



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

January 10, 2017

Class II Well Owner/Operator

Subject: Primacy for the Commonwealth of Kentucky's Underground Injection Control (UIC) Program for Class II Injection Wells Pursuant to Section 1425 of the Safe Drinking Water Act

Dear Class II Owner/Operator:

The U.S. Environmental Protection Agency has granted primary enforcement authority (primacy) of the Class II Underground Injection Control (UIC) program to the Commonwealth of Kentucky, as authorized and in accordance with Sections 1421 and 1425 of the Safe Drinking Water Act. The primacy will be effective on January 27, 2017. Except as provided below, upon the effective date of primacy, the Commonwealth (through the Commonwealth's Department of Natural Resources, Division of Oil and Gas (DOG)) will be responsible for all activities associated with the regulation of Class II injection wells in the Commonwealth and all owners and operators of Class II injection wells in the Commonwealth will be required to comply with the provisions of the Commonwealth's newly approved Class II UIC Program.

The Commonwealth's Class II UIC Program can be found in the regulations at 805 KAR 1:110. <http://www.lrc.ky.gov/kar/805/001/110.htm>. These regulations are effective upon the effective date of primacy, January 27, 2017. Section 9 of 805 KAR 1:110 details the Commonwealth's transitional requirements for owners and operators of Class II injection wells currently regulated under the EPA administered program. This section requires that all such owners or operators submit to the DOG within 90-days after the effective date of primacy the following:

- A plugging and abandonment plan as required by 805 KAR 1:110(10);
- A demonstration of adequate financial responsibility to plug and abandon a well as required by 805 KAR 1:110(8); and
- A copy of all documents showing approval by the EPA of the well's mechanical integrity and a copy of all forms, test data, and logs required by and submitted to the EPA.

All Class II permit applications and major modifications still under review by the EPA as of the effective date of primacy, including those for which a public notice has been issued, will be transferred to DOG for review and approval pursuant to the Commonwealth's newly approved Class II UIC Program. The EPA will not take a final action on these permitting actions.

The DOG is required to review all Class II wells currently authorized by the EPA, either by permit or authorized by rule, to ensure compliance with all Commonwealth requirements. When the DOG certifies that the owner/operator has adequate financial responsibility on the well or that the amount held by the EPA is adequate, the EPA will assign the financial responsibility documents to the state or release the

current financial documents back to the operator or the bank when DOG receives adequate financial responsibility documents for the well.

Please note, however, that the DOG will not assume any responsibility for the regulation of Class II injection wells in the Commonwealth that are the subject of an ongoing enforcement action by the EPA as of the effective date of primacy. The EPA will continue to oversee and administer such wells under the EPA administered program until such time that the EPA has determined that the owner/operator has achieved compliance and/or fulfilled all the terms of the enforcement action. Affected owners/operators will receive notification from the EPA that they are obligated to fulfill the terms of their enforcement action. Upon closure of the enforcement action by the EPA, the jurisdiction of the affected wells will be transferred to the DOG.

If you have any questions, please contact Mr. Jason B. Meadows of my staff at (404) 562-9399 or by email at Meadows.JasonB@epa.gov.

Sincerely,



Brian J. Smith  
Chief  
Ground Water and UIC Section