

Environmental Protection Agency

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request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information under this section. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR part 2. If EPA obtains from a State information that is not claimed to be confidential, EPA may make that information available to the public without further notice.

(b) EPA shall furnish to States with approved programs the information in its files not submitted under a claim of confidentiality which the State needs to implement its approved program. EPA shall furnish to States with approved programs information submitted to EPA under a claim of confidentiality, which the State needs to implement its approved program, subject to the conditions in 40 CFR part 2.

Subpart C—State Program Submissions

§ 145.21 General requirements for program approvals.

(a) States shall submit to the Administrator a proposed State UIC program complying with § 145.22 of this part within 270 days of the date of promulgation of the UIC regulations on June 24, 1980. The administrator may, for good cause, extend the date for submission of a proposed State UIC program for up to an additional 270 days.

(b) States shall submit to the Administrator 6 months after the date of promulgation of the UIC regulations a report describing the State's progress in developing a UIC program. If the Administrator extends the time for submission of a UIC program an additional 270 days, pursuant to § 145.21(a), the State shall submit a second report six months after the first report is due. The Administrator may prescribe the manner and form of the report.

(c) The requirements of § 145.21 (a) and (b) shall not apply to Indian Tribes.

(d) EPA will establish a UIC program in any State which does not comply with paragraph (a) of this section. EPA will continue to operate a UIC program

in such a State until the State receives approval of a UIC program in accordance with the requirements of this part.

NOTE: States which are authorized to administer the NPDES permit program under section 402 of CWA are encouraged to rely on existing statutory authority, to the extent possible, in developing a State UIC program. Section 402(b)(1)(D) of CWA requires that NPDES States have the authority "to issue permits which control the disposal of pollutants into wells." In many instances, therefore, NPDES States will have existing statutory authority to regulate well disposal which satisfies the requirements of the UIC program. Note, however, that CWA excludes certain types of well injections from the definition of "pollutant." If the State's statutory authority contains a similar exclusion it may need to be modified to qualify for UIC program approval.

(e) If a State can demonstrate to EPA's satisfaction that there are no underground injections within the State for one or more classes of injection wells (other than Class IV wells) subject to SDWA and that such injections cannot legally occur in the State until the State has developed an approved program for those classes of injections, the State need not submit a program to regulate those injections and a partial program may be approved. The demonstration of legal prohibition shall be made by either explicitly banning new injections of the class not covered by the State program or providing a certification from the State Attorney General that such new injections cannot legally occur until the State has developed an approved program for that class. The State shall submit a program to regulate both those classes of injections for which a demonstration is not made and class IV wells.

(f) When a State UIC program is fully approved by EPA to regulate all classes of injections, the State assumes primary enforcement authority under section 1422(b)(3) of SDWA. EPA retains primary enforcement responsibility whenever the State program is disapproved in whole or in part. States which have partially approved programs have authority to enforce any violation of the approved portion of their program. EPA retains authority

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to enforce violations of State underground injection control programs, except that, when a State has a fully approved program, EPA will not take enforcement actions without providing prior notice to the State and otherwise complying with section 1423 of SDWA.

(g) A State can assume primary enforcement responsibility for the UIC program, notwithstanding §145.21(3), when the State program is unable to regulate activities on Indian lands within the State. EPA will administer the program on Indian lands if the State does not seek this authority.

[48 FR 14202, Apr. 1, 1983, as amended at 53 FR 37412, Sept. 26, 1988]

§ 145.22 Elements of a program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by §145.23, describing how the State intends to carry out its responsibilities under this part;

(3) An Attorney General's statement as required by §145.24;

(4) A Memorandum of Agreement with the Regional Administrator as required by §145.25;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures;

(6) The showing required by §145.31(b) of the State's public participation activities prior to program submission.

(b) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State's submission is complete, the statutory review period (i.e., the period of time allotted for formal EPA review of a proposed State program under the Safe Drinking Water Act) shall be deemed to have begun on the date of receipt of the State's submission. If EPA finds that a State's submission is incomplete, the statutory review period shall not begin until all the necessary information is received by EPA.

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(c) If the State's submission is materially changed during the statutory review period, the statutory review period shall begin again upon receipt of the revised submission.

(d) The State and EPA may extend the statutory review period by agreement.

§ 145.23 Program description.

Any State that seeks to administer a program under this part shall submit a description of the program it proposes to administer in lieu of the Federal program under State law or under an interstate compact. The program description shall include:

(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and structure of the State agency or agencies which will have responsibility for administering the program, including the information listed below. If more than one agency is responsible for administration of a program, each agency must have statewide jurisdiction over a class of activities. The responsibilities of each agency must be delineated, their procedures for coordination set forth, and an agency may be designated as a "lead agency" to facilitate communications between EPA and the State agencies having program responsibility. When the State proposes to administer a program of greater scope of coverage than is required by Federal law, the information provided under this paragraph shall indicate the resources dedicated to administering the Federally required portion of the program.

(1) A description of the State agency staff who will carry out the State program, including the number, occupations, and general duties of the employees. The State need not submit complete job descriptions for every employee carrying out the State program.

(2) An itemization of the estimated costs of establishing and administering the program for the first two years after approval, including cost of the personnel listed in paragraph (b)(1) of this section, cost of administrative support, and cost of technical support.