

§ 145.56

40 CFR Ch. I (7-1-02 Edition)

and purposes of the Act and all applicable regulations) an effective Underground Injection Control Program.

[53 FR 37412, Sept. 26, 1988, as amended at 59 FR 64345, Dec. 14, 1994]

§ 145.56 Request by an Indian Tribe for a determination of eligibility.

An Indian Tribe may apply to the Administrator for a determination that it meets the criteria of section 1451 of the Act. The application shall be concise and describe how the Indian Tribe will meet each of the requirements of § 145.52. The application shall consist of the following:

(a) A statement that the Tribe is recognized by the Secretary of the Interior.

(b) A descriptive statement demonstrating that the Tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. The statement should:

(1) Describe the form of the Tribal government;

(2) Describe the types of governmental functions currently performed by the Tribal governing body such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population; taxation; and the exercise of the power of eminent domain; and

(3) Identify the sources of the Tribal government's authority to carry out the governmental functions currently being performed.

(c) A map or legal description of the area over which the Indian Tribe asserts jurisdiction; a statement by the Tribal Attorney General (or equivalent official) which describes the basis for the Tribe's jurisdictional assertion (including the nature or subject matter of the asserted jurisdiction); a copy of those documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which the Tribe believes are relevant to its assertions regarding jurisdiction; and a description of the locations of the underground injection wells the Tribe proposes to regulate.

(d) A narrative statement describing the capability of the Indian Tribe to administer an effective Underground

Injection Control program which should include:

(1) A description of the Indian Tribe's previous management experience which may include, the administration of programs and services authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facilities Construction Activity Act (42 U.S.C. 2004a).

(2) A list of existing environmental or public health programs administered by the Tribal governing body and a copy of related Tribal laws, regulations and policies.

(3) A description of the Indian Tribe's accounting and procurement systems.

(4) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government.

(5) A description of the existing, or proposed, agency of the Indian Tribe which will assume primary enforcement responsibility, including a description of the relationship between owners/operators of the underground injection wells and the agency.

(6) A description of the technical and administrative capabilities of the staff to administer and manage an effective Underground Injection Control Program or a plan which proposes how the Tribe will acquire additional administrative and/or technical expertise. The plan must address how the Tribe will obtain the funds to acquire the additional administrative and technical expertise.

(e) The Administrator may, in his discretion, request further documentation necessary to support a Tribe's eligibility.

(f) If the Administrator has previously determined that a Tribe has met the prerequisites that make it eligible to assume a role similar to that of a State as provided by statute under the Safe Drinking Water Act, the Clean Water Act, or the Clean Air Act, then that Tribe need provide only that information unique to the Underground Injection Control program (§ 145.76(c) and (d)(6)).

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