

UNDERGROUND INJECTION CONTROL PROGRAM FOR CLASS II WELLS

Memorandum of Agreement

Between

The State of New Mexico

and

The United States Environmental Protection Agency,

Region 6

I. General

This Memorandum of Agreement (Agreement) establishes policies, responsibilities, and procedures for the State of New Mexico Underground Injection Control Program for Class II injection wells (State Program) as authorized by Part C of Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523, as amended) (SDWA or the Act).

This Agreement is entered into by the New Mexico Oil Conservation Division of the New Mexico Energy and Minerals Department and signed by Joe Ramey, Director of the Oil Conservation Division (the State) with the United States Environmental Protection Agency (EPA), Region 6 and signed by \_\_\_\_\_, EPA Regional Administrator (EPA or Regional Administrator). After it is signed by the State and the Regional Administrator, this Agreement shall become effective the date the notice of State Program approval is published in the Federal Register.

This Agreement may be modified upon the initiative of the State or EPA. Modifications must be in writing and must be signed by the Director and the Regional Administrator. Modifications may be made by revision prior to the effective date of this Agreement or after the effective date by consecutively numbered and dated addenda attached to this Agreement.

This Agreement shall remain in effect as long as the State has primary enforcement authority for the State Program.

When the State has a fully approved program, EPA will not take enforcement actions without providing prior notice to the State and otherwise complying with Section 1423 of the SDWA. Nothing in this Agreement shall restrict EPA's authority to take Federal enforcement action under Section 1423 of the SDWA.

The State shall administer the State Program in accordance with the program submissions, the SDWA, and the applicable regulations.

EPA shall promptly inform the State of the issuance, content, and meaning of Federal statutes, regulations, guidelines, standards, judicial decisions, policy decisions, directives, and any other factors which might affect the State Program.

The State shall promptly inform EPA of any proposed or pending modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions which might affect the State Program and the State's authority to administer the program. The State shall promptly inform EPA of any resource allocation changes (for example, personnel, budget, equipment, etc.) which might affect the State's ability to administer the program.

Prior to the use of an alternative test (a test not listed in Section d.3. of the Program Description) for mechanical integrity, the State shall submit a written request to the Regional Administrator and shall obtain his/her written approval. No approval shall be required for the State to conduct experimental test programs at any time.

An underground source of drinking water (USDW) shall be defined as an aquifer or portion thereof which supplies water for human consumption, or in which the ground water contains fewer than 10,000 mg/l TDS, and is not an exempted aquifer. An aquifer or portion thereof which would otherwise meet the definition of USDW and which is not otherwise exempt for the intended purpose under terms of the State Program may be exempted from protection under this program by the Director after public notice and opportunity for public hearing upon approval by the Regional Administrator. An aquifer or portion thereof may be exempted if it does not currently serve as a source of drinking water and it can not now and will not in the future serve as a source of drinking water because:

1. It is mineral, hydrocarbon or geothermal energy producing;
2. It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;
3. It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption;  
or
4. It is located over a Class III Well mining area subject to subsidence or catastrophic collapse.

All aquifer exemptions subsequent to program approval shall be subject to public hearing and to approval by the Regional Administrator.

## II. Responsibilities

### A. Sharing of Information on Class II Operations.

All information and records obtained or used in the administration of the State Program, including all underground injection control (UIC) permit files, shall be available to EPA or its authorized representative upon request without restriction. Any information obtained from the State by EPA which is subject to a claim of confidentiality shall be treated by EPA in accordance with EPA regulations governing confidentiality (40 CFR Part 2).

EPA shall furnish to the State the information in its files which the State needs to implement the State Program, subject to EPA regulations governing confidentiality (40 CFR Part 2).

The State shall retain records used in the administration of the program for 5 years (the current year plus four) unless an enforcement action is pending. In that event, all records pertaining to such action shall be retained until such action is resolved.

### B. State Reports on Class II Operations.

The State shall submit to the Regional Administrator a mid-year and an annual report on the operation of the State Program.

The State shall submit to EPA no later than 30 days after the first 6 months of the fiscal year a mid-year report of the first 6 months. This report shall include a detailed description of the State's implementation of its program, suggested program changes, a description of activities by program element, including summaries of monitoring, surveillance and enforcement programs, an estimate of expenditures by program element, and an account of all UIC related complaints reviewed by the State and action taken.

The State shall submit to EPA no later than 45 days after the end of the fiscal year an annual program report of the entire year with emphasis on the last 6 months. This report shall include a detailed description of the State's implementation of its program, suggested program changes, a description of activities by program element, including summaries of monitoring, mechanical integrity testing and inspection, corrective action, surveillance and enforcement programs, an estimate of expenditures by program element, an account of all UIC related complaints reviewed by the State and action taken, and an updated inventory of active underground injection operations.

The State shall submit all reports in the format requested by EPA. Report formats shall normally be furnished to the State prior to the award of grant funds and any substantive changes shall have the concurrence of the State.

C. Program Evaluation for Class II Operations.

EPA shall conduct an annual evaluation of the State Program using the State reports and requested information to determine State Program consistency with the program submission, the SDWA, the applicable regulations, and applicable guidance and policies. The evaluation will include a review of financial expenditures.

EPA shall submit a draft of the program evaluation to the State for their review and comment within 15 working days after the submission of the annual program report. The State shall have 15 working days to submit comments on the draft evaluation to EPA. EPA shall make recommendations to the State based on the program evaluation.

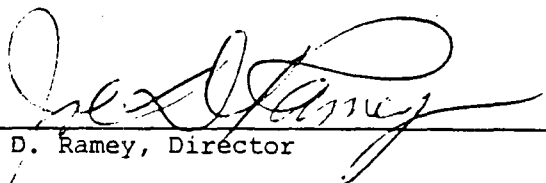
EPA may conduct a second evaluation during the year at their discretion.

D. Compliance Monitoring and Enforcement for Class II Operations.

The State shall enforce the State Program in accordance with the enforcement procedures outlined in the program submission. The State shall take timely and appropriate enforcement actions against any person in violation of any State Program requirement. Situations endangering human health will receive immediate and paramount attention.

EPA shall conduct periodic site and activity inspections on Class II injection operations. The Regional Administrator will normally notify the State at least 7 days before any such inspection and allow opportunity for the State to accompany EPA on any such inspection.

OIL CONSERVATION DIVISION

  
\_\_\_\_\_  
Joe D. Ramey, Director

9/14/81  
\_\_\_\_\_  
Date

ENVIRONMENTAL PROTECTION AGENCY, Region 6

\_\_\_\_\_  
Regional Administrator

\_\_\_\_\_  
Date

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Region 6

ADDENDUM NO. 1

That wells used for disposal of waters brought to the surface in connection with oil or natural gas production, when such waters are recovered at gas plants, will be regulated (permitted, reviewed, inspected, etc.) in the same manner as any such well on an individual lease or in a community disposal system.

That such wells will also be so regulated when said produced water is commingled with waste waters from any such gas plant where such plant is an integral part of production operations provided that the waters are not classified as a hazardous waste at the time of injection.

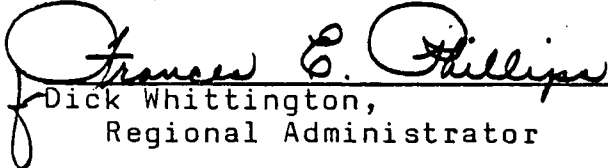
Oil Conservation Division

  
\_\_\_\_\_  
Joe D. Ramey, Director

\_\_\_\_\_  
June 10, 1982

\_\_\_\_\_  
Date

Environmental Protection Agency, Region 6

  
\_\_\_\_\_  
Dick Whittington,  
Regional Administrator

\_\_\_\_\_  
June 28, 1982

\_\_\_\_\_  
Date

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ADDENDUM No. 2

Section II.B. shall be edited as follows. Deletions are lined through and additions are underlined (underlined).

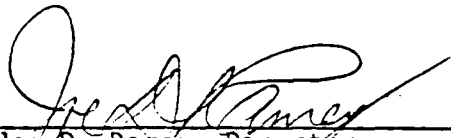
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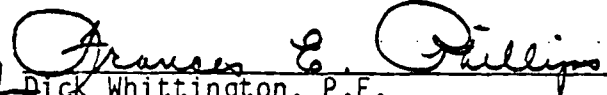
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The State shall submit to EPA no later than 45 days after the end of the fiscal calendar year an annual program report of the entire year ~~with emphasis on the last 6 months~~. This report shall include a detailed description of the State's implementation of its program, suggested program changes, a description of activities by program element, including summaries of monitoring, mechanical integrity testing and inspection, corrective action, surveillance and enforcement programs, an estimate of expenditures by program element, an account of all UIC related complaints reviewed by the State and action taken, and an updated inventory of active underground injection operations.

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Joe D. Ramey, Director  
Oil Conservation Division

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11-8-82  
Date

  
\_\_\_\_\_  
Dick Whittington, P.E.  
Environmental Protection Agency, Region 6

\_\_\_\_\_  
11-18-82  
Date