



Memorandum

TO: Environment Committee
Government Affairs Committee
Energy Policy Task Force
Minerals Policy Task Force

FROM: Karen Bennett, Vice President, Environmental Affairs

DATE: July 28, 2008

SUBJECT: EPA Proposed Federal Requirements for Underground Injection Control Program for Carbon Dioxide Geologic Sequestration Wells

The U.S. Environmental Protection Agency (EPA) on July 25 published the attached proposed rule for regulating the underground injection of carbon dioxide (CO₂) for the purpose of long-term storage of CO₂ under the Safe Drinking Water Act (SDWA).

The rule proposes a new class of wells that will be used to inject CO₂ into the subsurface for long-term CO₂ storage and minimum technical criteria for: geologic site characterization, fluid movement, area of review and corrective action, well construction, operation, mechanical integrity testing, monitoring, well plugging, post-injection site care, and site closure.

Comments on the proposed rule are due Nov. 24, 2008. A public hearing is anticipated sometime in September 2008.

Underground Injection Control Program (UIC)

The new regulations will be incorporated into the UIC program regulations at 40 CFR Part 144 and 146 promulgated under Part C of the Safe Drinking Water Act. Section 1421 of the SDWA requires the EPA administrator to promulgate regulations establishing minimum requirements for effective UIC programs. States must meet these requirements in order to obtain primary enforcement authority for the UIC program in that state.

The focus of the new regulations will be limited to EPA's authority to address issues arising under the SDWA, i.e. the protection of underground sources of drinking water (USDW). The SDWA does not provide EPA with authority to develop regulations for all areas related to geological sequestration. Issues associated with underground sequestration of CO₂ that will not be addressed by this particular rulemaking include capture and transport; determining

property rights; liability transfer; accounting or certification for greenhouse gas reductions, among other concerns. It is more likely these related issues falling outside this particular rulemaking will be addressed by Congress and/or the appropriate regulatory agencies.

Comment Development

The rulemaking is particularly important to the coal industry as EPA views carbon capture and storage (CCS) as a key mitigation technology for achieving domestic emissions reductions. Therefore, the National Mining Association formed a workgroup for the purpose of developing comments in response to the proposed rulemaking.

Please let me know as soon as possible if you are willing to assist in this effort. Within the next couple of weeks, you will receive notice of a conference call to discuss the proposal, including a discussion about what kind of technical support will be necessary to provide EPA with meaningful comments.

Please contact me at kbennett@nma.org or (202) 463-3240 to have your name added to the UIC Rulemaking Workgroup.

Enclosure

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