



Class VI Primacy

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Presentation Overview

- The Class VI Rule and Primacy
- Applying for Class VI Primacy
- Reviewing Primacy Applications
- Class VI Primacy Tools
- Class VI Primacy Status



- EPA published minimum federal requirements for Class VI geologic sequestration (GS) on December 10, 2010.
- The Safe Drinking Water Act (SDWA) provides a 270-day “waiting period” for states to apply for Class VI primacy before EPA can implement the federal Class VI program.
- This 270-day period ended on September 6, 2011.



Class VI Primacy

- As of September 7, 2011, EPA has not received or approved any state Class VI primacy applications.
- However, states may continue to apply for Class VI primacy and can submit their primacy applications at any time.
- EPA will continue to work with states in developing and approving states' Class VI primacy applications.



Applying for Class VI Primacy

- There are two approaches to applying for Class VI Primacy:
 - States that currently do not have primacy or have Class II primacy only under § 1425 must submit a new § 1422 primacy application for Class VI.
 - States that currently have § 1422 primacy for Classes I, II, III and V must submit a program revision to add Class VI.



Core Elements of a Primacy Application

- State's Class VI regulations
- Program Description
- Governor's Letter
- Attorney General's Statement
- Memorandum of Agreement (State and EPA)
- Memorandum of Understanding



Submitting Class VI Primacy Applications

- EPA is allowing the electronic submission of required Class VI primacy application information
 - Send applications to ClassVIPrimacy@epa.gov
 - Upload to <http://classviprimacy.cadmusweb.com>
- Hard-copy submittals will also be accepted



Class VI Primacy Application Review Process

- Guided by the Class VI Standard Operating Procedures (SOPs)
- Promotes a team approach
- Encourages state/EPA discussions prior to formal submittal of the primacy application



SOPs for Reviewing Class VI Primacy Applications

- Describe the new primacy review process
- Streamlined for Class VI
- Outline roles of state, Regional, and OGWDW staff
- Build on Guidance #34
- Reflect the four phases of the primacy application review process



Phase I: Pre-Application Activities

- Primacy review teams form
- States prepare a crosswalk of their Class VI regulations
- Team discusses and coordinates on primacy application and works with the state to “pre-approve” the package before the formal submittal



Phase II: Receive Application and Determine Completeness

- Review Class VI primacy application or program revision for completeness
- Create a docket for each state's primacy application
- Publish a notice of completeness in the ***Federal Register*** and newspapers and solicit public comment



Phase III: Review Application and Evaluate for Approval

- Review all elements of the primacy application package for adequacy
- Hold public hearing on the application
- Review public comments and create a responsiveness summary
- Determine whether to approve or disapprove primacy



Phase IV: Rulemaking and Codification in 40 CFR Part 147

- Prepare a ***Federal Register*** notice and Part 147 regulatory text approving or disapproving primacy
 - Simultaneous proposed rule and direct final rule
- Publish ***Federal Register*** notice and initiate public comment
- If no adverse comments are received, the direct final rule becomes final
- If adverse comments are received, EPA evaluates comments and publishes a new final rule



Class VI Primacy Tools

- Class VI Primacy Manual
- Class VI Primacy Templates
- Class VI Standard Operating Procedures
- Class VI Primacy Applications Website
- Class VI Primacy Webcast held in June 2011
- Class VI Primacy Online Training



Class VI Primacy Manual and Templates

- Describes the requirements for preparing and submitting a Class VI primacy application
 - It details the procedures and required elements for both new primacy applications and program revisions.
- The appendices include useful templates (e.g., MOA, MOU, AG statement), checklists, and regulatory crosswalks
- The SOPs are an appendix to the Manual



Online Materials

- The Class VI Primacy Applications Website allows states to electronically submit their primacy applications
 - Contains a library of useful materials and templates, including a user's manual
- Class VI primacy webcast materials
 - Class VI Rule implementation workshops
 - Class VI Primacy webcast on the SOPs and the Primacy Applications Website



Class VI Primacy Status

- EPA has cross-walked state Class VI regulations for Kansas and Wyoming.
- EPA is working with Mississippi, North Dakota, and Louisiana in developing their primacy applications.
- EPA expects about 20 states to apply for Class VI primacy within the next two to three years.



Questions?