

A Preview of EPA's Final Rule Excluding the Geological Sequestration of Carbon Dioxide from Hazardous Waste Requirements

NOVEMBER 1, 2013

According to EPA's [regulatory tracker](#), a final rule conditionally excluding geologically sequestered CO₂ streams from the definition of hazardous waste was to be published in the *Federal Register* last month.

The [proposed rule](#), published on August 8, 2011, established an exclusion for supercritical CO₂ streams captured and injected into an underground well subject to the requirements for Class VI Underground Injection Control (UIC) wells from the definition of a hazardous waste, as long as such streams meet certain conditions, including compliance with the applicable requirements for Class VI UIC wells. In the preamble to the proposed rule EPA stated that the proposed rule would not apply to CO₂ injected for enhanced oil recovery (EOR) operations.

Industry commenters were generally supportive of the exclusion, but many disagreed with EPA's determination that supercritical CO₂ streams should be considered a solid waste and requested they be completely excluded from RCRA. Commenters also asked EPA exclude CO₂ streams injected for EOR. According to *Inside EPA*, EPA has opted not to exclude CO₂ streams injected for EOR.

The final rule was submitted to the White House's Office of Management and Budget (OMB) in April 2013 and OMB completed its review of the rule on September 30. Barnes Johnson, EPA's new director of the Office of Resource Conservation & Recovery, recently told *Inside EPA* that the rule will be published "very soon," possibly before Thanksgiving. We are closely monitoring this rulemaking and will provide an update once the final rule is issued.

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