permitting but from the 120.9 work years assigned for non-permitting functions. Therefore, file reviews and MI tests should not be traded off against permit issuance.

The MI tests in the commitments are the number of wells required to demonstrate mechanical integrity in FY 85. The number of MI tests witnessed is a different item for which there is no pre-negotiated commitment but which will be tracked as a reporting item.

The regulations say that wells under a life-time rule must demonstrate MI within three years. You or the States have the authority to require some wells to make the demonstration sooner. I urge you to schedule about 20% of the existing Class II wells per year in order to avoid creating a backlog.

III. The Priorities

The national priorities for permitting were stated in Attachment A of my July 6 memo.

A. New Class II

According top priority to the processing of new Class II permit applications is a simple recognition of realities. As you know, SPMS does not include commitments for new wells. However, there is a probable workload there and, in order to plan your FY 1985 activities accurately you will need to estimate the number of new Class II applications you are likely to receive. Unfortunately, we do not yet have the experience to forecast this number accurately.

For national purposes we have assumed a 3% growth rate in Class II wells. This equals about 290 new wells in DI States in FY 1985 requiring about 19.8 work years to process. As an informal estimate, please provide your assumption about the number of new Class II permit applications and your estimate of the number of work years required to process them. The SPMS commitments on existing wells should be made taking into consideration the number of work years remaining.

B. Existing Class I and III

Such wells are the highest priority for permitting after new Class II. While the regulations provide up to 5 years for issuing such permits, both environmental and programmatic factors argue that we review these wells much sooner than that. In DI programs, I request that you address all Class I wells by the end of FY 1986. Your commitments for FY 1985 should be as high as resources allow, but in no case less than 50% of your existing Class I universe.

This priority applies to primacy States as well. I request that you approach your States with Sec. 1422 programs and try to obtain more ambitious commitments from them.

FILE REVIEW

At the beginning of the UIC program it was envisioned that all Class II wells would be permitted. The States and industry felt that repermitting existing enhanced recovery wells would be wasteful of resources. Thus, enhanced recovery wells may be authorized by rule for life for UIC program purposes in both primacy and direct implementation programs. After the passage of section 1425 of the Safe Drinking Water Act, States applying for primacy successfully argued the effectiveness of rule authorization for saltwater disposal wells. Thus, for UIC purposes, existing saltwater disposal wells in primacy States and Osage County are also authorized by rule.

The thought behind authorization by rule was to reduce the one-on-one transaction costs involved in issuing a permit. However, the regulations require that Class II wells authorized by rule for the life of the well meet most of the same requirements as wells authorized by permit. The most significant exception is the "area of review" requirement. Beyond that, wells authorized for life by rule may not endanger USDWs and must meet requirements for siting, design, construction, operation and plugging and abandonment.

In order to assure that rule authorized Class II wells are in compliance, they should be subjected to a thorough review at least once every five years. File review means that the Director (State or EPA) reviews data on every existing Class II well to make a finding that (See Sec. 144.22):

1. each well is completed below the lowermost USDW and has an adequate confining zone separating the injection zone from that USDW;
2. each well is designed for the expected use and local geologic conditions;
3. each well is cased and cemented to prevent movement of fluids into or between USDWs;
4. each well is operated at an appropriate pressure and with adequate controls to prevent fracturing of the confining zone;
5. each well owner/operator is maintaining appropriate financial assurance and plugging and abandonment plans; and
6. each well operator is monitoring and reporting as required.

File reviews can be but do not necessarily have to be performed in conjunction with mechanical integrity tests.

While each well must be in compliance with the applicable requirements, it should be possible to do the file reviews, or at least certain aspects of them, on a field or project basis. For example, if there is assurance that all wells in a field were constructed according to the same specifications it should be possible to review the construction practice once rather than for each well individually.

Information for the reviews can be collected in various ways. In most cases, the necessary data should be available from State files. In direct implementation States, Regions should make arrangements to obtain or have access to the State files. If the State files are not available or are not complete, information can be gathered as part of a field trip to inspect the well and review the owner/operator's records. Both we and the States also have the authority to require the owner/operator to submit certain information.

File reviews are potentially a big undertaking and there are options for getting them done. To make sure that we all get started in a sensible direction, I think each Region should develop a strategy for conducting the file reviews within a five-year period in each DI program. Furthermore, primacy States should be asked to prepare such strategies also. I would like to review these strategies and will, therefore, request that you submit them as part of your DI workplans by September 15, 1984.

the amendments added a new Section 1425 to the Act. Section 1425 establishes an alternative method for a State to obtain primary enforcement responsibility for those portions of its Underground Injection Control (UIC) program related to the recovery and production of oil and gas. More specifically, " * * * in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program * * * to prevent underground injection which endangers drinking water sources."

Section 1422(b)(1) of the SDWA specifies that a State, in order to obtain approval for its UIC program, must make a satisfactory showing that it has adopted and will implement a program that meets the requirements of regulations issued by the Administrator. Such regulations have been promulgated at 40 CFR Parts 122, 123, 124 and 144.

This notice is intended to provide guidance for the implementation of the alternative demonstration provided for in the new Section 1425. It contains information on: (1) how States may apply for approval under Section 1425; and (2) the criteria the Environmental Protection Agency (EPA) will use in approving or disapproving applications under Section 1425.

DATE: Effective date: This guidance is issued as interim final. It becomes effective upon May 18, 1981.

COMMENT DATE: EPA will accept public comments on this document until July 20, 1981.

ADDRESS: Comments should be sent to Mr. Thomas E. Belk, Chief, Ground Water Protection Branch, Office of Drinking Water (WH-850), Environmental Protection Agency, 601 M Street, SW, Washington, D.C. 20460.

Such comments, together with other relevant materials, will be maintained at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Belk (202) 426-3834.

OME Approval: This guidance has been cleared for publication by the Office of Management and Budget.

Dated: May 11, 1981.
Walter C. Barber, Jr.,
Acting Administrator.

Table of Contents

Section	Page
1.0	Purpose and Scope
2.0	Applicability
3.0	Definitions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

(WH-FRL-1826-6)

State Underground Injection Control Programs

AGENCY: Environmental Protection Agency.

ACTION: Interim Final Guidance and Request for Public Comment.

SUMMARY: The Safe Drinking Water Act of 1974 (SDWA) was amended on December 8, 1980. Among other changes,

Table of Contents—Continued

2.2	Need for an UIC Program.
2.3	Application under Section 1425.
2.4	Other State Application to UIC.
2.5	Effect of a Prior Application.
2.6	Elements of an Application.
2.7	Elements of a State Application.
2.8	Letter from the Governor.
2.9	Program Description.
2.10	Statement of Legal Authority.
2.11	Check of Statutes and Regulations.
2.12	Check of State Funds.
2.13	Memorandum of Agreement.
2.14	Process for Approval or Disapproval.
2.15	Public Participation by States.
2.16	Corporate Applications.
2.17	EPA Review.
2.18	Criteria for Approving or Disapproving State Programs.
2.19	General.
2.20	Section 1425(b)(1)(A).
2.21	Section 1425(b)(1)(B).
2.22	Section 1425(b)(1)(C).
2.23	Section 1425(b)(1)(D).
2.24	Section 1425(b)(2).
2.25	Primary Prevention.
2.26	Technical Criteria.
2.27	Enforcement.
2.28	State Approval.
2.29	Changes.
2.30	General.
2.31	Mid-Course.
2.32	Annual Reporting.

2.1 Purpose and Scope

The 1980 amendments to the Safe Drinking Water Act (SDWA) added a Section 1425 which provides an alternative means for States to acquire primary enforcement responsibility for the control of underground injection related to the recovery and production of oil and natural gas. This document contains guidance on: (1) how States may apply for approval under Section 1425; and (2) the criteria EPA will use in approving or disapproving applications under Section 1425.

EPA is mindful of the fact that, in enacting Section 1425, Congress intended that States be offered an alternative to the detailed requirements of the regulations promulgated at 40 CFR Parts 122, 123, 124 and 146, and that State programs to control injections related to oil and gas production be considered on their merits.

Nevertheless, Section 1425 does require a State to demonstrate that such portion of its Underground Injection Control (UIC) program: (1) meets the requirements of Section 1423(b)(1) (A) through (D); and (2) represents an effective program to prevent injection which endangers drinking water sources. Further, Section 1425 requires the Administrator of EPA to approve or disapprove such portion of a State's UIC program for primary enforcement responsibility based on his judgment of whether the State has succeeded in making the required demonstrations.

Consequently, EPA believes that States are entitled to guidance on the

Implementation of Section 1425. The procedures and criteria contained in this document were developed in consultation with interested States. They represent a "model" State application and program which, in EPA's view, meet the requirements of the amended SDWA. A State application which conforms to these procedures and meets the suggested criteria should be approvable under Section 1425.

A State may choose to apply in a different form and make demonstrations different from those suggested in this document. EPA will consider such applications. However, they will have to be reviewed on a case-by-case basis to determine whether they meet the requirements of the Act. Such reviews may involve additional requests for information, more time and less assurance of ultimate approval.

This guidance and the regulations promulgated at 40 CFR Parts 122, 123, 124 and 146 are both aimed at achieving the same fundamental objective: the protection of underground sources of drinking water from endangerment by well injection. There are, however, some significant differences between them.

The most immediate difference is that one is a regulation and the other is guidance. This was a deliberate choice on the part of the Agency because it does not view the new Congressional mandate as requiring another set of detailed regulations for its implementation. In any event, there is insufficient time to develop such regulations in light of the short time remaining before State program submissions are due under Section 1422(b)(1)(A) of the SDWA.

A further difference is that State program submissions under Section 1422(b)(1) of the SDWA are required to meet a different legal standard from State program submissions under Section 1425. Under Section 1422(b)(1)(A), the State is required to make a showing that its UIC program "meets the requirements of regulations in effect under section 1423." Under Section 1425, the State is required to demonstrate that the Class II portion of its UIC program meets the requirements of Section 1423(b)(1) (A) through (D) and represents an effective program to prevent underground injection which endangers drinking water sources.

As a consequence of these differences, this guidance is much less detailed than the regulations and leaves a great deal more discretion to the State to develop and EPA to approve State UIC programs under Section 1425.

2.2 Applications

2.2.1 Definition

For the purposes of Section 1425 of the SDWA:

1. The underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production; and

2. Any underground injection for the secondary or tertiary recovery of oil or natural gas; and

3. Any injection for the storage of hydrocarbons which are liquid at standard temperature and pressure; shall be defined as "Class II" injections or wells.

2.2.2 Need for an Underground Injection Control (UIC) Program

Any State which has Class II wells must have an UIC program to assure that such wells do not endanger underground sources of drinking water (USDWs). A State may submit its Class II program to EPA for approval. If EPA approves the program, the State has primary enforcement responsibility for that portion of its UIC program.

If a State chooses not to apply, or if its program is disapproved, or if subsequent to approval the State loses primary enforcement responsibility because the Administrator determines, under Section 1425(c)(2), that the demonstration is no longer valid, EPA must prescribe and implement a program in that State. When EPA implements a Class II program for a State, it will do so in accordance with the requirements of 40 CFR Parts 122, 124 and 146.

A State which does not have any Class II wells need not develop a Class II control program in order to qualify for primary under the UIC program. Under the regulations at 40 CFR 123.51(d), such a State only needs to demonstrate that Class II wells cannot legally occur until the State has developed an approved program to regulate such injections.

2.3 Applications Under Section 1425

Any State which has Class II wells may, at its option apply for primary for its Class II UIC program either: (1) under the regulations at 40 CFR Parts 122, 123, 124 and 146; or (2) under Section 1425 of the SDWA.

2.4 When Should Application be Made?

House Report No. 96-1342, accompanying the 1980 amendments, states on page 3 that: "The Committee expects that alternative demonstrations will be submitted on the same schedule. Accordingly, as demonstrations required for state programs meeting Federal regulations promulgated under Section

(b) States have 270 days from July 1, 1980 to submit applications, or until July 1, 1982.

This period may be extended by up to another 270 days by the Regional Administrator for "good cause", or until January 1, 1982.

A State need not wait until it is ready to submit its application for all classes of wells. EPA will entertain partial applications for primary as long as the program for which approval is sought covers: (1) all elements of a program to regulate a particular class or classes of injection practices even if the class or classes involve the jurisdiction of more than one State agency; or (2) all elements of a program to regulate all the classes or types of wells within the jurisdiction of a single State agency. However, if a State submits a partial application, the alternative demonstration under Section 1425 may be used only for the Class II portion of the application. The portion of the program covering types of practices other than Class II will have to meet the requirements of 40 CFR Parts 122, 123, 124 and 146.

2.5 Effects of a Partial Application

The recent amendments have changed Section 1443 of the SDWA so that a State may receive grant support until July 1, 1982. After that date, it must have achieved full primary in order for grant eligibility to continue. As a consequence, a State may receive partial primary for its Class II control program and continue to receive grants: (1) if it has obtained an extension for submitting the remainder of its application; (2) until it declares its intention not to file any further applications; (3) until EPA terminates its grant for cause; or (4) until July 1982, whichever is sooner.

If a State receives full primary, its eligibility for grants will, of course, continue.

2.6 Elements of an Application for Primary under Section 1425

2.6.1 Elements of a State Application

A complete State submission should contain the following elements:

- a. a letter from the Governor;
- b. a description of the program;
- c. a statement of legal authority;
- d. copies of the pertinent statutes and regulations;
- e. copies of the pertinent State forms; and
- f. a signed copy of a Memorandum of Agreement.

The nature of these elements is described further below.

2.6.2 Letter From the Governor

The letter from the Governor should:

- a. request approval of the State's program for primary under the UIC program;
- b. specify whether approval is sought under Section 1425 of the SDWA or under 40 CFR Parts 122, 123, 124, and 146; and
- c. affirm that the State is willing and able to carry out the program described.

2.6.3 Program Description

A State's application is expected to contain a full description of the program for which approval is sought, in sufficient detail to enable EPA to make the judgments outlined in Section 8 below. Such a description should:

- a. Specify the structure, coverage and scope of the program;
- b. Specify the State permitting process and address, to the extent applicable, the following elements:
 1. Who applies for the permit or the authorization by rule;
 2. Signatories required for permit application and reports;
 3. Conditions applicable to permits, including: duty to comply with permit conditions, duty to reapply, duty to halt or reduce activity, duty to mitigate, proper operation and maintenance, permit actions, property rights, inspection and entry monitoring, record keeping, and reporting requirements;
 4. Compliance schedules;
 5. Transfer of permits;
 6. Termination of permits;
 7. Whether area permits or project permits are granted;
 8. Emergency permits;
 9. The availability and use of variances and other discretionary exemptions to programmatic requirements; and
 10. Administrative and judicial procedures for the modification of permits.
- c. Describe the operation of any rules used by the State to regulate Class II wells;
- d. Describe the technical requirements applied to operators by the State program:
 1. Include a description of the State's procedures for monitoring, inspection and requiring reporting from operators;
 2. Discuss the State's enforcement program, e.g.:
 1. Administrative procedures for dealing with violations;
 2. Nature and amounts of penalties, fines and other enforcement tools;
 3. Criteria for taking enforcement actions; and
 4. If the State is seeking approval for an existing program, summary data on:

A. Past practice in the use of enforcement tools;

B. Current compliance/non-compliance with State requirements;

C. Repeat violations at the same well or by the same operator at different wells;

D. Well failure rates; and

E. USDW contamination cases based on actual field work and citizen complaints.

g. Detail the State's staffing and resources, and demonstrate that these are sufficient to carry out the proposed program;

h. If more than one State agency is involved in the Class II program, describe their relationships with regard to carrying out the Class II program;

i. Contain a reasonable schedule for completion of an inventory of Class II wells in the State;

j. Include the procedures for exempting aquifers, a list of the aquifers or portions of aquifers proposed for exemption at the time of application, and the reasons for the proposed exemptions, unless these have been described in the partial applications made by the State;

k. Contain a plan (including the basis for assigning priorities) for the review of all existing Class II wells in the State within five years of program approval to assure that they meet current non-endangerment requirements of the State (this may include permit modification and reissuance, if appropriate);

l. Describe State requirements for ensuring public participation in the process of issuing permits and modifying permits in the case of substantial changes in the project area, injection pressure or the injection horizon; and

m. Describe State procedures for responding to complaints by the public.

2.6.4 Statement of Legal Authority

The statement of legal authority is intended to assure EPA that the State has the legal authority to carry out the program described. It may be signed by a competent legal officer of the State, for example, the Attorney General, the Council for the responsible State agency, or any other officer who represents the Agency in legal matters.

The statement may, at the option of the State, consist of a full analysis of the legal basis for the State program, including case law as appropriate. Or the statement may consist of a simple certification by the legal representative that the State has adequate authority to carry out the described program. If the State chooses to submit a certification, the program description should detail

the legal authority on which the various elements of the State's program rest.

3.4 Copies of Statutes and Regulations

The application should contain copies of all applicable State statutes, rules and regulations, including those governing State administrative procedures.

3.5 Copies of State Forms

The application should contain examples of all forms used by the State in administering the program, including application forms, permit forms and reporting forms.

3.6 Memorandum of Agreement

The head of the cognizant State agency and the EPA Regional Administrator shall execute a memorandum of agreement which shall set forth the terms under which the State will carry out the described program and EPA will exercise its oversight responsibility. A copy of such an agreement signed by the Director of the State agency, shall be submitted as part of the application.

At a minimum, the memorandum of agreement should:

- a. Include a commitment by the State that the program will be carried out as described and be supported by an appropriate level of staff and resources;
- b. Recognize EPA's right of access to any pertinent State files;
- c. Specify the procedures (e.g., notification to the State and participation by State officials) governing EPA inspections of wells or operator records;
- d. Recognize EPA's authority to take Federal enforcement action under Section 1423 of the SDWA in cases where the State fails to take adequate enforcement actions;
- e. Agree to provide EPA with an annual report on the operation of the State program, the content of which may be negotiated between EPA and primary States from time to time;
- f. Provide that aquifer exemptions for Class II wells be consistent with aquifer exemptions for the rest of the UIC program;
- g. When appropriate, may include provisions for joint processing of permits by the State and EPA for facilities or activities which require permits from both EPA and the State under different programs; and
- h. Specify that if the State proposes to allow any mechanical integrity tests other than those specified or justified in the program application, the Director will notify the cognizant Regional Administrator and provide enough information about the proposed test that

a judgment about its usefulness and reliability may be made.

3.7 Process for Approval or Disapproval of Application

3.7.1 Public Participation by States

Section 1425 relieves States of the responsibility to hold public hearings or afford an opportunity for public comment prior to submitting an application to EPA. Therefore, when application is made by a State under Section 1425, it may, but need not, provide an opportunity for public hearings or comments.

3.7.2 Complete Applications

Within 10 working days of the receipt of a final application, EPA will determine whether the application is complete or not and so notify the State in writing. If the application is found to be incomplete it will be returned to the State with specific requests for additional material or changes. However, the State may, at its option, insist that EPA complete its review of an application as submitted.

3.7.3 EPA Review

a. EPA has 90 days to approve or disapprove an application. If EPA finds that the application is complete, the review period will be deemed to have begun on the date the application was received in the cognizant Regional Office. If an application has been found to be incomplete and the State insists that EPA proceed with its review of the application as submitted, the review period will begin on the date that EPA receives the State's request to proceed in writing. The review period may be extended by the mutual consent of EPA and the State.

b. Within the 90-day period, EPA will request public comments and provide an opportunity for public hearing on each application, in the applying State, in accordance with 40 CFR 121.34(c) and (d). If the State has not done so, EPA will hold at least one public hearing in the State.

c. If a State's application is approved, the State shall have primary enforcement responsibility for its Class II program.

d. If a State's application is disapproved, EPA intends within 90 days of disapproval or as soon thereafter as feasible, prescribe a Class II program for the State in accordance with Section 1422(c) of the SDWA and 40 CFR Parts 122, 124 and 146.

3.8 Criteria for Approving or Disapproving State Programs

3.8.1 General

Section 1425 of the SDWA states that: " . . . the State may demonstrate that [the Class II] portion of the State program meets the requirements of subparagraphs (A) through (D) of Section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources."

Thus Section 1425 requires that a State, in order to receive approval for its Class II program under the optional demonstration, make a successful showing that its program meets five conditions:

a. Section 1421(b)(1)(A) requires that an approvable State program prohibit any underground injection in such State which is not authorized by permit or rule.

b. Section 1421(b)(1)(B) requires that an approvable State program shall require that:

1. The applicant for a permit must satisfy the State that the underground injection will not endanger drinking water sources; and

2. No rule may be promulgated which authorizes any underground injection which endangers drinking water sources.

c. Section 1421(b)(1)(C) requires that an approvable State program include inspection, monitoring, recordkeeping, and reporting requirements.

d. Section 1421(b)(1)(D) requires that an approvable State program apply to: (1) underground injections by Federal agencies; and (2) underground injections by any other person, whether or not occurring on property owned or leased by the United States.

e. Section 1425(a) requires that an approvable State program represent an effective program to prevent underground injection which endangers drinking water sources.

The following sections provide guidance to EPA personnel for making the required judgments with respect to these five conditions in the review of an application for approval under Section 1425.

3.8.2 Section 1421(b)(1)(A)

The question of whether a State program prohibits unauthorized Class II injections is a function of the State's statutory and regulatory authority. A determination of whether the State program meets this condition should be made from a review of the coverage and scope of the program, the statement of

legal authority submitted by the State, and of the statutes and regulations themselves. One important consideration is whether the State has an appropriate formal mechanism for modifying permits in cases where the permeation has undergone significant change.

2.3 Section 1421(b)(1)(B)

The determination of whether a State program is adequate in requiring that the applicant demonstrate that the proposed injection will not endanger drinking water sources turns on two elements: (1) whether the State program places on the applicant the burden of making the requisite showing and (2) the extent of the information the applicant is required to provide as a basis for the State agency's decision. Whether the burden of making the requisite showing is on the applicant should be determined from the State's description of its permitting process. If the necessary information is available in State files, the Director need not require it to be submitted again. However, as a matter of principle, the applicant should not escape ultimate responsibility for assuring that the information about his operation is accurate and available. One consideration in this regard is whether the well operator has a responsibility to inform the permitting authority about any material change in his operation, or any pertinent information acquired since the permit application was made.

With regard to the extent of the information to be considered by the Director, the State program should require an application containing sufficiently detailed information to make a knowledgeable decision to grant or deny the permit. Such information should include:

a. A map showing the area of review and identifying all wells of public record penetrating the injection interval;

b. A tabulation of data on all wells of public record within the area of review which penetrate the proposed injection zone. Such data should include a description of each well's type, construction, date of drilling, location, depth, record of plugging and/or completion, and any additional information the Director may require;

c. Data on the proposed operation, including:

1. Average and maximum daily rate and volume of fluids to be injected;
2. Average and maximum injection pressure; and
3. Source, and an appropriate analysis of injection fluid if other than produced water, and compatibility with the receiving formation;

d. Appropriate geological data on the injection zone and confining zones including lithologic description, geological name, thickness, and depth;

e. Geologic name, and depth to bottom of all underground sources of drinking water which may be affected by the injection;

f. Schematic drawings of the surface and subsurface construction details of the system;

g. Proposed stimulation program;

h. All available logging and testing data on the well; and

i. The need for corrective action on wells penetrating the injection zone in the area of review.

There are two circumstances under which the director may require less information from the applicant. First, the Director need not require an applicant to resubmit information which is up-to-date and readily available in State files. Second, a State's application may outline circumstances or conditions where certain items of information may not be required in a specific case. Such circumstances may include situations where, based upon demonstrable knowledge available to the director about a specific operation, the Director proposes to permit that operation without requiring corrective action or alternatives to it. Examples of such circumstances are gravity or vacuum injections and injections through zones of plastic heaving shales.

Section 1421(b)(1)(B) also requires a State which authorizes Class II injections by rule to show that such rules do not allow any underground injection which endangers drinking water sources. The determination of whether the State program meets this requirement may be made from the program description, statement of legal authority, the text of the rules themselves, and the manner in which the State has administered such rules.

2.4 Section 1421(b)(1)(C)

This section of the SDWA requires that an approvable State program contain elements for inspection, monitoring, recordkeeping and reporting. The adequacy of the State program in these respects may be assessed with the use of the following criteria.

a. Inspection.

An approvable State program is expected to have an effective system of field inspection which will provide for:

1. Inspections of injection facilities, wells, and nearby producing wells; and
2. The presence of qualified State inspectors to witness mechanical integrity tests, corrective action operations, and plugging procedures.

An adequate program should insure that at a minimum, 25% of all mechanical integrity tests performed each year will be witnessed by a qualified State inspector.

b. Monitoring, Reporting and Recordkeeping.

1. The Director should have the authority to sample injected fluids at any time during injection operation.

2. The operator should be required to monitor the injection pressure and injection rate of each injection well at least on a monthly basis with the results reported annually.

3. The Director should require prompt notice of mechanical failure or downhole problems in injection wells.

4. The State should assure retention and availability of all monitoring records from one mechanical integrity test to the next (i.e., 5 years).

2.5 Section 1421(b)(1)(D)

An approvable State program must demonstrate the State's authority to regulate injection activities by Federal agencies and by any other person on property owned or leased by the United States. The adequacy of the State's authority in these regards may be assessed on the basis of the program description and statement of legal authority submitted by the State. Such authority and the programs to carry it out must be in place at a time no later than the approval of the program by EPA. EPA will administer the UIC program on Indian lands unless the State has the authority and is willing to assume responsibility.

2.6 Section 1423(a)

In addition to the four demonstrations discussed above, Section 1423 requires a State to demonstrate that the Class II program for which it seeks approval in fact "represents an effective program to prevent underground injection which endangers drinking water sources."

Among the factors that EPA will consider in assessing the "effectiveness" of a State program are: (1) whether the State has an effective permitting process which results in enforceable permits; (2) whether the State applies certain minimum technical requirements to operators by permit or rule; (3) whether the State has an effective surveillance program to determine compliance with its requirements; (4) whether the State has effective means to enforce against violators; and (5) whether the State assures adequate participation by the public in the permit issuance process.

Evidence of the presence or absence of ground water contamination is important. However, it cannot serve as

be sole criterion of effectiveness. Not all States have collected such evidence systematically. More importantly, the absence of evidence of contamination, especially if based on an absence of complaints, is not necessarily proof that ground water contamination has not occurred.

Each of the five factors named above is discussed further in the following subsections. In its review of these factors, EPA is not necessarily looking for a minimum set or even any particular elements. The effectiveness of a State program will be assessed by reviewing the State's entire program. The absence of even an important element in a State program may not by itself mean that the program is ineffective as long as there is a credible program for detecting and eliminating injection practices which allow any migration which endangers drinking water sources.

a. Permitting Process.

Section 3.3b of the Program Description outlines the major elements of the permitting process. The listing of these considerations should not be viewed as Federally imposed minimum policy, but rather as an outline of the information which will be necessary for EPA to evaluate the effectiveness of the State's permitting process.

States may deal with permitting considerations, such as limitations on the transfer of permits, in a variety of ways. There are many permitting approaches which may be equally effective. EPA's review will turn on whether the permitting process, taken as a whole, represents an effective mechanism for applying appropriate and enforceable requirements to operators.

b. Technical Criteria.

Any approvable State program should have the authority to apply, by permit or rule, certain technical requirements designed to prevent the migration of injected or formation fluids into USDWs. Any State program adopting the language of 40 CFR 146 should be considered approvable on its face value for that portion of the program to which it applies. State applications not relying on the language of 40 CFR 146 should be reviewed for the presence and adequacy of the following kinds of technical requirements in the State program.

1. Siting.

Siting requirements should be considered in the placement and construction of any Class II disposal well. Such requirements should be designed to assure that disposal zones are hydraulically isolated from underground sources of drinking water (USDWs). Such isolation may be shown through information supplied by the applicant, or data, on file with the State,

which would be analyzed by qualified State staff.

2. Construction.

A. Effective programs should require all newly drilled Class II wells to be cased and cemented to prevent movement of fluids into USDWs. Specific casing and cementing requirements should be based on:

- i. the depth to the base of the USDW;
- ii. the nature of the fluids to be injected; and
- iii. the hydrologic relationship between the injection zone and the base of the USDW.

B. All newly converted Class II wells should be required to demonstrate mechanical integrity.

3. Operation.

A. Adequate operating requirements should establish a maximum injection pressure for a well which assures that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the confining zone. Limitations on injection pressure should also preclude the injection from causing the movement of fluids into an underground source of drinking water.

Acceptable methods for establishing limitations on injection pressures include:

- i. Calculated fracture gradient;
- ii. Injectivity tests to establish fracture pressure; or
- iii. Other compelling geologic, hydrologic or engineering data.

B. An effective State program should have the demonstrated ability to detect and remedy system failures discovered during routine operation or monitoring so as to mitigate endangerment to USDWs.

4. Plugging and Abandonment.

Plugging and abandonment requirements should be reviewed for the presence of the following elements:

- A. That appropriate mechanisms are available in the State program to insure the proper plugging of wells upon abandonment;
- B. That all Class II wells are required, upon abandonment, to be plugged in a manner which will not allow the movement of fluids into or between USDWs; and
- C. That operators are required to maintain financial responsibility in some form, for the plugging of their injection wells.

5. Area of Review.

An effective State program is expected to incorporate the concept of an area of review defined as a radius of not less than ¼ mile from the well, field, or project.

Alternatively, a State program may substitute a concept of a zone of

endangering influence in lieu of this fixed radius. The zone of endangering influence should be determined for the estimated life of the well, field, or project through the use of an appropriate calculation, formula, or mathematical model that takes the relevant geologic, hydrologic, engineering and operational features of the injection well, field or project into account.

6. Corrective Action.

An approvable State program is expected to include the authority to require the operator to take corrective actions on wells within the area of review or zone of endangering influence.

A. Corrective action may include any of the following types of requirements:

- i. recementing;
- ii. workover;
- iii. reconditioning; or
- iv. plugging or replugging.

B. A State program may provide the Director the discretion to specify the following types of requirements in lieu of immediate corrective action:

- i. Permit conditions which will assure a negative hydraulic gradient at the base of USDW at the well in question;
- ii. Monitoring program (i.e., monitoring wells completed to the base of USDW within the zone of influence); or
- iii. Periodic testing to determine fluid movement outside the injection interval at other wells within the area of review.

However, if monitoring or testing indicate the potential endangerment of any USDW, corrective action shall be required.

C. In cases where the Director has demonstrable knowledge of geologic, hydrologic, or engineering conditions, specific to a given operation, which assure that wells within the zone of endangering influence or area of review will not serve as conduits for migration of fluids into an USDW, a State program may provide the Director the discretion to permit a specific operation without requiring corrective actions or any of the alternatives specified in Subsection (B) above. Examples of such circumstances are gravity or vacuum injections and injections through zones of plastic heaving shales. However, under the statute the State program may, in no circumstances, authorize an injection which endangers drinking water sources.

7. Mechanical Integrity.

An approvable State program is expected to require the operator to demonstrate the mechanical integrity of a new injection well prior to operation and of all injection wells periodically, at least once every five years. For the purpose of assessing the State's mechanical integrity requirements:

An injection well has mechanical integrity if:

- I. there is no significant leak in the casing, tubing or packer; and
- II. there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the well bore.

B. The following tests are considered to be acceptable tests to demonstrate the absence of significant leaks:

- I. a pressure test with liquid or gas;
- II. the monitoring of annulus pressure in those wells injecting at a positive pressure, following an initial pressure test; or
- III. all other tests or combinations of tests considered effective by the Director.

C. The following are considered to be acceptable tests to demonstrate the absence of significant fluid movement in vertical channels adjacent to the well bore:

- I. cementing records (they need not be reviewed every five years);
- II. tracer surveys;
- III. noise logs;
- IV. temperature surveys; or
- V. any other test or combination of tests considered effective by the Director.

D. If the State program allows or specifies alternative tests under B(III) or C(V) above, the program description should supply sufficient information so that the usefulness and reliability of such tests in the proposed circumstance may be assessed.

c. Surveillance.

The demonstration of an effective surveillance program has already been discussed in Section 3.4 above.

d. Enforcement.

A State's enforcement of its program is a crucial consideration in making the judgment of whether the State program is effective. States have used a number of enforcement tools to shift the economic incentive of operation more toward compliance with the law. Often State programs have employed civil penalties and, for repeat or willful violators, criminal fines or jail sentences. Other commonly used practices are administrative orders and court injunctions. In the area of oil and gas regulation, many States have found pipeline severance a powerful tool. In assessing a State's enforcement program, EPA will consider not whether a State has all or any particular enforcement tools but whether the State's program, taken as a whole, represents an effective enforcement effort. Certainly, there are many enforcement matrices which create effective programs. In addition, EPA will look at whether the State has exercised

its enforcement authorities adequately in the State.

e. Public Participation.

One factor to be used by EPA in assessing the "effectiveness" of a State program is the degree to which it assures the public an opportunity to participate in major regulatory decisions. It is assumed that most States already have legislation that governs public participation in State decision-making and defines such processes as appeals, etc. Therefore, the following represents only a minimal list of elements that EPA will consider:

1. Public Notice of permit application:

- A. The State may give such notice or it may require the applicant to give notice.
- B. The method of giving notice should be adequate to bring the matter to the attention of interested parties and, in particular, the public in the area of the proposed injection. This may involve one or more of the following:

- I. Posting;
- II. Publication in an official State register;
- III. Publication in a local newspaper;
- IV. Mailing to a list of interested persons; or
- V. Any other effective method that achieves the objective.

C. An adequate notice should:

- I. Provide an adequate description of the proposed action;
- II. Identify where an interested party may obtain additional information. This location should be reasonably accessible and convenient for interested persons;
- III. State how a public hearing may be requested; and
- IV. Allow for a comment period of at least 15 days.

2. The State program should provide opportunity for a public hearing if the Director finds, based upon requests, a significant degree of public interest.

A. The Director may hold a hearing of his own motion and give notice of such hearing with the notice of the application.

B. If a public hearing is decided upon during the comment period, notice of public hearing shall be given in a newspaper of general circulation. The hearing should be scheduled no sooner than 15 days after the notice.

3. The final State action on the permit application should contain a "response to comments" which summarizes the substantive comments received and the disposition of the comments.

3.3 Oversight

3.1 General

Once a Class II program is approved under Section 1425, the State has

primary enforcement responsibility for such portion of its UIC program. The Class II program is a grant-eligible activity and is subject to the same EPA oversight as other portions of the UIC program (e.g., State/EPA Agreements, Mid-course Reviews, grant conditions, etc.).

3.2 Mid-Course Evaluation

EPA will conduct a mid-course evaluation of Class II programs as envisioned in 40 CFR 122.18(C)(4)(ii) and 145.25. However, in lieu of a special reporting requirement, additional requirements have been added to the State's annual report to EPA. Should this mechanism prove unable to provide the necessary data, a special reporting requirement may be negotiated with the primacy States at a later date.

3.3 Annual Reporting

As part of the Memorandum of Agreement, each State shall agree to submit an annual report on the operation of its Class II program to EPA. At a minimum the annual report shall contain:

- a. An updated inventory;
- b. A summary of surveillance programs, including the results of monitoring and mechanical integrity testing, the number of inspections, and corrective actions ordered and witnessed;
- c. An account of all complaints reviewed by the State and the actions taken;
- d. An account of the results of the review of existing wells made during the year; and
- e. A summary of enforcement actions taken.

(FR Doc. 81-1078 Filed 5-19-81; 9:05 AM)
 BILLING CODE 4300-20-01

ATTACHMENT A

ALLOCATION OF 19 ADDITIONAL
PERMITTING POSITIONS

<u>REGION</u>	<u>CURRENT FTE</u>	<u>ADD-ON</u>	<u>NEW FTE</u>
I	6.0	0	6.0
II	13.3	1.8	15.1
III	13.6	1.8	15.4
IV	19.7	2.6	22.3
V	28.7	5.5	34.2
VI	20.0	2.8	22.8
VII	7.9	0	7.9
VIII	13.5	1.4	14.9
IX	17.4	3.1	20.5
X	8.8	0	8.8
	<hr/>	<hr/>	<hr/>
TOTAL	148.9	19.0	167.9

NOTE: Current and New FTEs do not include the conversion of DI grant funds.

UNDERGROUND INJECTION CONTROL
DIRECT IMPLEMENTATION STATES
REGIONAL COMMITMENT IN SPMS

Region	5 YEAR TOTAL COMMITMENT					1985 COMMITMENT				
	Permit Class I	Permit Class III	Permit Class II SWD	File Review Class II	MIT Class II	Permit Class I	Permit Class III	Permit Class II SWD	File Review Class II	MIT Class II
1	0	0	0	0	0	0	0	0	0	0
2	12	20	10	10	3250	6	4	1	4 /	50
3	0	0	4	66	2553	0	0	4	13	434
4	7	0	268	5720	5408	4	0	19	80	14
5	38	8	750	100	5000	5	2	150	20	1000
6	0	0	0	3795	3795	0	0	0	212	480
7	1	0	0	0	0	1	0	0	0	0
8	2	0	171	1166	1337	2	0	26	0	26
9	16	4	5	6	6	11	3	3	6	6
10	2	0	6	18	300	1	0	2	0	0
TOTAL	78	32	1214	10881	21649	30	6 9	205	335 332	2010

PRIMACY STATES
REGIONAL COMMITMENT
PERMITS DETERMINATION AND/OR FILE REVIEW
FOR EXISTING FACILITIES

Region	5 YEAR COMMITTED BY REGIONS					1984 COMMITMENTS					1985 COMMITMENT				
	Permit Class I	Permit Class III	Review Class II	MIT Class II		Permit Class I	Permit Class III	Review Class II	MIT Class II		Permit Class I	Permit Class III	Review Class II	MIT Class II	
1	0	0	0	0		0	0	0	0		0	0	0	0	
2	0	0	0	0		0	0	0	0		0	0	0	0	
3	1	80	3	458		1	8	2	38		1	16	1	91	
4	24	133	1	133		6	26	1	39		2	26	0	38	
5	25	6150	33	20750		0	1270	0	2948		4	1470	0	4073	
6	174	53087	177	56850		76	3980	66	7645		40	6770	64	11620	
7	55	8666	116	11048		0	1988	0	1808		55	1700	29	2080	
8	1	6225	10	5986		1	5080	2	2661		0	869	4	1409	
9	0	12470	0	12470		0	5930	0	1196		0	2495	0	624	
10	1	1	1	1		0	0	0	0		0	0	0	1	
TOTAL	281	86812	340	107696		84	18282	71	16335		102	13346	98	19936	

INSTRUCTIONS FOR FY 1985 SPMS COMMITMENTSI. The UniverseA. General

Forms 4a, 6a, 8a and 10a in the July 6 memo ask for the universe of actions to be taken on existing wells over the first five years of program operations. Existing wells, for this purpose, include active and temporarily abandoned wells, but not those under construction or permanently abandoned. It is a "snapshot" taken on the effective date of the particular State program. "Existing" wells are wells which were in operation on that effective date. The date will be different for each State. "New" wells (those beginning operations after the State program's effective date) should not be included in this number. The universe may change, however, if wells are plugged and abandoned.

B. Class I

Form 4a establishes the universe of existing Class I wells for which permits need to be issued or reissued. The number entered here should be the number of permits that must be issued. Since the regulations do not allow area permits for hazardous waste wells, the number of permits for hazardous waste wells should equal the number of wells. Area permits may be issued for non-hazardous waste wells. The universe of permits should equal the number of facilities unless there is an unusual circumstance. Numbers should not only tie to the UIC inventory but also to the "Class I Study."

C. Class II

Forms 4a, 6a, 8a and 10a seek to establish the universe of existing Class II wells for which file reviews or mechanical integrity tests need to be conducted in the first five years after the effective date of the State program or permits need to be issued. All existing Class II wells should have a file review and a mechanical integrity test once every five years. Primacy States are not required to reissue permits for existing Class II wells. Therefore, the universe for primacy States should include reviews and MI tests. Furthermore, the universe should equal the number of existing Class II wells in the inventory.