"This Policy Does Not Have the Force of Law"
ADOPTED


NUMBER: DDAGW-08-03-101
ISSUED: 06/30/96
REVISED:
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PURPOSE: To establish policy and procedures for Class I and Class V nonhazardous Underground Injection Control (UIC) well facilities to select, prepare, and submit financial assurance mechanisms under OAC Rule 3745-34-27 and 3745-34-39.

BACKGROUND: OAC Rule 3745-34-27(B)(5) states that "any Class I permit shall include, and any Class V permit may include, conditions" regarding plugging and abandonment. OAC Rule 3745-34-27 (B)(6) states "The permittee of a Class I or Class V injection well is required to maintain financial responsibility and resources to close, plug, and abandon the underground injection operation. The permittee must show evidence of financial responsibility to the director by the submission of a surety bond, or other materials acceptable to the director." However, OAC Rules pertaining to Class I nonhazardous and Class V wells do not define the "other materials acceptable to the director".

Ohio Administrative Code Rules 3745-34-09(C)(8) and 3745-34-36(D) define the financial assurance mechanisms required by Class I hazardous injection wells. Specific requirements for fulfillment of each of these mechanisms are discussed in the following two sets of OAC Rules (as listed in OAC Rule 3745-34-09(C)(8) and 3745-34-36(D)):

a. OAC Rules 3745-55-42 to 3745-55-51 ("new facilities"--Part B, RCRA permit, already in effect);

b. OAC Rules 3745-66-42 to 3745-66-48--("existing facilities" --interim status for Part B, RCRA permit, pending).

POLICY: To provide evidence of financial responsibility acceptable to the Director of Ohio EPA, in accordance with OAC Rules 3745-34-27 and 3745-34-39(A)(16), the owner or operator of a Class I nonhazardous UIC well, or Class V UIC well when applicable, shall implement a financial assurance mechanism prepared in accordance with the language and standards established in OAC Rules 3745-55-42 to 3745-55-48, and 3745-66-42 to 3745-66-48 and 3745-55-51. The following Rules are applicable, however, only under the circumstances listed:

a. 3745-55-44 to 3745-55-46 and 3745-66-44 to 3745-66-46 and any other references pertaining to post-closure care, only when post-closure care or activities are required by the UIC permit; and

b. 3745-55-47 and any other references pertaining to liability requirements, applicable only for hazardous waste UIC wells.

According to OAC Rules 3745-55-43 and 3745-66-43, the financial assurance mechanisms which are acceptable to the Director are the following:

1. Closure Trust Fund;

2. Surety Bond guaranteeing payment into a closure trust fund;

3. Surety Bond guaranteeing performance of closure (for permitted facilities only);
4. Closure Letter of Credit;

5. Closure Insurance; or,


For the mechanism submitted to be acceptable to the Director, the permittee shall adhere to the required wording for each of these financial assurance mechanisms as provided in the OAC.

If the chosen financial assurance mechanism has a date of submittal established within the above rules, it is recommended the permittee submit the mechanism within this timeframe. Otherwise, the permittee shall submit the financial assurance mechanism in accordance with the timeframe established in the permit. The timeframe established in the permit will typically be annually, on the anniversary date the mechanism is submitted as part of the UIC permit application, or on the anniversary date of the permit.

The permittee shall adhere to requirements in the permit to operate in regards to submittal of the Cost Estimate. If submission of the estimate is not required by permit, the Cost Estimate for plugging and abandonment of the Class I or Class V injection well should be submitted in accordance with OAC Rules 3745-55-42 and 3745-66-42, and OAC Rules 3745-55-44 and 3745-66-44 when applicable. The permittee shall update its cost estimate each year, either by applying the annual inflation factor or by recalculating the estimate in current dollars. For current dollar estimates, a copy of the estimate prepared by the consultant(s) who would be expected to carry out the actual plugging and abandonment activities would be acceptable substantiating documentation. The estimate should include the current date and the signature of the consultant who would be performing well closure. If submission of the estimate(s) is required by the UIC permit, the estimate(s) shall be signed and certified, as required by OAC Rule 3745-34-17.

If the permittee does not update the cost estimate annually, or cannot provide substantiating documentation that the estimate is current, then the permittee shall apply the inflation factor, calculated as described in OAC Rule 3745-55-42 and 3745-66-42, and as required by the UIC permit.

Class V wells authorized by OAC Rule 3745-34-13 are not subject to the financial assurance requirements of OAC Rule 3745-34-27. Should the owner/operator of a rule authorized well be required to obtain a Class V permit to operate, or to close the well, financial assurance documentation may be required by Ohio EPA as part of the permit, permit application, or closure plan.

**PROCEDURE:** The permittee shall submit evidence of financial assurance to the Director per the schedule established in the Class I, or applicable Class V, UIC permit to drill or permit to operate. A UIC Unit Geologist will review the financial assurance document(s) per OAC Rules 3745-55-42 to 3745-51 and 3745-66-42 to 3745-66-48. The permittee shall be notified by the Ohio EPA if any portion of the financial assurance mechanism does not meet these requirements.