Environmental Protection Agency

(3) Notice to State of findings. When the Administrator finds after the public hearing that the State is not in compliance, he or she shall notify the State by registered mail of the specific deficiencies in the State program and of necessary remedial actions. Within 90 days of receipt of the above letter, the State shall either carry out the required remedial action or the Administrator shall withdraw program approval. If the State carries out the remedial action or, as a result of the hearing is found to be in compliance, the Administrator shall so notify the State by registered mail and conclude the withdrawal proceedings.

Subpart E—Indian Tribes

Source: 53 FR 37412, Sept. 26, 1988, unless otherwise noted.

§ 145.52 Requirements for Tribal eligibility.

The Administrator is authorized to treat an Indian Tribe as eligible to apply for primary enforcement responsibility for the Underground Injection Control Program if it meets the following criteria:

(a) The Indian Tribe is recognized by the Secretary of the Interior.

(b) The Indian Tribe has a Tribal governing body which is currently “carrying out substantial governmental duties and powers” over a defined area, (i.e., is currently performing governmental functions to promote the health, safety, and welfare of the affected population within a defined geographic area).

(c) The Indian Tribe demonstrates that the functions to be performed in regulating the underground injection wells that the applicant intends to regulate are within the area of the Indian Tribal government’s jurisdiction.

(d) The Indian Tribe is reasonably expected to be capable, in the Administrator’s judgment, of administering (in a manner consistent with the terms and purposes of the Act and all applicable regulations) an effective Underground Injection Control Program.

§ 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
§ 145.58 Procedure for processing an
Indian Tribe's application.

(a) The Administrator shall process a
completed application of an Indian
Tribe in a timely manner. He shall
promptly notify the Indian Tribe of re-
cceipt of the application.

(b) A tribe that meets the require-
ments of §145.52 is eligible to apply for
development grants and primary en-
forcement responsibility for an Under-
ground Injection Control program and
the associated funding under section
1433(b) of the Act and primary enforce-
ment responsibility for the Under-
ground Injection Control Program
under sections 1422 and/or 1425 of the
Act.

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

PART 146—UNDERGROUND INJEC-
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