



INDUSTRIAL COMMISSION OF NORTH DAKOTA

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Governor

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Doug Goehring
Agriculture Commissioner

For Immediate Release

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EPA Administrator Signs Final Approval for North Dakota's Class VI Primacy Application

BISMARCK- Today North Dakota became the first state to receive final approval from the U.S. Environmental Protection Agency (EPA) to regulate geologic storage of carbon dioxide. EPA Administrator Scott Pruitt signed North Dakota's application this morning granting the state primary regulatory authority, also known as primacy, over Class VI injection of carbon dioxide for long-term storage. North Dakota will officially receive Class VI primacy when the final rule is published in the Federal Register, which is expected to occur in about a week.

Gov. Doug Burgum, who chairs the three-member North Dakota Industrial Commission, received the important news this morning in a phone call with Administrator Pruitt. The state began to prepare for primacy after the ND legislature gave the Industrial Commission's Oil and Gas Division regulatory authority over geologic carbon storage in 2009.

"This long-awaited approval provides regulatory certainty and a path forward to ensure the long-term viability of North Dakota's lignite coal and energy generation industries through carbon capture and storage, while also benefiting the environment by reducing greenhouse gases," Burgum said. "We believe states are in the best position to regulate this activity, and the Oil and Gas Division is ready and capable to take the lead on this responsibility. We're grateful to Administrator Pruitt and the EPA for their thoughtful, proactive and expeditious efforts following years of delay and to North Dakota's congressional delegation for continually pushing for approval of our primacy application."

Geologic storage of carbon dioxide is regulated under the Safe Drinking Water Act's Underground Injection Control Program and is classified as Class VI injection, also known as Carbon Capture and Storage (CCS). CCS refers to the capture and deep underground injection of manmade carbon dioxide into a geologic formation that is confined and safe for storage.

"My office worked closely with the Oil & Gas Division as we worked through the long process to develop a Carbon Capture and Storage program and achieve primacy. North Dakota is now poised to become the nation's leader in Carbon Capture and Storage," said Attorney General Stenehjem. "These new regulations will benefit the lignite, oil and gas, and renewable energies in North Dakota while continuing to protect our environment."

Agriculture Commissioner Doug Goehring said, "This certainty in regulation along with the extensive research that has been done at the University of North Dakota's Energy and Environmental Research Center (EERC) will place North Dakota at the forefront of carbon capture utilization and storage. Additionally, North Dakota's ethanol industry stands to benefit greatly in this decision. CCS can be implemented in the ethanol production process to capture the carbon dioxide before it is emitted into the atmosphere. The ability to have carbon storage will make North Dakota ethanol the lowest carbon ethanol product in the United States."

"The Plains CO₂ Reduction (PCOR) partnership through the EERC has done outstanding work and is a leader for its research and development related to carbon capture, utilization and storage," said Oil and Gas Division Director Lynn Helms. "Today's approval also gives the EERC and its partners in PCOR Partnership the regulatory certainty that is needed to continue doing world class research and development for CCUS in North Dakota."

Kevin Connors has been the Oil and Gas Division's CCS Supervisor since the position was created in 2011 and he is the lead author of North Dakota's primacy application. "By approving the primacy application the EPA has given North Dakota the authority to take the lead in regulating carbon storage within the state. This is important because we have

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the expertise right here in North Dakota to regulate CCS activities and now the energy industry has the regulatory certainty it needs to continue to develop commercial storage projects.”

North Dakota has an 800-year supply of lignite coal and the State is committed to responsibly utilizing this resource to provide, among many benefits, inexpensive and reliable electricity. CCS offers a long-term solution for the continued advancement of clean coal technologies. Carbon dioxide, which is a byproduct of coal-fired electricity generation or ethanol production, can be stored underground for future beneficial use by the oil and gas industry. Carbon dioxide is considered a valuable commodity for commercial and industrial uses, including enhancing the recovery of oil and gas in depleted reservoirs. In the future carbon dioxide enhanced oil recovery will play a very important role in expanding and extending the productive life of North Dakota’s oil fields.

The North Dakota Industrial Commission, through the Oil and Gas Research Council has approved multiple research projects to determine the viability of large scale commercial CCS in North Dakota.

A timeline of the North Dakota road to CCS primacy approval can be found below.

- **August 1, 2009-** (SB 2095)- The Oil and Gas Division began regulating geologic storage of carbon dioxide.
- **April 1, 2010** – North Dakota promulgates the first ever regulations for geologic storage of carbon dioxide; North Dakota becomes the first State in the Nation with a complete and comprehensive regulatory framework in place for CCS.
- **December 10, 2010-** The EPA finalized federal requirements for geologic sequestration of carbon dioxide under the authority of the federal Safe Drinking Water Act’s Underground Injection Control (UIC) Program, creating a new class of injection well, Class VI. These requirements, also known as the Class VI Rule, are designed to protect underground sources of drinking water based on the UIC program regulatory framework with modifications to address the unique nature of carbon dioxide injection for the primary purpose of long term storage.
- **May 9, 2011-** The 2011 Legislature appropriated funds (HB 1014) for one full-time position to apply for and obtain Class VI primacy from the EPA.
- **September 7, 2011-** The EPA is the acting regulatory authority in all States, including North Dakota. Under the federal UIC program each State must apply for primary regulatory authority (primacy) by demonstrating, through a primacy application, to the EPA that its Class VI UIC program is at least as stringent as the federal standards.
- **April 1, 2013** - Amended North Dakota regulations by adopting federal requirements to meet the stringency of the EPA Class VI rule.
- **June 21, 2013** – Class VI Primacy Application Submitted to EPA
 - EPA Region 8 Published Notice for Comment on the North Dakota’s Class VI Primacy Application –30 Day Comment Period (Aug 9 – Sept 9)
 - No Comments Received in Opposition
- **October 29, 2013** - Finalized Memorandum of Agreement (MOA) with EPA Region 8
- **January 8, 2014** - Federal Register Approval to amend 40 CFR Subpart JJ 147.1751 to add Class VI program
- **July 14, 2014** recommended approval of North Dakota’s Class VI application:
 - EPA Office of General Counsel
 - EPA Office of Water
 - EPA Office of Policy
 - EPA Region 8
- **July 14, 2014** Application sent to EPA Administrator’s office for final approval
- **May 8, 2017** - EPA Administrator Scott Pruitt signed a proposal to issue a rule approving North Dakota’s Class VI Primacy Application.
- **May 19, 2017 – July 18, 2017:** 60 day public comment period on the proposed approval
 - EPA Headquarters published in the Federal Register – The Proposed Approval of the North Dakota Class VI Primacy Application
- **April 10, 2018** - EPA Administrator Pruitt signs final approval
- **Anticipated to be in one week** - Publish final rule in Federal Register – North Dakota receives Class VI Primacy

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