2/1/94 Draft
ND 1422

I. INTRODUCTION

As mandated by the Safe Drinking Water Act (SDWA) of 1974 as amended, the United States Environmental Protection Agency (EPA) has promulgated regulations establishing minimum requirements, technical criteria, and standards for Underground Injection Control (UIC) programs to protect underground sources of drinking water (USDW). Under these regulations, the state of North Dakota applied for and received primacy in 1984, and has since operated an EPA-approved UIC 1422 program. Amendments to the Federal UIC program on July 25, 1988 have resulted in the revision of the state UIC rules and program description.

The revised program description incorporates changes as required in the amended federal regulations, but does not change the lead agency program administration status, nor the original intent of the UIC program. The North Dakota State Department of Health and Consolidated Laboratories (DWQ)? (Department) has been designated as the lead agency responsible for administering grant funds and coordinating UIC program activities.

II. OVERVIEW OF THE STATE UIC PROGRAM

The UIC program is considered to be an important part of the overall State Groundwater Protection Strategy. With increasing groundwater use demands and the impact of energy development on groundwater, the control of subsurface injections is considered to be a vital elememt in groundwater protection.

The state received primacy from EPA in October 1984, to regulate Class I through Class V injection wells under the state UIC program. The North Dakota UIC program is administered by three state agencies each with their own legislative authority to regulate specific types of injection wells. The three state agencies and statutory authority for each class well is as follows:

1. THE NORTH DAKOTA STATE DEPARTMENT OF HEALTH AND CONSOLIDATED LABORITORIES, DIVISION OF WATER QUALITY (DWQ). The DWQ has been designated as the lead agency responsible to coordinate the UIC program and administer the annual federal grant. The DWQ has authority to regulate Class I (hazardous and nonhazardous), Class IV (prohibited under the state program), and Class V injection well activities as identified under Chapter 33-25-01 of the North Dakota Administrative Code (NDAC). Class V wells are authorized by rule but may be required to obtain a permit under special circumstances.

2. THE NORTH DAKOTA STATE INDUSTRIAL COMMISSION, OIL AND GAS DIVISION (OGD). The OGD has statutory authority to regulate Class II injection well activities under Chapter 43-02-05 of the NDAC. The OGD program operates independently of the DWQ program.

3. THE NORTH DAKOTA STATE INDUSTRIAL COMMISSION, NORTH DAKOTA GEOLOGICAL SURVEY (NDGS). The NDGS has statutory authority to regulate Class III injection well activities. The rules which govern Class III injection wells are contained in Chapter 43-02-01.1 of the NDAC.

The state UIC program requires that all injection wells obtain appropriate regulatory permits prior to operation. Permit applications are reviewed by the permitting agency

and issued in accordance with that agency's rules. As part of the permitting requirements, all Class I, II, and III injection wells must demonstrate mechanical integrity defined as no significant leak in the casing, tubing, or packer, and no significant fluid movement into an underground source of drinking water (USDW). All permits contain compliance criteria designed to ensure protection of USDW. The DWQ may request technical assistance from the North Dakota State Water Commission (SWC) and the NDGS prior to issuance of a Class I permit. These agencies must also provide approval prior to the issuance of any Class I permit.

Each permitting agency will invite permit applicants to a preapplication conference at which the applicant will receive a packet containing all necessary application forms, instructions on how to complete the application, and copies of applicable state statutes and regulations. The appropriate agency will review the detailed information submitted by the applicant regarding all aspects of the construction and operation of the facility, may request additional information if necessary, prepare a fact sheet and a draft permit. After the draft permit is transmitted to the applicant for comment, public notice will be given to allow a 30-day comment period on the draft permit. If there is a significant degree of public interest, the responsible agency will hold a public hearing. If there are no significant comments on the draft permit, the permit will be issued.

After a permit is issued, any phase of well construction may be inspected for permit compliance by the staff of the permitting agency. Injection activities may not commence until construction is complete and in compliance with the permit.

Compliance monitoring is the responsibility of the permitting agency. This monitoring will, at a minimum, include on-site inspections conducted by the permitting agency and review of operating and monitoring reports submitted for permit compliance, and perform annual step rate injection tests.

If it is determined that the applicant is in violation of the permit conditions, enforcement actions will be pursued by the permitting agency. Enforcement actions may range from issuance of administrative orders to assessment of penalties by appropriate court action.

The public is encouraged to actively participate in program development and the permitting process through public hearings and informational meetings.

III.ORGANIZATION AND STRUCTURE OF AGENCIES INVOLVED IN UIC