

IMCC Mid-Year Meeting in Santa Fe Approaches

The Interstate Mining Compact Commission (IMCC) will host its 2015 Mid-Year Meeting in Santa Fe, New Mexico, October 26 - 28, 2015 at La Fonda Hotel located on the Plaza.

The meeting will begin on the afternoon of Monday, October 26 during which guest speakers from the federal Bureau of Land Management have been invited to meet with the states. A meeting with officials from the Office of Surface Mining in the Department of the Interior will also be held on Monday or Tuesday of the Mid-Year Meeting. Details are currently being arranged. A reception is scheduled to take place on Monday evening.

On Tuesday, October 27, joint meetings of the Noncoal Section of the Environmental Affairs Committee with the Mine Safety and Health Committee, and the Coal Environmental Affairs Committee with the Abandoned Mine Lands Committee will take place. A luncheon is scheduled this day at which the Honorable Ryan Flynn, Secretary of Environment and Natural Resources Trustee for the State of New Mexico, Environment Department will be the guest speaker.

The Finance and Administrative Committee and Resolutions Committee will meet jointly the morning of Wednesday, October 28. Immediately following will be the IMCC Executive Commission Business Meeting, which will conclude the Mid-Year Meeting.

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A Newsletter Published by
Interstate Mining Compact
Commission

Upcoming Meetings:

IMCC 2015 Mid-Year Meeting
October 26 - 28, 2015
La Fonda Hotel on the Plaza
Santa Fe, NM

For more information on IMCC Meetings as it becomes available, visit our website: www.imcc.isa.us and click on the "Conferences" tab. Some presentations from IMCC Meetings and Workshops can also be viewed on the website at the "Conferences" tab. Copies of IMCC's Compact Newsletter are available on the website by clicking on the "Publications" tab.

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IMCC Sponsors CHIA Benchmarking Workshop

On August 11 - 12, 2015, the Interstate Mining Compact Commission (IMCC) sponsored a benchmarking workshop titled "Developing a Defensible CHIA [Cumulative Hydrologic Impact Assessment]" at the Radisson Blu Aqua Hotel in Chicago, with 65 people in attendance. The attendees included mining regulatory authorities from 17 states and representatives of the federal Office of Surface Mining from the Appalachian, Mid-Continent and Western regions.

The two-day workshop consisted of a full day of speaker sessions followed by an additional speaker and roundtable session on the morning of the second day prior to dividing the group into regional work groups that developed templates for what a "defensible CHIA" document should include for their respective regions.

The first speaker session on day one was titled "Recent Legal Challenges to CHIAs in the States - Regional Perspectives and Identifying Areas Posing Challenges." Attorneys Dana David with the Montana Department of Environmental Quality, Nick SanDiego with the Illinois Department of Natural Resources, and Tom Clarke with the West Virginia Department of Environmental Protection provided western, mid-continent and Appalachian perspectives on the topic. Additional topics and speakers covered during the workshop included: "Critical Documentation of the CHIA process by State Regulatory Authorities" by Deborah Dale, Chief, Program and Technology Support Branch, Office of Surface Mining; "Mine Pool Issues" by Nick Schaer, Geologist, West Virginia Department of Environmental Protection; "Material Damage Criteria" by Richard Wahrer, Ph.D., Kentucky Department of Natural Resources; "Long-Term Contingencies Involving Nitrates" by Pete Schade, Hydrologist, Montana Department of

Environmental Quality; "Methods Used to Predict Postmine Water Quality" by Tim Walter, P.G., Advising Hydrogeologist, Railroad Commission of Texas; "Dewatering Effects of Underground Mining" by Jay W. Hawkins, P.G., Hydrogeologist, Office of Surface Mining; and "Delineation of the Cumulative Impact Area (CIA)" by Muthu Kuchanur, Geologist Supervisor, Wyoming Department of Environmental Quality. The roundtable discussion centered on the topic "Collaboration Across State Lines – How It's Done."

Presentations from the workshop can be viewed on IMCC's website at this link: www.imcc.isa.us/Presentations.htm.

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IMCC Provides Statement at SPR Public Hearing in Pittsburgh

The Interstate Mining Compact Commission's (IMCC) Deputy Executive Director Beth Botsis presented a statement on behalf of the Compact on the Office of Surface Mining's (OSM) proposed Stream Protection Rule (SPR) during the September 10, 2015 public hearing held in Pittsburgh.

Ms. Botsis emphasized that the first-hand experience and expertise of state agencies, as the primary regulators with responsibility for implementing the rule, is essential for the rule to succeed. Though the comment period had been extended by 30 days (to 90 days total) just prior to the hearing, she pointed out that, "With over 3000 pages of material to review that address not only the protection of streams but a myriad of other fundamental aspects of the SMCRA [Surface Mining Control and Reclamation Act] program, the comment period...is still inadequate" and asserted that a 120-day extension was necessary in order for IMCC and the states to provide meaningful input. "Frankly, had the states who were cooperating agencies in the development of the draft EIS [Environmental Impact Statement] not been cut out of the process since 2011, we may have been in a better position to more expeditiously comment on the impacts of the rule. Unfortunately, this opportunity was squandered by the agency." she said.

Ms. Botsis went on to reveal several critical shortcomings that had been identified in IMCC's review of the rule to date, including: it utilizes a one size fits all application that fails to recognize the regional differences inherent in the regulation of coal mining operations, thereby disrupting the tailored approach for protecting the vastly different environments of the respective states, which is a fundamental principal of SMCRA; it inappropriately conflates SMCRA requirements with those of the Clean Water Act in several areas; it fails to accommodate the differences between surface and underground mining operations; it inappropriately limits or encroaches upon landowner rights and preferences, especially with respect to postmining land uses; it severely complicates the ability of operators to secure bonds and of regulatory authorities to monitor those bonds for purposes of bond release; and most critically, the proposed rule would require a substantial increase in funding and personnel for the states to effectively implement the rule.

A more extensive IMCC written statement exposing additional shortcomings of the rule from IMCC's perspective was also submitted to OSM at the hearing.

Ed Larrimore, Administrator with the Maryland Department of the Environment's Mining Program, and Jeff Snyder, Geologist with the Maryland Department of the Environment also presented statements at the Pittsburgh hearing. Their comments were specific to the state of Maryland's perspective on the proposed SPR and some of the challenges the state would face should the rule be promulgated as written, such as the large burden on personnel resources and the unfunded federal mandates it would pose.

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House Committee Passes STREAM Act (H.R. 1644)

On September 10, 2015, the House Natural Resources Committee passed H.R. 1644, the "Supporting Transparent Regulatory and Environmental Actions in Mining Act", otherwise known as the STREAM Act, sponsored by Rep. Alex Mooney (R-WV). The bill would effectively prevent the Office of Surface Mining (OSM) from finalizing its proposed stream protection rule until it goes through an external scientific review and the Administration releases more of the information that went into crafting it.

Specifically, the bill would require OSM to make any "scientific product" relied upon in developing any rule, environmental analysis, economic assessment, policy, or guidance publicly available at least 90 days prior to publishing any draft, proposed, supplemental, final, or emergency rule under the Surface Mining Control and Reclamation Act (SMCRA). It would also require the raw data used for any federally funded scientific product to be

made publicly available. If the information is not made available within 6 months after publication of a rule, the Secretary would be required to withdraw the rule along with any related environmental analysis, economic assessment, policy, or guidance.

The bill also calls for a study by the National Academy of Sciences, to be crafted jointly by OSM and the Interstate Mining Compact Commission (IMCC), that would assess the effectiveness of the current stream buffer zone rule and the identification of any deficiencies that may need to be addressed. Up to two years would be allotted for results of the study to be completed and submitted to Congress, appropriate federal agencies, and the Governor of each IMCC member state. The bill also contains a provision for funding the study for Fiscal Years 2016 and 2017. The bill instructs the Secretary to take the findings of the study into consideration for any such regulatory proposals in the future.

IMCC had previously testified in support of the bill and was active in helping to draft the measure. The bill now heads to the full House for floor consideration, possibly sometime this month. There is no comparable measure in the Senate at this time.

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USFWS Announces Listing Decision for Greater Sage-Grouse

On September 22, 2015, the U.S. Fish and Wildlife Service (FWS) announced their finding for the greater sage-grouse under the Endangered Species Act (ESA). The deadline for the Service to make a listing decision was September 30. After conducting a status review, USFWS determined that the greater sage-grouse remains relatively abundant and well-distributed across the species' 173-million acre range and does not face the risk of extinction now, or in the foreseeable future, and therefore has determined that protection for the species under the ESA is no longer warranted. The Service is withdrawing the species from the candidate species list.

The decision is hailed by the Service and Department of Interior Secretary Jewell as the result of what they described as "an unprecedented conservation partnership across the western United States that has significantly reduced threats to the greater sage-grouse across 90 percent of the species' breeding habitat."

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Call for Nominations for IMCC's 2016 National Reclamation and Minerals Education Awards

The Interstate Mining Compact Commission (IMCC) is beginning the process of soliciting nominations for the 2016 Kenes C. Bowling National Reclamation Awards, and the 2016 National Minerals Education Awards. The criteria, deadlines, and nomination forms for both award programs can be found on IMCC's website at the following link: <http://www.imcc.isa.us/Awards.htm>. The announcements and forms have also been sent to the IMCC member states.

The awards will be presented at the Annual Awards Banquet in conjunction with IMCC's 2016 Annual Meeting in Lake Placid, New York in the spring of 2016. Information about IMCC's 2016 Annual Meeting will be included in the next issue of the "Compact."

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OSM Announces Winners of the 2015 AML Reclamation Awards

Recently the Office of Surface Mining (OSM) announced the winners of the agency's 2015 Abandoned Mine Land (AML) Reclamation Awards. These annual awards recognize outstanding AML reclamation projects completed in the United States. The awards will be presented during the Annual Conference of the National Association of Abandoned Mine Land Programs (NAAML) in Santa Fe, New Mexico on September 27 - 30, 2015.

The 2015 award winners are:

- ▶ **National Award**
Lake Valley Mine Safeguard Project, Lake Valley, Sierra Country, New Mexico
New Mexico Abandoned Mine Land Program

- ▶ **Small Project Award**
Lightner/Boston Coal Mine Erosion Control Project, Durango, Colorado
Colorado Division of Mine Reclamation and Safety
- ▶ **Appalachian Region Award**
Simpson Northeast Coal Refuse Fire Fell Township, Lackawanna County, Pennsylvania
Pennsylvania Department of Environmental Protection
- ▶ **Mid-Continent Award**
AML Site 2052 Minnehaha Slurry Project, Sullivan County, Indiana
Indiana Department of Natural Resources

Energy Bill Introduced in Senate Incorporates Critical Minerals Legislation

A bill sponsored by Senator Murkowski (R-AK) titled "The Energy Policy Modernization Act" (S. 2012), was approved by the U.S. Senate Committee on Energy and Natural Resources on July 30, and included Senator Murkowski's critical minerals legislation S. 883, the "American Mineral Security Act of 2015," was incorporated into the energy bill.

Critical minerals provisions in the bill outline a series of performance improvements and reporting requirements intended to reduce delays in the federal permitting process for mines that will produce critical minerals while also requiring the development of a performance metric to evaluate progress made in improving permitting efficiency.

Other key critical minerals provisions included in S. 2012 include:

- ▶ Amends Section 3 of the "National Materials and Minerals Policy, Research and Development Act of 1980" to modernize the congressional declaration of federal mineral policies;
- ▶ Requires the Secretary of the Interior, acting through the Director of the USGS, to establish a methodology for the designation of critical minerals to be reviewed and updated every three years;
- ▶ Requires the Secretary of the Interior to coordinate with state geological surveys to identify and quantify critical mineral resources throughout the U.S. within four years. Requires a report on the status of geological surveying for any mineral on which the U.S. is more than 25% import dependent, but which is not designated as a critical mineral;
- ▶ Directs the Office of Management and Budget to include mining projects on the Federal Infrastructure Projects Permitting Dashboard. Requires a report from the Small Business Administration on regulations affecting the critical minerals industry;
- ▶ Requires Federal Register notices to be completed within 45 days, prepared at the organization level of the agency, and transmitted from the office in which the documents or meetings are held or the activity is initiated;
- ▶ Directs the Secretary of Energy to conduct a program of research and development to promote the efficient production, use, and recycling of critical minerals throughout the supply chain, and to develop alternatives to critical minerals that do not occur in significant abundance throughout the United States;
- ▶ Provides for a workforce assessment, curriculum development, and programs related to critical minerals at institutions of higher education;
- ▶ Reauthorizes the National Geological and Geophysical Data Preservation Program created by Section 351 of EPACT 2005;
- ▶ Repeals the National Critical Minerals Act of 1984, makes conforming amendments, and provides two savings clauses related to the effect of the critical minerals subtitle; and
- ▶ Provides authorizations of appropriations for subtitle D.

IMCC had testified in support of S. 883 on May 12, 2015, as reported in the June issue of the "Compact" newsletter.

Critical Minerals Legislation in the House

On September 8, Representative Amodei's (R-NV) bill, H.R. 1937, "The National Strategic and Critical Minerals Production Act of 2015" was reported out by the House Committee on Natural Resources. The bill seeks to expedite permitting processes for mineral commodities deemed "critical" based on their importance to national security and certain key industries and for which the United States is reliant on foreign imports. According to the bill, current permitting processes range in timeframe from 7 - 10 years which poses a significant impediment to the development of these resources. The bill would rationalize supply chains for these minerals by circumventing duplicative, parallel review processes, deferring to the analysis conducted by state regulatory authorities, and setting reasonable deadlines for analysis and review phases.

IMCC previously submitted a written statement supporting the legislation on June 25. In the statement, IMCC contends that these provisions will allow improved efficiency of permitting and thus improved access to these critical minerals while maintaining the robust environmental protection that is so important to our states and their citizens.

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House Holds Joint Oversight Hearing on "EPA's Animas Spill"

On September 17, the House Committee on Natural Resources and the House Committee on Oversight and Government Reform held a joint hearing on "EPA's Animas Spill." The hearing revolved around an August 5 accident when, while inspecting the abandoned Gold King Mine Site near Silverton, Colorado as part of a remediation effort, the Environmental Protection Agency (EPA) accidentally released 3 million gallons of contaminated wastewater into the Animas River. EPA has come under fire for how they handled the spill, including not acting quickly to notify the affected states and Tribes of the blowout at the mine site and of the resulting spill.

EPA Administrator Gina McCarthy was questioned extensively by Committee members after presenting her testimony. Ms. McCarthy and other EPA officials then departed and a second panel of witnesses gave their testimonies. Witnesses on the second panel included: Ryan Flynn, Secretary of Environment and Natural Resources Trustee, State of New Mexico, Environment Department; Russell Begaye, President, Navajo Nation; Mike Olguin, Member of the Tribal Council, Southern Ute Tribe; and Dr. Larry Wolk, Executive Director and Chief Medical Officer, Colorado Department of Public Health and Environment.

The subject of the "1872 Mining Law" was raised early in the hearing. Minority Ranking Member Grijalva (D-AZ), in his opening statement, said it was time to reform the 19th century mining law, which he called an "outdated relic." He urged support for his bill, the "Hardrock Mining Reform and Reclamation Act of 2016" (H.R. 963), which includes a provision for a hardrock abandoned mine land (AML) program that would require mining companies to pay fees based on mineral production into a fund used to clean up abandoned hardrock mine sites, similar to the coal AML program that currently exists under the Surface Mining Control and Reclamation Act (SMCRA). Congressmen Cartwright (D-PA), Clay (D-MO) and Lowenthal (D-CA) also urged support for the bill during the hearing. When asked, Administrator McCarthy agreed a hardrock AML program, such as called for in President Obama's Fiscal Year 2016 budget proposal, would be helpful in preventing more events like the Animas spill in the future. Congressman Cartwright also recommended that his colleagues in the House support the reauthorization of the coal AML program under SMCRA, citing the great amount of work remaining to be done in reclaiming abandoned coal mine sites.

After questioning Ms. McCarthy, Chairman Bishop (R-UT) asserted that EPA violated the Endangered Species Act by not consulting with the U.S. Fish and Wildlife Service prior to beginning the work at the Gold King Mine. Questions were also asked as to whether EPA had qualified mining engineers working on the mine clean-up. At one point a passage from EPA's initial summary report of the accident was read, which said the EPA team had conducted a "limited review of internet resources" to determine if there were existing guidelines or procedures for investigating sites with similar characteristics in order to figure out what to do. Secretary McCarthy responded that the onsite coordinator had extensive mining engineering expertise and EPA also worked closely with the Colorado Division of Reclamation and Safety. Ms. McCarthy also admitted EPA could have done better in notifying the affected states and Tribes more expeditiously when the blowout occurred.

When questioned, all four witnesses on the second panel testified they were not notified of the spill initially by EPA, but learned of it through other means. Some said they were never notified by EPA directly. President Begaye of the Navajo Nation was called a "good neighbor" by several congressmen for having been quick to notify others once he learned the toxic spill was heading down the Animas River. The Southern Ute Tribe was also acknowledged for taking quick and decisive action to notify its citizens and contain the situation.

New Mexico Secretary Flynn fielded a wealth of questions from Committee members following his testimony, including questions about how the delayed notification of the accident by EPA hindered the state's efforts, and whether communication and collaboration by EPA with the state was adequate. Secretary Flynn said the state was never notified directly by EPA, but he learned about the accident 24 hours later second-hand, at which time the state's own emergency notification process was immediately set into action. He testified that the state constantly had to fight to get information and data from EPA, and the initial information they did receive estimating the velocity of the plume was inaccurate, making it difficult for the state to proceed in developing a response plan and putting it in the position to have to take very conservative action when accurate information would have allowed more time for farmers and communities to draw water before the plume arrived. When asked if his experience lined up with Administrator McCarthy's statement that EPA had tried to be transparent and work with the states, Secretary Flynn gave several examples of how it did not. He also told the Committee he learned that on the hearing date EPA was going to roll out a long-term monitoring plan without having consulted or collaborated with the state, despite EPA having been told the

state already has a long-term plan. He contended that EPA should have been supporting the state's plan, not coming up with a new plan of its own. Secretary Flynn agreed with Congressman Grothman (R-WI) that the nation would be well-served in giving responsibilities for protecting our natural resources to local and state natural resource departments, rather than EPA. "It's human nature that people who actually live on/depend on the land have the most skin in the game are going to do the best job at protecting those natural resources," Flynn said, "Congress designed [the Clean Water Act, Clean Air Act] to give a lot of deference to states, but that hasn't been the case, especially in recent years." He cited EPA's new "Waters of the United States" rule as an example.

Dr. Wolk also testified that EPA did not notify the state of Colorado about the blowout, but fortunately a member of the state's Department of Natural Resources was nearby at the time and immediately activated the state's notification system, enabling them to follow their established protocol for the emergency. The topic of "Good Samaritan" legislation was raised by Congressman Tipton (R-CO). Such legislation would allow third parties to clean up abandoned sites with protection from liability under the Clean Water Act. Dr. Wolk commented that the Governor, the Colorado Congressional delegates, and most of the Western states had been very active in supporting "Good Sam" legislation in the past to help provide some solutions to hardrock AML problems.

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EPA Settlement Re. CERCLA 108(b) Financial Assurance Rulemaking Deadline

On August 31, 2015, the U.S. Environmental Protection Agency (EPA) and several environmental groups, including Earthworks, the Idaho Conservation League, the Sierra Club, Amigos Bravos, Great Basin Resource Watch, and Communities for a Better Environment, reached a settlement agreement regarding a Mandamus Action in which the agency agreed to a deadline for issuing a final rule on financial assurance for hardrock mining under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Under the agreement, EPA must propose hardrock mining financial assurance requirements by December of 2016, and issue a final rule by December 2017. The Mandamus Action came about as the result of a petition filed by Earthjustice, on behalf of the organizations listed above, with the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) on March 11, 2008. The complaint identified the mining industry, and other industry sectors, as having "inadequate or no requirements to provide financial assurances," and claimed that EPA had a nondiscretionary duty to promulgate and implement financial assurance requirements under CERCLA 108(b). Earthjustice argued that EPA's continuing failure to issue financial assurance rules for more than 30 years constituted an unreasonable delay under the Administrative Procedure Act (APA), since Congress directed the agency to start issuing the rules in 1985, though the group conceded that CERCLA does not require a deadline date for the rules.

On September 29, 2015, EPA held a webinar for stakeholders to introduce its plans for what it anticipates would be the basic structural elements of a proposed CERCLA Section 108(b) financial responsibility rule for hardrock mining. EPA said it intends that many of the core concepts could carry through to future Section 108(b) rules determined as necessary by the Agency. EPA's presentation identified five components of the rule, including: facilities to be regulated; flow of funds for cleanup efforts; the scope and amount of financial assurance to be required; relationships of 108(b) to state and local government law; and relationships to other federal law. EPA said it had identified classes of facilities that would be subject to the CERCLA 108(b) financial assurance requirements through examination of mining facilities identified in its July 28, 2009 notice of classes of facilities, which targeted only the hardrock mining industry. Certain placer mines, exploration mines, and small mines (less than 5 acres) that pose lower risk would be exempt. The remainder of the commodities identified in the July 28, 2009 notice would be included. The agency is also considering what Superfund costs should be covered by required financial responsibility instruments and is developing a model that would identify an amount of financial responsibility that reflects the primary site conditions that may result in future costs. Values will be assigned for facilities based on characteristics and the risks those characteristics pose. EPA intends that the model reflect relative risk of facility practices in managing hazardous substances, including reductions in risk from compliance with other regulatory requirements.

EPA said any financial assurance requirements it develops are not intended to preempt state mining reclamation and closure requirements, but are designed to assure that funds are available to pay for CERCLA liabilities specifically, acquiescing to states' financial responsibility requirements to assure compliance with any state liability concerns. EPA's regulations are also intended to be distinct from federal closure and reclamation bonding requirements imposed under other statutes. The agency intends to publish the proposed rulemaking in August of 2016 followed by a public comment period.

When asked if EPA plans to consult with the state mining regulatory authorities who have expertise in the area of bonding for mining operations prior to the public comment period, Ben Lesser, Senior Advisor in EPA's Office of Solid Waste, and the webinar presenter said, "Yes, we do. We have been in touch with and consulted with state officials for quite a while now and plan in the near future to engage with the Interstate Mining Compact Commission [IMCC],

whose members are governors of the various states who have mining industries as a primary part of their economies....We will also engage with higher level officials within those [IMCC] states that have experience and responsibility for mining regulation." He also said the agency has been in communication with the Association of State and Territorial Solid Waste Officials and expects to do so again.

The recorded webinar will be made available to the public at the end of October at the following link:
www.epa.gov/superfund/policy/financialresponsibility/.

North Dakota Judge Issues Order to Enjoin the WOTUS Rule

Under the federal "Clean Water Act" (CWA), the U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) have regulatory authority over "navigable waters," defined as "Waters of the United States." Recently, EPA and the Corps adopted the "Definition of the Waters of the United States" (WOTUS) Rule, which defines waterways falling under federal jurisdiction pursuant to the CWA. Several states and industries contested the rule.

On August 27, 2015, the day before the effective date of the Rule, Judge Ralph Erickson of the District Court of North Dakota issued an order and opinion enjoining the rule from going into effect on the grounds that it is likely arbitrary and capricious as it lacks a "rational connection between the facts found and the Rule as it will be promulgated." The court relied on pre-decisional and deliberative memoranda of the federal agencies, acknowledging that, though it would have preferred to have reviewed the entire administrative record, the full record was impossible to obtain in a timely fashion. Based on those documents, the court found that the federal agencies' rulemaking action had been "inexplicable, arbitrary, and devoid of reasoned process." According to the court, the "States are likely to succeed on their claim because (1) it appears likely that the EPA has violated its Congressional grant of authority in its promulgation of the Rule at issue, and (2) it appears likely the EPA failed to comply with [Administrative Procedure Act] requirements when promulgating the Rule."

The District Court also chastised the agencies for publishing a final rule that "materially altered" the proposed rule without offering the public an opportunity to make further comment. The ruling has the potential to encourage future challenges to other final rules published without opportunity for public comment on revisions made following the close of the proposed rule's comment period. The court's decision also noted that it was "unpersuaded" by the agencies' argument that they had no obligation to perform an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA), though no decision was reached on the issue.

EPA issued a statement immediately following the North Dakota court decision announcing that the decision was limited to the 13 states that were party to that case, and the rule would go into effect in the other remaining states. Those states where the rule will not apply include: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, North Dakota, South Dakota, and Wyoming.

The United States District Court for the Southern District of Georgia issued an order denying a motion to enjoin the Rule on the same day, ruling that it did not have jurisdiction. Wisconsin was among the states involved in the Georgia case and, according to the state's Department of Justice website, Wisconsin Attorney General Schimel said, "There is well-established precedent that the federal court's order...enjoining the rule applies to all 50 states, not just to the 13 states involved in that case. We expect Wisconsin and the other states challenging the rule to seek clarification that the injunction issued by the district court in North Dakota applies nationwide."
