



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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MEMORANDUM

SUBJECT: Review and Approval of Primacy State Class V Rule Changes

FROM: William R. Diamond, Director *William R Diamond*
Drinking Water Protection Division (4606)

TO: See Addressees

This memorandum provides direction to the Regional Offices regarding the Environmental Protection Agency's (EPA) review and approval of State program revisions made in response to the revisions to the Underground Injection Control (UIC) Regulations for Class V injection wells. These regulations were published on December 7, 1999, and were effective on April 5, 2000.

Background

Under the Safe Drinking Water Act and the EPA's regulations, Primacy States must submit a revision package to EPA that incorporates the new UIC requirements within 270 days. The EPA then has 90 days to review a package that has been deemed complete. After meetings with both Regional and State UIC program managers, we recognized that States need additional time to complete these rule revisions. A memorandum was sent on August 1, 2000 outlining a flexible approach that could be used to grant States' additional time.

For State revisions, Federal regulations (40 CFR 145.32) distinguish between substantial revisions and non-substantial revisions. Federal UIC regulations require that, when a State submits substantial revisions of their primacy program to the EPA, these changes must undergo public comment, be signed by the Administrator and then be published in the **Federal Register** as a final rulemaking. Non-substantial revisions may be approved by the Regional Administrator (RA) through a letter to the Governor of the State or his designee. The UIC Guidance 34 was developed to clarify what constitutes a substantial revision (available on the EPA website at <http://www.epa.gov/safewater/uic/uicguid.html>). The guidance gives four examples of

substantial revisions. Three situations may be encountered in a Class V revision, and are as follows:

1. Modifications to the State's basic statutory or regulatory authority which may affect the State's ability to administer the program [are substantial].
2. A transfer of all or part of any program from the approved State agency to any other State agency [are substantial].
3. Proposed changes which would make the program less stringent than the Federal requirements [are substantial].

Revisions that do not meet this criteria may be considered non-substantial. The guidance also outlines Regional and Headquarters responsibilities when reviewing revision packages.

We have evaluated the burden associated with processing the revisions and have investigated alternatives. Consequently, we have identified situations where the review process can be expedited without sacrificing the quality of the review. It is our goal efficiently and thoroughly to review all State Class V rule revisions and have the States focus on implementation. Therefore, we are outlining a review process for Headquarters that is flexible and streamlined.

Process for Review

Once a State has submitted their final revision package, the Region will first make the determination whether the package is complete. At a minimum, the State will probably need to submit the revised State regulations, Attorney General's Statement, and any Memoranda of Agreement. The Region may require additional documents based on individual State circumstances (See 40 CFR Part 145.32). We recommend that the Region notify the State whether the package is complete within 10 days of receipt.

The Region will then make the initial determination of whether the package is substantial or non-substantial based on the criteria set out in UIC Guidance 34 (see above). The Regions will forward the package to the Drinking Water Protection Division (DWPD) with a cover letter stating whether the package is substantial or non-substantial and the criteria the Region used to make that determination. At a minimum, the letter should include:

- Regional Counsel's determination of whether or not any basic statutory or regulatory changes were made,
- Regional UIC Program determination of whether or not any basic regulatory changes were made, and
- Confirmation that the State has not transferred all of the or any part of any program from the approved State agency to any other State agency.

The DWPD Director will notify the Region in writing that Headquarters concurs with the Region's determination of substantial or non-substantial.

Outlined below are the types of packages that Headquarters expects to be submitted and the review process for each. To assist the Regions, we have attached a summary of the materials that States may need to submit as part of a rule revision (See Attachment 1).

A. REVIEW PROCESS FOR STATE REVISIONS SUBMITTED AS SUBSTANTIAL REVISIONS OR PART 147 UPDATES

Some States have indicated that they intend to use this opportunity to submit a complete primacy revision application for their entire 1422 program, encompassing Classes I, III, and V (and Class II, if applicable). They intend to submit this complete revision package, because States have made numerous changes to their UIC programs, and it has been years since EPA has updated the **Federal Register** at 40 CFR part 147 to reflect these changes.

The EPA will follow the review process outlined in Guidance 34 for States that submit their substantial revisions or 147 packages as complete and final rule changes.

B. PRELIMINARY REVIEW OF SUBSTANTIAL CLASS V REVISIONS AND PART 147 UPDATES

The process for substantial revisions and part 147 updates may take a considerable amount of time. We would like to give States the flexibility to have EPA provide an early and informal assessment of whether the State program meets the new minimum Federal requirements for Class V wells. Therefore, at a Region's request, Headquarters will review State Class V rule changes in final draft form prior to final review. This preliminary review is intended to streamline the later formal submission, review and approval process. Regions and States appear supportive of this idea, but have expressed some concern that if Headquarters reviews a State program, then Headquarters should not conduct a second review when the program is formally submitted to EPA, assuming the State program does not change. The EPA Headquarters is sympathetic to this concern and has attempted to develop an approach for reviewing these programs early with the understanding that the program office will not "second guess" its decisions at a later date. We cannot, however, make assurances that EPA management will not raise additional issues at a later date during the formal State rule revision and **Federal Register** publication process.

Review of State Packages

- The Regions will forward the package to Headquarters with a cover letter stating the criteria the Region evaluated in order to determine the package is substantial.

- The Regions will be responsible for the comprehensive review of the State package. Headquarters review will focus on State rule changes made in response to the Class V rule revisions. We recommend the Regions involve Headquarters when the State submits the final draft package. By this process any changes to their regulations needed to meet minimum Federal requirements will take place prior to the States' finalizing their regulations. Headquarters will review the package within approximately 2 weeks. The Region and UIC Headquarters staff working on the Class V rule review will schedule a conference call to discuss the State rule revisions. If there are disagreements between the Region and Headquarters on whether or not the State rule is as stringent as the Federal requirements, the staff will elevate the issue to the Division Director level. The DWPD will send a letter to the Region within 2 weeks after the conference call either concurring with the package or setting out the issues/concerns with the States' rule changes.
- When the State submits their final package, the DWPD will waive review of the Class V revisions, as long as any issues/comments/concerns that were raised during the initial review were addressed.
- If the package is a complete part 147 update, intended for codification and adoption by reference, the content should follow existing guidance for these activities¹. Headquarters review of the material will be limited, and we will only comment on any portion that is evidently not as stringent as the minimum Federal standards or protective of USDW's.

C. REVIEW PROCESS FOR NON-SUBSTANTIAL PACKAGES

Changes to a State's regulations to include the Class V revisions may be considered clarifications of what constitutes non-endangerment, and therefore, non-substantial.

- The Regions will forward the package to the DWPD staff (we recommend the Regions send the final draft) with a cover letter stating the criteria the Region evaluated in order to determine if the package is non-substantial.
- Concurrently, the entire package will be reviewed by the Region, but DWPD will focus their review on the Class V revisions.
- For revisions that are submitted to DWPD as **drafts**, the DWPD staff will send a letter to the Region indicating whether the State rules meet the minimum Federal requirements. DWPD staff will comment on State revisions within approximately 2 weeks. Comments found by DWPD and the Region which agree that the package does not meet the minimum Federal requirements will be incorporated into the Region's comments to the State.

¹ For more information contact Mario Salazar at 202 260-2363 (salazar.mario@epa.gov)

- For the *formal* submissions, the DWPD Director will notify the Region in writing concurring that the package is non-substantial. The letter will include DWPD determination of whether or not the State met the Federal minimum requirements.
- The RA approves the package and notifies the State through a letter to the Governor or his designee.
- All DWPD correspondence will be kept on file, and when the State submits their Part 147 package, DWPD will waive review of the Class V revisions, as long as any issues/ comments/concerns that were raised during the initial review were addressed.

Regions should submit packages (either electronically or hard copy) to Robyn Delehanty, DWPD (Mail Code 4606), 1200 Pennsylvania Avenue, NW, Washington, DC 20004 (delehanty.robyn@epa.gov).

We believe the process outlined above will streamline the review of the State Class V rule packages and facilitate a quick implementation of the Class V requirements. I encourage the Regional UIC staff to continue working closely with DWPD staff throughout the revision process on State-specific issues.

Attachment

Addressees:

Director, Office of Ecosystem Protection, Region I
Director, Division of Environmental Planning, Region II
Director, Water Protection Division, Region III
Director, Water Management Division, Region IV
Director, Water Division, Regions V, IX
Director, Water Quality Protection Division, Region VI
Director, Water, Wetlands & Pesticides Division, Region VII
Director, Water Program, Region VIII
Director, Office of Water, Region X

cc: Joan Harrigan-Farrelly, Prevention Program Chief
UIC Program Managers, Regions I - X
Regional Counsels, Regions I - X

Attachment

Guidelines for the Class V Revisions

Introduction

This reference material has been developed to assist States in changing their State Regulations to comply with the minimum Federal requirements and set out in the *Revisions to the Underground Injection Control Regulations for Class V Injection Wells* (64 FR 68546).

EPA developed three "short forms" to assist States in meeting the minimum Federal requirements. These forms are: (1) the Class V Crosswalk; (2) the State Checklist ; and (3) the Program Description Guide. These forms are not mandatory, but rather were developed to assist States by describing exactly what information EPA will look at to determine if the State's Class V rules meet the minimum Federal requirements.

Schedule

The new Class V rule became effective on April 5, 2000. Primacy States have 270 days from the effective date of the rule to incorporate the necessary changes into State regulations and submit them to the EPA (40 CFR §145.32(e))¹

States that may have problems meeting the statutory deadline should contact their EPA Regional contact as soon as possible. There are factors that might prevent a State from meeting the deadline including the administrative process, State rule making, and the varying timing of State legislative cycles. Therefore, States may request an extension of the 270 day timeline. The EPA Regional Office will work with their State counterparts to develop a time line for completing the rule changes and any documentation the State will need to submit as justification for the extension. The EPA Regional Office will then negotiate an extension agreement with the State for the additional time needed. The schedule should reflect an aggressive schedule for completion. A written extension agreement should be prepared and signed between the EPA Regional UIC Manager and the State UIC Program Director, and should contain benchmarks for measuring progress and a mutually agreed upon date for completion of the effort.

EPA will consider granting an extension for all portions of the package except the "Other Sensitive Ground Water Area Plan." States must still submit their plan to the Regions by the December 29, 2000 schedule. If a State is applying the Class V rule requirements state-wide, they should indicate this by December 29, 2000.

¹40 CFR 145.32(e) requires the State submit this information within 270 days of any amendment to 40 CFR Parts 144, 145, 146, or 124 that "revises or adds any requirement respecting an approved UIC program." Since the Class V rule amends portions of Parts 144, 145, and 146, this 270-day time frame applies to all §1422 programs.

What the State Class V Rule Revision Package should Include

This table contains the elements that may need to be included in a Class V Rule revision package. States should consult with their EPA Regional Office to determine which program elements must be included in their package.

Table 1 - Program Elements

Program Element	Include:
1. Authorizing Legislation and/or Regulation(s)	A copy(s) of Modified Text showing effective date (Note: If UIC Program requirements are regulated by another statewide Agency, (for example, the ban of large capacity cesspools is in the Department of Health's regulations) the State must also submit those regulations)
2. Attorney General's Statement of Enforceability	A signed and dated copy of Modified AG Statement
3. Memorandum of Understanding between State Agencies if authority is transferred	A signed and dated copy of any MOUs between the Primacy Agency and the Agency that is assuming authority for all or a portion of the new Class V requirements (note: authority for the Class V program can only be transferred to a Agency with statewide authority)
4. Other Sensitive Ground Water Area Plan	A detailed copy of the plan or a statement that the State will not identify Other Sensitive Ground Water Areas. (Note: EPA does not intend to provide an extension for the submission of the other sensitive ground water area plan)
5. State UIC Program Description	A copy of Modified Text
6. Memorandum of Agreement between State and Regional Administrator	A signed and dated copy of letter from Regional Administrator to Governor or Designee

PROGRAM ELEMENTS

1. Authorizing Legislation and Regulations: The State package must include the text of modified authorizing legislation and regulations (40 CFR 145.32(b)(1)).

IMPORTANT: These cannot be copies of the text of "proposed" rule(s), but must be copies of the text of the authorizing legislation and regulations that have been fully adopted by the State at the time the package is submitted (see 40 CFR 145.24(a)). As required by 40 CFR 145.24(a), the legislation (statute) submitted must be in effect at the time the package is sent for approval, while the adopted regulations must be in their final form and show an effective date. For instance, the State's new rules may be

adopted as of December 1, 2000, and will be effective as of February 28, 2001; this would be acceptable since the rule package that was submitted is in its final form and would be in effect by the time EPA approves the package.²

2. Attorney General's Statement³. The State package must contain an Attorney General's (AG) Statement certifying that the State government will have the authority, by statute and/or regulation, to enforce the new Class V rule, and that the Class V Rule changes will be fully effective on the date EPA's approval (see 40 CFR 145.32(b)(1)). The State may want to include a completed "Class V Crosswalk" in the AG statement, as a supporting document.

Not all States may need to revise their existing AG statement. If the existing AG statement is adequate for the rule changes made, then the State may submit a copy of the existing AG statement.

3. MOUs between the lead State Agency and another State Agency: If any or all authority is transferred to another statewide agency, a signed and dated copy of all MOUs that describe transfer of part or all authority to another agency must be submit to EPA. If more than one agency is responsible for administration of a program, each agency must have statewide jurisdiction (§145.23(b)) over a class of activities. The new agency is not authorized to administer the program until EPA has given approval (§145.32(c)). The new agency must not permit any new large-capacity cesspools and/or new motor vehicle waste disposal wells (whichever wells are under the authority of the new agency), consistent with the ban at 40 CFR 144.88.

The Regional office may require the State to include additional information such as: (1) Federal grant distribution arrangements; (2) the organization chart and/or structure of each agency that has responsibility to administer all or part of the §1422 program that relates to Class V (40 CFR 145.25 and 145.32); and, (3) records concerning inventory, closures, and enforcement.

4. Other Sensitive Ground Water Area Plan: Paragraph (f)(12) of 40 CFR 145.23 requires the State to include a plan that describes, and gives a schedule for, identifying and delineating other sensitive ground water areas. If a State does not intend to identify these areas, they must notify the EPA that they are not designating other sensitive ground water areas and will apply the new requirements statewide. States must submit the plan or a statement that they will apply the rule statewide by December 29, 2000. EPA does not intend to provide an extension for developing an other

² If the State publishes a document similar to the *Federal Register*, a copy of that will suffice. If not, the copies of authorizing legislation and regulations need to have the signatures and/or stamps used in the state to show the rule has been passed by appropriate authorities and an effective date for implementation.

³The minimum Federal requirements for the AG statement at found at 40 CFR 145.24.

sensitive ground water area plan.

40 CFR 145.23(f)(12) provides items that States are expected to consider in the plan and its implementation. The Technical Assistance Document for Delineating Other Sensitive Ground Water Areas (EPA 816-R-00-016) outlines what a State should consider when submitting their plan. Additional information regarding the Other Sensitive Ground Water Areas Plan is provided in the State Implementation Guide for the Revisions to the Underground Injection Control Regulations for Class V Injection Wells (EPA 817-R-00-008).

5. Program Description: A modified program description that reflects incorporation of the new rule and how the State plans to implement it (40 CFR 145.32(b)(1)). A “short form” is provided that describes modifications may be required (Appendix C).

6. Memorandum of Understanding between State UIC Primacy Agency and EPA Regional Office: As stated at 40 CFR 145.32(b)(1), an MOA that reflects agreement between the State and EPA may be required to clarify how the State will administer and enforce the new Class V rule. The minimum Federal requirements for the MOA between the State and the Regional Administrator are found at 40 CFR 145.25.

Short Forms for the Class V Rule

EPA has developed the following forms to assist States in completing the Class V regulatory updates. These forms are not mandatory and States are not required to submit them. However, the forms were designed to reduce the States workload and speed up EPA’s approval process. The EPA Regional Office can provide the forms in electronic format.

Table 3 - List of Three “Short Forms”

Short Form	Explanation
Class V Crosswalk (A rule by rule comparison of State changes compared to the EPA minimum standards) (Appendix A)	Use this to demonstrate that the State has the regulatory authority to enforce all the new minimum Federal requirements that exist in the State Program. <i>Where the State regulation or statute is different from the Federal requirement, please, use the last column of the Crosswalk to explain how the State requirement is as stringent as the Federal requirement.</i>
State Checklist (Appendix B)	This checklist will help the State and EPA ensure that the final package is complete by identifying all program elements that have changed in response to the new Federal requirements.
Program Description Guide (Appendix C)	This guide lists the various components of the Program Description

Incorporating the new Class V Federal Rule by reference

Incorporation by reference allows the State to change State regulatory language such that it directly references and includes the Federal rule changes. The State rules are not changed to include all the specific wording of the Federal rules on a paragraph by paragraph basis; instead, one cross-reference to the Federal rules is placed in the State rules. This process also is sometimes referred to as adoption by reference.

Incorporation by reference may still affect definitions, permitting and other elements of the States Class V Program. Certain required State Program Revision elements may still be applicable. For instance, an updated Attorney General's statement may be necessary as well as a copy of the final State regulations. Also, the requirement to specify whether the State will implement the rule by linking to Other Sensitive Ground Water Areas or by applying the motor vehicle waste disposal well requirements Statewide must be addressed in the primacy update package, as required by 40 CFR 145.23(f)(12).

If the State decides that incorporation by reference is the preferred means of updating the Class V rules for the States program, please contact the Region to discuss the applicable requirements.

Appendix A

Primacy Revision Crosswalk - Example Format

The Primacy Revision Crosswalk is not required. If States submit this form, it will be used by the Agency to compare the State regulations with the minimum Federal requirements. It also provides a tool for the State to ensure that the rule requirements are addressed in the program's revised regulatory language.

The cross walk presents the changes to the UIC regulations in four sections, general requirements for all Class V wells, new requirements for motor vehicle waste disposal wells and large-capacity cesspools, ground water protection areas and other sensitive ground water areas, and State requirements as outlined in 40 CFR Part 145. The crosswalk presents the requirements for Ground Water Protection Areas and Other Sensitive Ground Water Areas in the shaded portions of the table. If the State implements the Rule statewide without phasing it in based on the minimum Federal requirements, the shaded sections may not need to be completed. If the State implements the Rule first in the Ground Water Protection Areas, then in the Other Sensitive Ground Water Areas according to the minimum Federal requirements, all the requirements in the shaded portions of the crosswalk may need to be considered. New requirements outlined in Part 145 pertain to State requirements including the development of the other sensitive ground water area plans. This crosswalk is available electronically in Word Perfect and Word formats.

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
1. GENERAL REQUIREMENTS - §144.1 - 144.26			
PURPOSE AND SCOPE			
Specific inclusions to UIC regulations	§144.1(g)(1)(iii)		
Specific exclusions to UIC regulations	§144.1(g)(2)(v)		
DEFINITIONS			
Unless all Class V injection is banned by existing state statute and/or rule, including septic systems, the definitions must be updated to allow appropriate use of terms for compliance determinations.	§144.3, 144.81(2), 144.81(16), 146.3		

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
<p>New or revised definitions to be included in revision are:</p> <ul style="list-style-type: none"> • cesspool; • drywell; • improved sinkhole; • large capacity cesspool; • motor vehicle waste disposal well; • point of injection; • sanitary waste; • septic system; • subsurface fluid distribution system; • well; and, • well injection. 			
<p>CLASSIFICATION OF WELLS</p> <p>Class I Radioactive Disposal Well</p>	§144.6(a)(3), 144.80(a)(3), 146.5		
<p>CLASS IV WELLS</p> <p>Expansion of allowable wells to include remediation approved by State CERCLA and RCRA programs. The allowance of Class IV remediation wells may not be expanded beyond CERCLA and RCRA cleanups.</p>	§144.23(c), 144.80(e)		
<p>INVENTORY REQUIREMENTS</p> <p>Clarify inventory requirement for Class V radioactive waste disposal wells (that are not Class I wells)</p>	§144.26(b)(1)(iii)(B)		
<p>2. SUBPART G - REQUIREMENTS FOR OWNERS AND OPERATORS OF MOTOR VEHICLE WASTE DISPOSAL WELLS AND LARGE CAPACITY CESSPOOLS §144.79 - 144.89</p>			
<p>REQUIRING A PERMIT</p> <p>General Authorization by Rule. Rule must include exceptions of §144.84(b).</p> <p>Applicability to Large Capacity Cesspools</p>	§144.24(a), 144.84(a)		
<p>Applicability to Existing Motor Vehicle Waste Disposal Wells</p>	§144.85(a), 144.84(b)(2)		
	§144.85(b), 144.87(a), 144.84(b)(2)		

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
Applicability to New Motor Vehicle Waste Disposal Wells	§144.85(c), 144.84(b)(2)		
<p>Large Capacity Cesspools:</p> <ul style="list-style-type: none"> • Existing wells closed by April 5, 2005 • 30-day pre-closure notification • New construction prohibited as of April 5, 2000 <p>Motor Vehicle Waste Disposal Wells:</p> <ul style="list-style-type: none"> • New construction prohibited as of April 5, 2005 • 30-day pre-closure notification • Existing wells subject to regulation based on State rule implementation choices (see shaded portions of crosswalk) <p>Motor Vehicle Waste Disposal Well Conversions: Must be authorized by the UIC Director. Conversions of motor vehicle waste disposal wells requires: pre-closure notification; segregation of all motor vehicle fluids by physical barriers and prohibits such fluids entering well; injection of motor vehicle waste unlikely based on facility compliance history; and, records demonstrating proper waste disposal. Semi-permanent plug not acceptable to qualify as conversion.</p>	<p>§144.88</p> <p>§144.88</p> <p>§144.89(b)</p>		
3. STATE UIC PROGRAM REQUIREMENTS for GROUND WATER PROTECTION AREAS			
DEFINITIONS			
Ground Water Protection Areas. Definition must match language of Federal rule, such that the term corresponds to delineation of areas near and/or surrounding community and non-transient non-community water systems.	§144.86(c)		

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
APPLICABILITY OF GROUND WATER PROTECTION AREAS			
Applicability to Motor Vehicle Waste Disposal Wells	§144.87(a)		
Requirements in Ground Water Protection Areas	§144.87(b)		
<ul style="list-style-type: none"> • States required to complete delineation by January 1, 2004. • Motor Vehicle Disposal Well owners required to close or permit well within one year after a local assessment is completed. • If State does not meet January 1, 2004 deadline, requirements apply to all existing motor vehicle waste disposal wells in the state. • States may be able to receive a one year extension from EPA if making reasonable progress 			
How owners and operators can determine location of ground water protection areas.	§144.87(d)		
Impact of Changes in Status of State Drinking Water Source Assessment and Protection Program on motor vehicle waste disposal wells owners and operators. Compliance with closure or permitting required within a year of delineation. One year extension possible for connection to sewer in treatment installation.	§144.87(e)		
Motor Vehicle Waste Disposal Wells:	§144.88		
<ul style="list-style-type: none"> • In ground water protection area, close or obtain permit within 1 year of local source water assessment completion; subject to 1-year extension for connection to sewer or installation of treatment. • Permitted wells and wells for which permit being sought must meet MCLs at point of injection. 			

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
<ul style="list-style-type: none"> Comply with all permit conditions, including meet MCLs and other health based standards at point of injection, follow specified best management practices in permit, and monitor injectate and sludge quality in accordance with permit conditions. If State does not complete ground water protection area delineations by January 1, 2004 (or January 1, 2005 with extension), obtain permit or close well by January 1, 2005, (or January 1, 2006 if state receives extension). 1-year extension available for connection to sewer or installation of treatment. Notify State UIC Program at least 30 days prior to closing well. New or converted wells prohibited effective April 5, 2000. 			
STATE UIC PROGRAM REQUIREMENTS for OTHER SENSITIVE GROUND WATER AREAS			
DEFINITIONS Other Sensitive Ground Water Areas. If the State has other protected ground water areas, and it believes the definition meets the definition of "Other Sensitive Ground Water Areas", please provide the definition and a discussion per the right hand column of this form.	§144.86(g)		
APPLICABILITY OF OTHER SENSITIVE GROUND WATER AREAS Applicability to Motor Vehicle Waste Disposal Wells	§144.87(a)		
Other Sensitive Ground Water Areas <ul style="list-style-type: none"> Delineation by January 1, 2004. Existing motor vehicle waste 	§144.87(c)		

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
<ul style="list-style-type: none"> • disposal wells permitted or closed by January 1, 2007 (or 2008, with state extension). Statewide implementation effective January 1, 2007 if delineations not completed on time. • Ground water protection areas subject to different compliance schedule (per §144.87(b)) <p>How owners and operators can determine location of other sensitive ground water areas.</p> <p>Motor Vehicle Waste Disposal Wells:</p> <ul style="list-style-type: none"> • In sensitive ground water area, close or obtain permit by January 1, 2007; no time extensions for permitting. 1-year extension available for connection to sewer or installation of treatment. • Permitted wells and wells for which permit being sought must meet MCLs at point of injection. • Comply with all permit conditions, including meet MCLs and other health based standards at point of injection, follow specified best management practices in permit, and monitor injectate and sludge quality in accordance with permit conditions. • If State does not delineate other sensitive ground water areas by January 1, 2004, and well is not in a ground water protection area, obtain permit or close well by January 1, 2007 (or January 1, 2008 if State receives extension). Notify State UIC Program at least 30 days prior to closing well. • New or converted wells prohibited effective April 5, 2000. 	<p>§144.87(d)</p> <p>§144.88</p>		

Primacy Revision Crosswalk for the Class V Rule			
FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page #; and § or ¶	If different than federal requirement, note here and explain on a separate sheet
4. STATE PROGRAM REQUIREMENTS AS FOUND IN SECTION 145			
<p>REQUIREMENTS FOR PERMITTING</p> <p>Addition of §145.11(a)(32) reference to list of regulations required to be at least as stringent as Federal regulation.</p>	§145.11(b)(1)		
<p>OTHER SENSITIVE GROUND WATER AREAS - STATE PROGRAM DESCRIPTION</p> <p>Description and schedule for State's plan to identify and delineate other sensitive ground water areas. List of factor to be considered include:</p> <ul style="list-style-type: none"> • geologic and hydrogeologic settings • ground water flow and occurrence • topographic and geographic features • depth to ground water • significance as a drinking water source • prevailing land use practices • other existing information on susceptibility of ground water to contamination from Class V injection wells. <p>State must commit to complete OSGWA delineations by January 1, 2004; make delineations available to the public; implement the Class V regulations in delineated areas no later than January 1, 2007.</p>	§145.23(f)(12)		
States choosing not to delineate other sensitive ground water areas must implement motor vehicle waste disposal well requirements statewide by January 1, 2007.	§145.23(f)(12)		

Appendix B

State Primacy Revision Checklist		
Required Program Elements	Included in State Package (Yes or No)	EPA Findings/Comments
§145.32(b)(1) Modified Program Description and §145.23		
§145.32(b)(1) Attorney General's Statement and §145.24		
§145.32(b)(1) Memorandum of Understanding and §145.32(c)		
§145.32(b)(1) Text of Modified Regulations §145.23(f)(5)		
§145.32(b)(1) Text of Modified Statute (if applicable) §145.23(f)(5)		
§145.32(b)(1) Memorandum of Agreement with Regional Administrator and §145.25		
§145.23(b) Agency Organization and Structure		
§145.23(b)(1) Staffing description		
§145.23.(b)(2) Program Costs		
§145.23.(b)(3) Funding		
§145.23(c) Permitting and other procedures		
§145.23(d) Forms (such as pre-closure notification)		
§145.23.(f) Permitting Schedule and Priorities		
§145.23(f)(12) Plan for Delineation of Other Sensitive Ground Water Areas		

APPENDIX C

Program Description Revision Short Form

States should talk to their Regional contact to determine if they should include modifications made to the existing §1422 program description that affect how the State implements and enforces the new minimum Federal requirements.

The table below presents:

- the minimum Federal requirements that may need to be addressed in the Program Description,
- where they are in the Code of Federal Regulations, and
- what the EPA reviewers will be looking for.

UIC Program Description (40 CFR 145.23)		
Federal Rule Citation	Portions of Minimum Federal Requirement That May Be Applicable	EPA's Expectation
§145.23(a): Narrative Program description.	Description in narrative form of the scope, structure, coverage and processes of the State Program.	- Text of revisions to your existing program that are necessary to comply with new Class V rule
§145.23(b): Organization and Structure	<p>Description of the organization and structure of the State agency or agencies which will have responsibility for administering the program.</p> <p>- Description must include organization charts.</p> <p>- If more than one agency responsible for program administration, each agency must have statewide jurisdiction over a class of activities.</p> <p>- Responsibilities of each agency must be delineated, their procedures for coordination set forth, and an</p>	<p>- Text of revisions to the existing organization and structure of your State agency(s) that will administer new Class rule</p> <p>- Revised organization charts for each agency that will administer new Class V rule</p> <p>-(If applicable) Notification that you will transfer authority to administer part or all of the new Class V rule to another State agency(s)</p> <p>- Text of change in designated "lead agency" that will administer part or all of the new Class V rule. Also, text of</p>

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	<p>agency may be designated as a "lead agency" to facilitate communications between EPA and the State agencies.</p> <p>- When State proposes to administer a program of greater scope of coverage than required by Federal law, information provided under §145.23 shall indicate the resources dedicated to administering the Federally required program portion(s).</p>	<p>changes to Federal and/or grant distribution and grant pass-through agreements (if applicable)</p> <p>- Text of changes to the amount of the Federal UIC grant that you dedicate to administering the new Class V rule</p>
§145.23(b)(1): Staffing	A description of the State agency staff who will carry out the State program, including: number, occupations, and general duties.	- Text of changes to the staff in each State agency that will administer the new Class V rule, including number, occupations, and general duties.
§145.23(b)(2): Program Costs	Itemization of estimated costs of establishing and administering the program for including cost of the personnel listed in §145.23(b)(1), cost of administrative support, and cost of technical support.	- Text of total annual cost (estimate) to administer the new Class V rule
§145.23(b)(3): Funding	Itemization of sources and amounts of Program funding, including an estimate of Federal grant money, to meet the costs of §145.23(b)(2), identifying any restrictions or limitations upon this funding.	- Text of changes to existing funding (sources and amounts), identifying any restrictions or limitations upon this funding.
§145.23(c): Procedures	Description of applicable State procedures, including permitting procedures and any State administrative or judicial review procedures.	- Text of changes to existing State procedures to meet the new Class V rule

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§145.23(d): Forms	Copies of permit form(s), application form(s) and reporting form(s) the State intends to employ in its program. Forms need not be identical to EPA forms, but should require the same basic information. If using EPA forms, the State need not provide copies of the uniform national forms, but should note its intention to use them.	Copies of State forms that you will use to administer the new Class V rule
§145.23(e): Compliance Tracking and Enforcement	A complete description of the State's compliance tracking and enforcement program.	Text of changes to existing compliance tracking and enforcement programs
§145.23(f)(5): Rules	Description of any rule under which the Director proposes to authorize injections, including the text of the rule.	Text of changes to existing rules to reflect the new Class V rule ¹
§145.23(f)(7): Permitted Well Inventory	Description and schedule for State program to establish and maintain a current inventory of injection wells which must be permitted under State law.	Text of changes to reflect that certain radioactive waste disposal wells are reclassified as Class I wells to comply with new Class V rule
§145.23(f)(12): Plan for Delineation of Other Sensitive Ground Water Areas	Description and schedule for State plan to identify and delineate other sensitive ground water areas. Should consider: <ul style="list-style-type: none"> - geologic and hydrogeologic settings - ground water flow and occurrence - topographic and geographic features - depth to ground water - significance as drinking water source - prevailing land use practices 	Text of Plan. Alternately, a statement that you will apply the new requirements for motor vehicle waste disposal wells statewide by January 1, 2007.

¹ See: 40 CFR §§ 144.1, 144.3, 144.6, 144.23, 144.24, 144.26, 145.11, 145.23, 146.3, and 146.5 and 146.10 for new minimum Federal requirements for §1422 programs. See: Subpart G (new requirements for Class V well owners and operators).

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	<p>- any other existing information relating to susceptibility of ground water to contamination from Class V injection wells</p> <p>Within plan schedule must commit to:</p> <ul style="list-style-type: none"> - completing all delineations of other sensitive ground water areas by no later than January 1, 2004 - making the delineations available to the public - implementing the Class V regulations, effective April 5, 2000, in these delineated areas by no later than January 1, 2007. <p>If a State chooses not to identify other sensitive ground water areas, the requirements for motor vehicle disposal wells would apply statewide by January 1, 2007.</p>	