

1996—Subsec. (b)(3)(B)(i). Pub. L. 104-182 substituted “number of States” for “number or States”.

1986—Subsec. (b)(2)(A). Pub. L. 99-339 inserted “or natural gas storage operations” after “production”.

1980—Subsec. (b)(1)(A). Pub. L. 96-502, §4(c), substituted “effective on the date on which the applicable underground injection control program takes effect” for “effective three years after December 16, 1974”.

Subsec. (d)(1). Pub. L. 96-502, §3, inserted provision that such term does not include the underground injection of natural gas for purposes of storage.

1977—Subsec. (b)(3). Pub. L. 95-190 added par. (3).

§ 300h-1. State primary enforcement responsibility

(a) List of States in need of a control program; amendment of list

Within 180 days after December 16, 1974, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing

(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 300h of this title (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 300h of this title; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 300h of this title revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State’s application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State’s underground injection control program.

(3) If the Administrator approves the State’s program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the

Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

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

(c) Program by Administrator for State without primary enforcement responsibility; restrictions

If the Administrator disapproves a State’s program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 300h(b) of this title. Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production or natural gas storage operations, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) “Applicable underground injection control program” defined

For purposes of this subchapter, the term “applicable underground injection control program” with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

(e) Primary enforcement responsibility by Indian Tribe

An Indian Tribe may assume primary enforcement responsibility for underground injection control under this section consistent with such regulations as the Administrator has prescribed pursuant to this part and section 300j-11 of this title. The area over which such Indian Tribe exercises governmental jurisdiction need not have been listed under subsection (a) of this section, and such Tribe need not submit an application to assume primary enforcement responsibility within the 270-day deadline noted in subsection (b)(1)(A) of this section. Until an Indian Tribe assumes primary enforcement responsibility, the currently applicable underground injection

control program shall continue to apply. If an applicable underground injection control program does not exist for an Indian Tribe, the Administrator shall prescribe such a program pursuant to subsection (c) of this section, and consistent with section 300h(b) of this title, within 270 days after June 19, 1986, unless an Indian Tribe first obtains approval to assume primary enforcement responsibility for underground injection control.

(July 1, 1944, ch. 373, title XIV, §1422, as added Pub. L. 93-523, §2(a), Dec. 16, 1974, 88 Stat. 1676; amended Pub. L. 95-190, §6(a), Nov. 16, 1977, 91 Stat. 1396; Pub. L. 99-339, title II, §201(a), title III, §302(c), June 19, 1986, 100 Stat. 653, 666.)

AMENDMENTS

1986—Subsec. (c)(1). Pub. L. 99-339, §201(a), inserted “or natural gas storage operations, or” after “production”.

Subsec. (e). Pub. L. 99-339, §302(c), added subsec. (e).
1977—Subsec. (b)(1)(A). Pub. L. 95-190 inserted provisions relating to extension of date for submission of applications by any State.

§ 300h-2. Enforcement of program

(a) Notice to State and violator; issuance of administrative order; civil action

(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 300h-1(b)(3) of this title or section 300h-4(c) of this title) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (c) requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b).

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, the Administrator shall issue an order under subsection (c) requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b).

(b) Civil and criminal actions

Civil actions referred to in paragraphs (1) and (2) of subsection (a) shall be brought in the appropriate United States district court. Such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program or with an order issued under subsection (c). The court may enter such judgment as protection of public health may require. Any person who violates any requirement of an applicable underground injection control program or an order requiring compliance under subsection (c)—

(1) shall be subject to a civil penalty of not more than \$25,000 for each day of such violation, and

(2) if such violation is willful, such person may, in addition to or in lieu of the civil penalty authorized by paragraph (1), be imprisoned for not more than 3 years, or fined in accordance with title 18, or both.

(c) Administrative orders

(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part other than those relating to—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than \$10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of \$125,000, or requiring compliance with such regulation or other requirement, or both.

(2) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, or other requirement of this part relating to—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than \$5,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of \$125,000, or requiring compliance with such regulation or other requirement, or both.

(3)(A) An order under this subsection shall be issued by the Administrator after opportunity (provided in accordance with this subparagraph) for a hearing. Before issuing the order, the Administrator shall give to the person to whom it is directed written notice of the Administrator's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the order. Such hearing shall not be subject to section 554 or 556 of title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

(B) The Administrator shall provide public notice of, and reasonable opportunity to comment on, any proposed order.

(C) Any citizen who comments on any proposed order under subparagraph (B) shall be given notice of any hearing under this subsection and of any order. In any hearing held under subparagraph (A), such citizen shall have a reasonable opportunity to be heard and to present evidence.

(D) Any order issued under this subsection shall become effective 30 days following its issuance unless an appeal is taken pursuant to paragraph (6).