December 9, 2022

Dear Governors,

Communities across the United States are experiencing the impacts of climate change, which will worsen as the planet continues to warm. The Biden-Harris Administration is committed to taking bold action to make communities more resilient to these impacts and reduce emissions of carbon dioxide and other greenhouse gas emissions that drive climate change. To avert the worst impacts, the United States will need to develop and deploy clean energy technologies at an unprecedented pace and scale, including technologies to capture and remove carbon from the atmosphere and store it beneath the earth’s surface.

This process, known as geologic sequestration, relies on injection wells to store carbon dioxide beneath the earth’s surface that has been captured from an emissions source or the atmosphere. Geologic sequestration—when used as a part of carbon capture and storage (CCS) and carbon dioxide removal (CDR) projects—is a promising tool for reducing the amount of carbon dioxide in the atmosphere. The Inflation Reduction Act, signed by President Biden on August 16, 2022, extends and expands the 45Q tax credit for CCS and offers enhanced credits for one type of CDR, direct air capture.

Injection wells are regulated under an existing, rigorous Safe Drinking Water Act framework that manages the permitting process while protecting the environment, drinking water supplies, public health, and safety. Well designed and deployed CCS projects can deliver environmental and climate benefits, create good-paying jobs, and address cumulative pollution impacts in historically disadvantaged and overburdened communities. Several states have expressed interest in seeking primary enforcement and permitting responsibility (primacy) for these wells—called Class VI underground injection control (UIC) wells under the Safe Drinking Water Act—to attract geologic sequestration projects to their area.

The Biden-Harris Administration is committed to supporting states’ efforts to obtain Class VI primacy. To that end, the Bipartisan Infrastructure Law established a $50 million program to assist states interested in Class VI primacy, with 100% of Federal funding provided as grants with no state match. In the coming weeks, EPA will issue a request for interested parties to submit a Letter of Intent for this grant program, which will be available to all qualifying states and Tribes.

At the same time, during my travels across the country, community residents have shared their concerns about the safety of CCS and CDR projects and worry that their communities may bear a disproportionate environmental burden associated with geologic sequestration. States and EPA must work together to address these concerns and set a strong foundation of practices that will
As you consider potential Class VI primacy for your state, we recommend that you first meet with EPA staff, who can explain the primacy process, discuss expectations, and outline different approaches to ensure that equity and environmental justice will be appropriately considered in
permit reviews. If your state decides to move forward with a Class VI primacy application, it is important for environmental justice and equity considerations to be fully integrated into the UIC Class VI program, including in permitting. EPA is currently evaluating strategies to address these considerations in the UIC Class VI permitting program and will be providing guidance that will serve as a resource for states.

Beyond the Class VI program, states are in a unique position to proactively support the development of CCS and CDR projects while protecting vulnerable communities. Incorporating safety and environmental burden considerations into the process early on, such as during site selection for the various components of CCS and CDR projects, will lead to sustainable and successful efforts in decarbonizing the nation’s energy and industrial sectors. Overall, taking action to address climate change, including by deploying CCS and CDR safely and responsibly, will benefit vulnerable communities that are most at risk from the worsening impacts of climate change.

I deeply appreciate the partnership with each of you and with your respective agencies. As a former state environmental regulator in North Carolina, I understand the need for states and the EPA to work together to tackle issues that are bigger than any one of us. States often lead the way in developing creative new ways to address our environmental challenges. EPA looks forward to working with you to develop robust state Class VI programs and deliver on our common commitment to protecting vulnerable communities.

Please do not hesitate to contact me, and your staff can always contact John Lucey, Deputy Associate Administrator for Intergovernmental Relations, at lucey.john.d@epa.gov with any questions.

Sincerely yours,

Michael S. Regan