

(c) Primary enforcement responsibility of State; voiding by Administrator under duly promulgated rule

(1) Section 300h-1(b)(3) of this title shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 300h-1 of this title in the same manner as provided in such subsection with respect to a determination described in such subsection.

(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.

(July 1, 1944, ch. 373, title XIV, §1425, as added Pub. L. 96-502, §2(a), Dec. 5, 1980, 94 Stat. 2737; amended Pub. L. 99-339, title II, §201(a), June 19, 1986, 100 Stat. 653.)

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99-339 inserted “or natural gas storage operations, or” after “production”.

§ 300h-5. Regulation of State programs

Not later than 18 months after June 19, 1986, the Administrator shall modify regulations issued under this chapter for Class I injection wells to identify monitoring methods, in addition to those in effect on November 1, 1985, including groundwater monitoring. In accordance with such regulations, the Administrator, or delegated State authority, shall determine the applicability of such monitoring methods, wherever appropriate, at locations and in such a manner as to provide the earliest possible detection of fluid migration into, or in the direction of, underground sources of drinking water from such wells, based on its assessment of the potential for fluid migration from the injection zone that may be harmful to human health or the environment. For purposes of this subsection, a class I injection well is defined in accordance with 40 CFR 146.05 as in effect on November 1, 1985.

(July 1, 1944, ch. 373, title XIV, §1426, as added Pub. L. 99-339, title II, §201(b), June 19, 1986, 100 Stat. 653; amended Pub. L. 104-66, title II, §2021(f), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104-182, title V, §501(f)(2), Aug. 6, 1996, 110 Stat. 1691.)

AMENDMENTS

1996—Pub. L. 104-182 directed technical amendment of section catchline and subsec. (a) designation. The provision directing amendment of subsec. (a) designation could not be executed because section does not contain a subsec. (a).

1995—Pub. L. 104-66 struck out subsec. (a) designation and heading before “Not later than” and struck out heading and text of subsec. (b). Text read as follows: “The Administrator shall submit a report to Congress,

no later than September 1987, summarizing the results of State surveys required by the Administrator under this section. The report shall include each of the following items of information:

“(1) The numbers and categories of class V wells which discharge nonhazardous waste into or above an underground source of drinking water.

“(2) The primary contamination problems associated with different categories of these disposal wells.

“(3) Recommendations for minimum design, construction, installation, and siting requirements that should be applied to protect underground sources of drinking water from such contamination wherever necessary.”

§ 300h-6. Sole source aquifer demonstration program

(a) Purpose

The purpose of this section is to establish procedures for development, implementation, and assessment of demonstration programs designed to protect critical aquifer protection areas located within areas designated as sole or principal source aquifers under section 300h-3(e) of this title.

(b) “Critical aquifer protection area” defined

For purposes of this section, the term “critical aquifer protection area” means either of the following:

(1) All or part of an area located within an area for which an application or designation as a sole or principal source aquifer pursuant to section 300h-3(e) of this title, has been submitted and approved by the Administrator and which satisfies the criteria established by the Administrator under subsection (d).

(2) All or part of an area which is within an aquifer designated as a sole source aquifer as of June 19, 1986, and for which an areawide ground water quality protection plan has been approved under section 208 of the Clean Water Act [33 U.S.C. 1288] prior to June 19, 1986.

(c) Application

Any State, municipal or local government or political subdivision thereof or any planning entity (including any interstate regional planning entity) that identifies a critical aquifer protection area over which it has authority or jurisdiction may apply to the Administrator for the selection of such area for a demonstration program under this section. Any applicant shall consult with other government or planning entities with authority or jurisdiction in such area prior to application. Applicants, other than the Governor, shall submit the application for a demonstration program jointly with the Governor.

(d) Criteria

Not later than 1 year after June 19, 1986, the Administrator shall, by rule, establish criteria for identifying critical aquifer protection areas under this section. In establishing such criteria, the Administrator shall consider each of the following:

(1) The vulnerability of the aquifer to contamination due to hydrogeologic characteristics.

(2) The number of persons or the proportion of population using the ground water as a drinking water source.