



Highlights of [GAO-03-761](#), a report to the Honorable Lynn C. Woolsey, House of Representatives

Why GAO Did This Study

Billions of gallons of hazardous liquid waste are injected into underground wells each year. These Class I hazardous deep injection wells are designed to inject waste into an area below the lowermost underground source of drinking water. EPA and the states grant permits to commercial operators to construct and operate these wells and must obtain public comments on the permits. Communities often raise concerns about well safety and other matters. GAO examined the extent to which EPA and the states (1) address these community concerns, (2) consider environmental justice issues, and (3) ensure that financial assurances adequately protect the taxpayer if bankruptcy occurs. GAO, among other things, examined the permit process in the four states that have commercial Class I wells.

What GAO Recommends

GAO recommends that EPA

- involve the public earlier in the permitting process to allow more time for community concerns to be addressed; and
- determine if the program's financial assurance requirements need to be strengthened.

EPA did not agree with GAO's recommendations and stated that (1) public involvement is limited by program regulations and (2) financial assurance requirements are not deficient. GAO maintains the recommendations are sound.

www.gao.gov/cgi-bin/getrpt?GAO-03-761.

To view the full product, including the scope and methodology, click on the link above. For more information, contact John B. Stephenson at (202) 512-3841 or stephensonj@gao.gov.

DEEP INJECTION WELLS

EPA Needs to Involve Communities Earlier and Ensure That Financial Assurance Requirements Are Adequate

What GAO Found

Although EPA provides opportunities for public comment on proposed commercial Class I deep injection wells as required by regulations, these opportunities come late in the process, after a draft permit has been prepared and this timing may limit the extent to which concerns are addressed. EPA responds to all public comments, but it cannot deny a permit on the basis of community concerns if all regulatory requirements for protecting drinking water are met. However, earlier involvement could give communities more time to contact appropriate state or local officials to address concerns that are not within the scope of EPA's authority. In Michigan, where EPA issues injection well permits, communities believe that their concerns are often not fully resolved; in some instances, communities have filed legal actions and complaints to prevent well construction. In contrast, the three states to which EPA has authorized responsibility for issuing permits have enacted requirements for earlier and more public involvement. Overall, they believe that early involvement better addresses community concerns, mitigates controversial issues, and avoids litigation.

EPA addresses environmental justice issues in two basic ways—first, as part of its process for deciding whether to issue a permit for well construction, and second, in response to specific civil rights complaints filed with the agency after permits are issued. EPA encourages its regional offices issuing construction permits to determine if minority and low-income populations are disproportionately affected by a proposed well's location. Individuals and communities may appeal EPA permit decisions with EPA's Environmental Appeals Board or, for other permit decisions, file complaints under Title VI of the Civil Rights Act with EPA's Office of Civil Rights. Only one community has filed complaints related to deep injection wells; these complaints did not result in changes to the permit decisions. Court decisions have recently limited the basis for filing Title VI complaints, making the process an unlikely avenue for changing permit decisions.

Current financial assurance requirements may not ensure that adequate resources are available to close a commercial deep injection well in the event of bankruptcy or ceased operations. While only four sites have gone into bankruptcy or ceased operating since the program began in 1980; two did not have adequate financial resources to plug and abandon wells and for the other two, financial assurance was not tested because other companies purchased and continued operating the wells. EPA has questioned the adequacy of some financial assurance requirements in other programs that are similar to those for Class I deep injection wells. EPA's Office of Inspector General has reported that financial assurance requirements for another waste management program, which the requirements for deep injection wells mirror, may not be adequate to close facilities; an EPA working group is also reviewing similar aspects of financial assurance requirements for a different type of injection well for possible changes.