

Environmental Protection Agency

§ 145.13

that public hearings be held prior to issuing any permit while reducing the amount of advance notice of such a hearing.

(2) State programs may, if they have adequate legal authority, implement any of the provisions of parts 144 and 124. See, for example §144.37(d) (continuation of permits) and §124.4 (consolidation of permit processing).

[48 FR 14202, Apr. 1, 1983, as amended at 64 FR 78572, Dec. 7, 1999]

§ 145.12 Requirements for compliance evaluation programs.

(a) State programs shall have procedures for receipt, evaluation, retention and investigation for possible enforcement of all notices and reports required of permittees and other regulated persons (and for investigation for possible enforcement of failure to submit these notices and reports).

(b) State programs shall have inspection and surveillance procedures to determine, independent of information supplied by regulated persons, compliance or noncompliance with applicable program requirements. The State shall maintain:

(1) A program which is capable of making comprehensive surveys of all facilities and activities subject to the State Director's authority to identify persons subject to regulation who have failed to comply with permit application or other program requirements. Any compilation, index, or inventory of such facilities and activities shall be made available to the Regional Administrator upon request;

(2) A program for periodic inspections of the facilities and activities subject to regulation. These inspections shall be conducted in a manner designed to:

(i) Determine compliance or non-compliance with issued permit conditions and other program requirements;

(ii) Verify the accuracy of information submitted by permittees and other regulated persons in reporting forms and other forms supplying monitoring data; and

(iii) Verify the adequacy of sampling, monitoring, and other methods used by permittees and other regulated persons to develop that information;

(3) A program for investigating information obtained regarding violations

of applicable program and permit requirements; and

(4) Procedures for receiving and ensuring proper consideration of information submitted by the public about violations. Public effort in reporting violations shall be encouraged and the State Director shall make available information on reporting procedures.

(c) The State Director and State officers engaged in compliance evaluation shall have authority to enter any site or premises subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor or otherwise investigate compliance with permit conditions and other program requirements. States whose law requires a search warrant before entry conform with this requirement.

(d) Investigatory inspections shall be conducted, samples shall be taken and other information shall be gathered in a manner [e.g., using proper "chain of custody" procedures] that will produce evidence admissible in an enforcement proceeding or in court.

§ 145.13 Requirements for enforcement authority.

(a) Any State agency administering a program shall have available the following remedies for violations of State program requirements:

(1) To restrain immediately and effectively any person by order or by suit in State court from engaging in any unauthorized activity which is endangering or causing damage to public health or environment;

NOTE: This paragraph requires that States have a mechanism (e.g., an administrative cease and desist order or the ability to seek a temporary restraining order) to stop any unauthorized activity endangering public health or the environment.

(2) To sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit;

(3) To assess or sue to recover in court civil penalties and to seek criminal remedies, including fines, as follows:

(i) For all wells except Class II wells, civil penalties shall be recoverable for