

# UIC Class I Regulatory Challenges and Opportunities

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# Current Regulatory Development and Review

- President Trump has signaled a theme of reassessing regulatory approaches at the federal level, including the way that federal agencies interact with state agencies through federal-state partnership programs.
- The President has issued a series of executive orders that explain the approach and provide directives and procedures for federal agencies to follow.

# Reducing Regulation and Controlling Regulatory Cost

Executive Order 13771 of January 30, 2017

- Announced a policy of “prudent and financially responsible” expenditures “from both public and private sources.”
- Committed “to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations”
- Called for eliminating two prior regulations for every new regulation issued
- Directed the balancing of regulatory costs imposed

# Enforcing the Regulatory Reform Agenda

Executive Order 13777 of February 24, 2017

- Announced a policy “to alleviate unnecessary regulatory burdens”
- Directed agencies to establish Regulatory Reform Task Forces
- Directed agencies to obtain “input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations.”

# Promoting Energy Independence and Economic Growth

Executive Order 13783 of March 28, 2017

- Announced “the national interest to promote clean and safe development of our Nation’s vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.”
- Announced a policy that “all agencies should take appropriate actions to promote clean air and clean water for the American people, *while also respecting the proper roles of the Congress and the States* concerning these matters in our constitutional republic.” [Emphasis added.]

# EPA's Evaluation of Existing Regulations

Federal Register Notice 82 Fed. Reg. 17793 (April 13, 2017)

- Announcing designation of Regulatory Reform Officer
- Describing the work of the EPA Regulatory Reform Task Force
- Seeking input on regulations that may be appropriate for repeal, replacement, or modification
- Announcing EPA will also be conducting outreach on this same topic.

# GWPC Input to EPA on Regulatory Reform

GWPC Comments dated May 15, 2017 addressed:

- Process issues
  - Use of guidance and memoranda to interpret existing rules
  - Excessive time between the close of the comment period for a proposed rule and the adoption of a final rule
- Underground Injection Control issues
  - Aquifer exemptions
  - Class I UIC no migration exemption petition process
  - Withdrawal of proposed 40 CFR 192 standards
  - Withdrawal of 40 CFR Part 147 update request
- UIC Program Funding

# Previous Regulatory Reform Recommendations

- Class I recommendations from a GWPC Work Group prepared in response to calls by previous Presidents for regulatory improvement
- Recommendations regarding UIC Class I, II, III and VI fluid movement requirements
- Recommendations from the Underground Injection Technology Council (UITC)
- Ongoing development of recommendations by the GWPC Class I Work Group

# Examples of Previous GWPC Recommendations

- Allow longer interval for pressure fall-off testing; up to five years as appropriate at the discretion of the Director.
- Extend existing conditional permit transfer provision to cover hazardous waste injection wells.
- Clarify that a mere change in ownership or control of an injection well is not intended to provide an independent cause for permit modification.
- Allow the Director discretion to modify permit at the request of a permittee. Currently the Director must find some alternative basis.
- Expand the range of permit modifications that may be processed as minor modifications.
- Eliminate need to report minimum and average values that are unnecessary to determine compliance.
- Clarify that continuous cement is a design objective rather than a performance standard.
- Modify mechanical integrity requirements to focus attention on required operator response.
- Correct waste minimization certification requirement to clarify that certifications are to be made by permittees and need not be physically incorporated in UIC permits.
- Clarify the relationship between Part 146 area of review requirements and Part 148 requirements.
- Clarify that land disposal restriction (LDR) exemptions may be issued for wells that are not yet constructed.

# Examples of Additional UITC Recommendations

- Clarify that “annual” mechanical integrity testing means that tests must be conducted once each “calendar year” to provide greater scheduling flexibility.
- Discontinue reporting of flow rate, which can be derived from cumulative volume and time.
- Defer permit modifications required by judicial decisions relating to other permits until a permit is renewed.
- Simplify petition approval/modification process.
- Eliminate conditions from petition approvals.
- Switch radioactive tracer survey requirement from annual to every five years with flexibility to coordinate with scheduled shutdowns.
- Allow the Director discretion to decrease ambient pressure monitoring frequency based on site-specific conditions.
- Allow 90- or 120-day extensions for all scheduled tests that involve well shut-ins.

# No Migration Petition Processing

- Currently 44 Active No Migration Exemption Facilities
- EPA Region 6 has 32 (72.8 percent) of those facilities
- 19 petitions are currently in process with Region 6
  - 1 circulating for decision
  - 5 under review by EPA
  - 3 waiting on EPA
  - 9 awaiting operator input
  - 1 will be withdrawn when well plugged in October
- GWPC noted that some have been in process for up to 6 to 8 years after petition submittal.
- This has presented both challenges and opportunities for improvement

# EPA Response

- Recognizing and addressing priorities
- Developed UIC No Migration Petition Guidelines
- Developed petition crosswalk to ensure all required items are addressed and where they are addressed
- Has conference calls just with operators to discuss the QA/QC issues
- Stops review and sends deficiencies identified to date
- Accepting electronic submittals in place of hard copies
- Segmenting the process with initial submittal being a geologic interpretation and modeling strategy package
- Now encourages operators to keep demonstrations simple
- Requested that reissuance requests highlight and describe changes from the previous approval to focus EPA review

# EPA also Identified 8 Focus Items

## Items of Focus for Petition Review\*

- Local Geology (as related to the modeling setup)
- Model Input Parameters
- Injection History
- Pressure Buildup Models
- Cone of Influence
- Waste Plume Boundaries
- No Migration Demonstration
- Implementation and Compliance Section

\* Sections of the EPA Region 6 UIC Petition Application Guideline

# Response of UITC and Operators

- UITC has recommended that operators use the crosswalk to frame petitions and have the preparer fill it out while the application is generated.
- UITC has clarified with EPA that the crosswalk should not just list the page number where the information occurs, but should also explain how the information referenced satisfies the regulatory requirement.
- UITC has encouraged more use of QA/QC procedures
- Operators have accepted EPA's encouragement to have a face-to-face working meeting prior to beginning the petition work.
- Together EPA and operators have begun using face-to-face working meetings to discuss and resolve significant issues.
- Encouraging EPA to place greater reliance on primacy state permitting reviews and decisions addressing similar information

# Petition Process Response

- Response to the challenge has come from EPA, UITC and operators working together
- This process has both resulted in many improvements but more needs to be done
- The process has also highlighted procedural and regulatory problems
- For example, information required to be submitted can become outdated before processing is complete, necessitating expensive and unnecessary duplication.
- This presents an opportunity for the Class I Work Group to make more improvements and rework the regulatory requirements and procedures to fit what works in practice.

# Other Areas Where Similar Work Group Efforts Could Be Fruitful

- Revision of reporting requirements to fit better with improved 7520 forms and UIC databases
- Clarifying application of the SDWA nonendangerment requirement for various UIC injection well classes
- Revamping of the process for updating 40 CFR Part 147 to accommodate revisions by primacy states
- Eliminating outdated, unnecessary, or ineffective rules
- Revising permitting requirements and approaches for geologic sequestration pilot, demonstration and commercial projects



# Questions - Discussion