Ex. 5 - Deliberative Process

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From: Gray, Jason [mailto:Jason.Gray@mail.house.gov]
Sent: Wednesday, April 27, 2016 2:33 PM
To: Walsh, Ed <Walsh.Ed@epa.gov>
Subject: Technical assistance request -- exempt aquifers

Hi Ed – We have been asked to consider some language regarding the ongoing exempt aquifer issue in California. The language, as I understand it, seeks to reaffirm the process and criteria EPA has outlined in its guidance documents as I gather there may be some outside pressure to deviate from that. Could you share with the experts and provide feedback? Thank you

Jason

Bill Language:

The Administrator of the Environmental Protection Agency shall work within the existing criteria and procedures for aquifer exemptions in the Underground Injection Control regulatory framework, in a collaborative manner with the States and regulated industries, to promptly review and make decisions on all aquifer exemption applications using the criteria for exempted aquifers set forth in 40 CFR 146.4 (as in effect on April 1, 2016). Consistent with EPA's Guidance for Review and Approval of State UIC Programs and Revisions to Approved State Programs, GWPB Guidance #34, the Administrator shall not use substantial program revisions for purposes of reviewing and making decisions on aquifer exemption applications involving underground injection authorized by permit, provided the injection is occurring into aquifers that meet the criteria for an exemption set forth in 40 CFR 146.4 and the recommendations of key State resource agencies are taken in account.

Report Language:

Exempt Aquifers.- Existing criteria and procedures for aquifer exemptions under EPA Underground Injection Control (UIC) regulations for all classes of injection wells are sufficiently flexible to address new and changed circumstances, including the development of significant new information regarding what can or cannot reasonably be expected to serve as a source of drinking water. The Committee believes amendment to these criteria is not necessary or warranted. EPA is directed to work within the existing UIC regulatory framework, in a collaborative manner with the States, and the energy producing industry, and all other stakeholders that rely on UIC operations, to promptly review and process all aquifer exemption applications submitted to the Agency, including applications for Class II injection by permit, to ensure robust oil and natural gas production in the States as well as robust economic development. Consistent with EPA's Guidance for Review and Approval of State UIC Programs and Revisions to Approved State Programs, GWPB Guidance #34, substantial program revisions are not to be used for purposes of processing aquifer exemption applications involving Class II injection authorized by permit, provided the injection is occurring into aquifers that meet the criteria for an exemption set forth in 40 CFR 146.4 (as in effect on April 1, 2016), and the recommendations of key State resource agencies are taken in account.