

Environmental Protection Agency

§ 145.11

Subpart E—Indian Tribes

- 145.52 Requirements for Tribal eligibility.
145.56 Request by an Indian Tribe for a determination of eligibility.
145.58 Procedure for processing an Indian Tribe's application.

AUTHORITY: 42 U.S.C. 300f *et seq.*

SOURCE: 48 FR 14202, Apr. 1, 1983, unless otherwise noted.

Subpart A—General Program Requirements

§ 145.1 Purpose and scope.

(a) This part specifies the procedures EPA will follow in approving, revising, and withdrawing State programs under section 1422 (underground injection control—UIC) of SDWA, and includes the elements which must be part of submissions to EPA for program approval and the substantive provisions which must be present in State programs for them to be approved.

(b) State submissions for program approval must be made in accordance with the procedures set out in subpart C. This includes developing and submitting to EPA a program description (§145.23), an Attorney General's Statement (§145.24), and a Memorandum of Agreement with the Regional Administrator (§145.25).

(c) The substantive provisions which must be included in State programs to obtain approval include requirements for permitting, compliance evaluation, enforcement, public participation, and sharing of information. The requirements are found in subpart B. Many of the requirements for State programs are made applicable to States by cross-referencing other EPA regulations. In particular, many of the provisions of parts 144 and 124 are made applicable to States by the references contained in §145.11.

(d) Upon submission of a complete program, EPA will conduct a public hearing, if interest is shown, and determine whether to approve or disapprove the program taking into consideration the requirements of this part, the Safe Drinking Water Act and any comments received.

(e) Upon approval of a State program, the Administrator shall suspend the issuance of Federal permits for those

activities subject to the approved State program.

(f) Any State program approved by the Administrator shall at all times be conducted in accordance with the requirements of this part.

(g) Nothing in this part precludes a State from:

(1) Adopting or enforcing requirements which are more stringent or more extensive than those required under this part;

(2) Operating a program with a greater scope of coverage than that required under this part. Where an approved State program has a greater scope of coverage than required by Federal law the additional coverage is not part of the federally approved program.

(h) Section 1451 of the SDWA authorizes the Administrator to delegate primary enforcement responsibility for the Underground Injection Control Program to eligible Indian Tribes. An Indian Tribe must establish its eligibility to be treated as a State before it is eligible to apply for Underground Injection Control grants and primary enforcement responsibility. All requirements of parts 124, 144, 145, and 146 that apply to States with UIC primary enforcement responsibility also apply to Indian Tribes except where specifically noted.

[48 FR 14202, Apr. 1, 1983, as amended at 53 FR 37412, Sept. 26, 1988; 59 FR 64345, Dec. 14, 1994]

§ 145.2 Definitions.

The definitions of part 144 apply to all subparts of this part.

Subpart B—Requirements for State Programs

§ 145.11 Requirements for permitting.

(a) All State programs under this part must have legal authority to implement each of the following provisions and must be administered in conformance with each; except that States are not precluded from omitting or modifying any provisions to impose more stringent requirements.

(1) Section 144.5(b)—(Confidential information);

(2) Section 144.6—(Classification of injection wells);

- (3) Section 144.7—(Identification of underground sources of drinking water and exempted aquifers);
- (4) Section 144.8—(Noncompliance reporting);
- (5) Section 144.11—(Prohibition of unauthorized injection);
- (6) Section 144.12—(Prohibition of movement of fluids into underground sources of drinking water);
- (7) Section 144.13—(Elimination of Class IV wells);
- (8) Section 144.14—(Requirements for wells managing hazardous waste);
- (9) Sections 144.21-144.26—(Authorization by rule);
- (10) Section 144.31—(Application for a permit);
- (11) Section 144.32—(Signatories);
- (12) Section 144.33—(Area Permits);
- (13) Section 144.34—(Emergency permits);
- (14) Section 144.35—(Effect of permit);
- (15) Section 144.36—(Duration);
- (16) Section 144.38—(Permit transfer);
- (17) Section 144.39—(Permit modification);
- (18) Section 144.40—(Permit termination);
- (19) Section 144.51—(Applicable permit conditions);
- (20) Section 144.52—(Establishing permit conditions);
- (21) Section 144.53(a)—(Schedule of compliance);
- (22) Section 144.54—(Monitoring requirements);
- (23) Section 144.55—(Corrective Action);
- (24) Section 124.3(a)—(Application for a permit);
- (25) Section 124.5 (a), (c), (d), and (f)—(Modification of permits);
- (26) Section 124.6 (a), (c), (d), and (e)—(Draft Permit);
- (27) Section 124.8—(Fact sheets);
- (28) Section 124.10 (a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b), (c), (d), and (e)—(Public notice);
- (29) Section 124.11—(Public comments and requests for hearings);
- (30) Section 124.12(a)—(Public hearings); and
- (31) Section 124.17 (a) and (c)—(Response to comments).
- (32) Section 144.88—(What are the additional requirements?);
- (b)(1) States need not implement provisions identical to the provisions list-

ed in paragraphs (a)(1) through (a)(32) of this section. Implemented provisions must, however, establish requirements at least as stringent as the corresponding listed provisions. While States may impose more stringent requirements, they may not make one requirement more lenient as a tradeoff for making another requirement more stringent; for example, by requiring 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;