

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: SEP 13 1980

SUBJECT: Ground Water Protection Guidance No. 8

FROM: Alan Levin, Director
State Programs Division *Alan Levin*

TO: Water Supply Branch Chiefs

Attached is a copy of the Interim Guidance for Acceptable State UIC Program Work Elements for Public Participation and Information. Several Regions commented on the draft version and their comments have been incorporated. The Guidance is considered interim until the Agency's Public Participation Policy, published for comment in the Federal Register on April 30, 1980 is finalized. It is expected that the Agency's Policy will be in final form and effective in late November of this year. It does not appear at this time that the Policy will require any revisions in this guidance.

Also attached is a copy of a grant to the Tennessee Environmental Council recently negotiated by Region IV. The grantee will be responsible for assisting the Region in developing and implementing a UIC public information/education program in Tennessee. This grant is the first of its kind that I am aware of. It is a good example of a comprehensive public participation program for UIC. Robert Bridges, Ground Water Section, Region IV is the project officer. Technical assistance with defining the scope of work was provided by Sharon Gascon on my staff.

**Ground Water Program
Guidance No. 8**

**Interim Guidance for Acceptable State
UIC Program Work Element
for Public Participation & Information**

Interim Guidance for Acceptable State
UIC Work Element for Public Participation & Information

I. Purpose

The purpose of this guidance is to identify and clarify components of an acceptable State UIC public participation work element. This guidance applies to EPA primacy, primacy states, and states with grants working toward primacy.

II. Background:

The regulations governing grants for State Underground Water Source Protection Programs (40 CFR Part 35) promulgated on October 12, 1978 require that each State program plan include a program element for public participation and information. In addition, 40 CFR Parts 122, 123 and 124 provide procedural requirements for public participation in the planning and implementation of the UIC program. These regulations embody the requirements of 40 CFR Part 25, Public Participation Regulations.

The intent of the UIC public participation and information program element is to encourage informed public involvement in the planning and operation of a federally assisted State Underground Injection Control Program. The program should ensure that interested and affected members of the public have an opportunity to participate in significant program decisions.

Activities under this element should be structured to seek public opinions by providing adequate information and opportunity to the public so that they can express their views effectively. Thus any public participation effort must provide timely information, access and input to the decision-making process; provide due consideration to public viewpoints and demonstrate that those view-points have been considered in the decision-making process.

Specifically public participation, information and education efforts should be designed to fulfill the following objectives:

- (1) To assure that the public has the opportunity to understand official programs and proposed actions, and that government understands and fully considers public concerns;
- (2) To assure that interested and affected segments of the public are consulted in making significant decisions covered under program regulations.
- (3) To assure that government action is responsive to public concerns;

- (4) To encourage public involvement in implementing environmental laws;
- (5) To keep the public informed about significant issues and proposed project or program changes as they arise; and
- (6) To foster a spirit of mutual trust and openness between public agencies and the public

III. Significant Decisions:

In keeping with the intent of the public participation requirements under the Consolidated Permit Regulations and the UIC Grant Regulations, States should provide for and encourage public participation in significant decisions necessary for planning and implementation of State Underground Injection Control Programs. Significant decisions are defined under these regulations as follows:

- (1) Designation of exempted aquifers;
- (2) State/Primacy application;
- (3) Permit issuance process; and
- (4) Annual program plan under the State/EPA Agreement process.

Procedural requirements for public notice, comment; hearings and responsiveness summaries on Primacy and Permit applications are defined in 123.54 Approval process and 124.6 Draft permits; 124.8 Fact Sheet; 124.10 Public notice of permit actions and public comment period; 124.11 Public comment and request for hearings; 124.12 Public hearings; and 124.17 Response to comments.

IV. Public Participation Work Element:

Public Participation as well as other elements of the UIC program are in the planning and development stage. Public education and information at this point in the program is essential to effective public participation as the program gets underway. Therefore, emphasis should be placed on public information in this year's work element. This should include identification of target publics to be reached and development of an appropriate mailing list. Attachment A is a list of information and/or consultation mechanisms that can be used to encourage public involvement.

The public participation work element should clearly describe the schedule and activities to be used to inform, notify and consult with the public throughout the project period. The work element should tie the schedule and methods to be used to any significant decision points in the activity. In addition, the program work element should identify target publics to be reached and the budget and staff contacts devoted to public participation. When public input is sought the plan should identify points where responsiveness summaries will be prepared and when and how they will be made available to the public. An example of the key components of a public participation work plan can be found in Attachment B. Attachment C describes key components of a responsiveness summary.

In addition, a State UIC Program must include procedures for receiving and ensuring proper consideration of citizens complaints about permit violations (40 CFR 123.8 (b) (4)). The Consolidated Permit Regulations state that public effort in this regard should be encouraged and that information on reporting procedures must be made available to the public. The development and dissemination of this information is a grant eligible item and could be included in the public participation work plan.

The State's public participation activities should be summarized in the State's annual report. The regional office should review activities under this element during the mid-year grant evaluation.

V. Implementation

Regional Administrators will take this guidance, 40 CFR Part 25 Public Participation Regulations, EPA's public participation policy and applicable program and grant regulations into account in negotiating and approving State UIC Program work plans.

VI. Filing Instructions

This guidance document should be filed as Ground Water Program Guidance No. 8.

VII. For further information on this guidance document contact.

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EXAMPLES OF INFORMATION AND/OR CONSULTATION MECHANISMS

Consultation

- . public meetings
- . public hearings
- . review groups
- . task forces
- . ad hoc committees
- . workshops
- . seminars

- . public opinion surveys

- . informal personal communications with individuals and groups

- . phone-in radio programs

Information

- . fact sheets
- . newsletters
- . news releases
- . brochures
- . briefings
- . seminars
- . radio or TV announcements

- . responsiveness summaries

- . hotline or info number

- . information depositories

- . summaries of technical reports

CHECKLIST FOR REVIEW OF PUBLIC PARTICIPATION WORK PLAN OR ELEMENT

The Public Participation Work plan or program element should clearly describe the schedule and activities to be used to notify, inform and consult with the public throughout the project period. The workplan should tie the schedule and methods to be used directly any significant decision points in the activity. In addition, the work element should identify staff contacts, the target publics to be reached, and how and when the public will be informed of the disposition of their comments. The following checklist identifies key components of the Public Participation Work Plan:

- . Staff commitment _____
- . Budget _____
- . Schedule of public participation activities _____
- . Information mechanisms described _____
- . Consultation mechanisms described _____
- . Responsiveness summary schedule _____
- . Target publics identified _____

RESPONSIVENESS SUMMARY

At key decision points, a responsiveness summary should be prepared to give the public feedback on major issues raised, and how this input influenced decisions or the rationale for not using particular comments. The following checklist identifies key components of a responsiveness summary.

For each responsiveness summary

- . Public participation activity described _____
- . Summary of issues raised _____
- . Summary of major comments _____
- . Description of modifications made _____
- . Rationale for rejection of comments _____