

Associations Pan Proposed EPA Survey

By Danny Boyd
Special Correspondent

Associations representing natural gas producers in coalbed basins around the country are asking the U.S. Environmental Protection Agency to narrow the focus of a voluminous draft survey seeking detailed production, discharge and financial data to use in considering whether to initiate a rule-making on a national water

quality standard for discharges from coalbed methane wells.

The comment period ended April 24 on EPA's draft information collection request (ICR), a survey that, in its final form, an agency spokesman explains, will be sent to selected CBM operators. EPA received 34 comments from industry, public interest groups and federal government agencies.

In their feedback, producer associa-

tions continue to insist that few, if any, environmental benefits would result from adopting separate effluent limitations for water discharged from CBM wells, which they note now account for about 10 percent of the nation's gas production.

"Our basic position is, if it isn't broken, don't fix it," states Dennis Lathem, executive director of the Coalbed Methane Association of Alabama. "We don't see how (EPA) can come up with a national plan when we have such diversity in production among the states. When you say 'national,' to me that means 'one size fits all.' We don't think that is practical. We don't see how a national effluent limitation guideline (ELG) would do anything except drive up production and compliance costs, put smaller producers out of business, and deprive the country of natural gas."

Producer groups also express concerns that the depth of information sought in the draft survey puts an undue financial burden on smaller companies. Requests for data on companywide rates of return would fail to reflect potential compliance costs specific to coalbed methane, associations insist. Producer representatives also raise concerns about the privacy of proprietary financial information sought by the survey.

The EPA is analyzing the 34 comments and expects to submit a revised survey for a 30-day comment period that could begin near the end of June or early July, according to an agency presentation at a May 14 meeting with industry stakeholders in Denver. In the fall, a final version could be submitted to selected operators, chosen from among a broader group of producers whom the EPA asks to specifically identify CBM projects in order to avoid gathering data on non-coalbed production.

After compiling and analyzing final survey findings, the EPA could present its initial findings as soon as the fall of 2009, the presentation indicates. EPA may also solicit public comment on the option of initiating a formal rule-making, which the May 14 presentation notes can take three-five years. If EPA initiates such a rule-making, it could result in a specific ELG for CBM-produced water, the presentation explains.

State Regs Adequate

Currently, state environmental agencies issue permits regulating the quality of effluents based on each state's water



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quality standards, or on site-specific, technology-based effluent limits that represent the permit writer's best professional judgment (BPJ). This essentially allows state regulators to perform an effluent guideline analysis for a single production facility, according to the EPA.

BPJ effluent limits give state regulators the flexibility to consider permit limits based on those placed on similar production facilities using similar treatment technologies, the agency explains. State regulators also can incorporate data from actual operations in permitting, and can consider scientific literature in their decision making.

Producer associations insist that the end result is a regulatory regime that promotes water quality while reflecting real-world conditions that take into consideration different disposal practices and end usage for discharges, as well as widely varying discharge properties within and among basins.

"The state programs have in place a process that evaluates the specific circumstances that each situation raises—a more comprehensive approach than an ELG provides," asserts Lee Fuller, vice president of government affairs for the Independent Petroleum Association of America.

Adds John Robitaille, vice president of the Petroleum Association of Wyoming, "We truly believe the state agencies overseeing these fields don't need or have a desire for additional oversight from the federal government. We have not seen any environmental harm from (CBM-produced) water, so we don't see the need for additional oversight from the EPA."

State regulatory programs adequately address produced-water discharges from coalbed methane operations, agrees Gerry Baker with the Interstate Oil & Gas Compact Commission.

Burden Small Producers

The EPA's draft survey seeks information on National Pollutant Discharge Elimination System permits and regulatory controls; effluent volumes and quality, and disposal and treatment practices and costs; design, capacity and operation of CBM-produced water treatment technologies; and the types, amounts, composition and destination of effluent and other wastes generated at production facilities.

The draft also asks for data on coalbed formations, gas production levels, production revenue and income, producer assets and liabilities, operating costs and expenses, and internal rates of return.

Producer associations responded by asking EPA to consider getting as much

information as possible from state agencies before requiring survey respondents to provide additional data. They also expressed concerns that the EPA was seeking detailed financial information that was unnecessary, too burdensome, and in some cases, impossible for smaller producers to provide.

"In West Virginia, asking smaller operators to get this much information together is a great task," says Andrew McCallister, an attorney representing the Independent Oil & Gas Association of West Virginia.

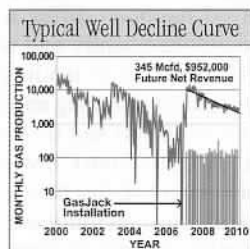
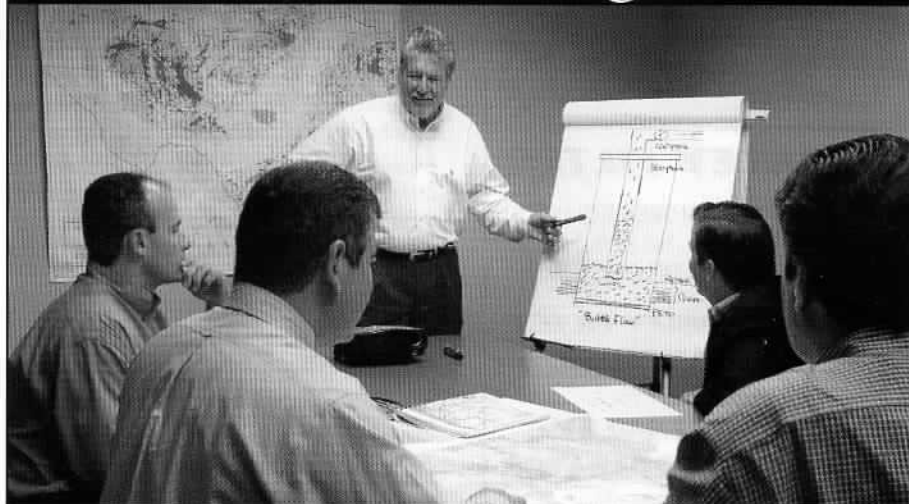
The burden of responding to the ICR could actually impair West Virginia pro-

ducers' abilities to operate their businesses at peak efficiency, IOGA WV states in submitted comments.

Smaller independents in the seven-county Black Warrior Basin region of central Alabama would have to pay extra to have outside consultants help gather and compile the extensive data, suggests Alabama's Latham.

Angie Burckhalter, vice president of regulatory affairs for the Oklahoma Independent Petroleum Association, states in OIPA's response to EPA, "We think the impacts will be much greater on smaller companies, (which) are the least able to respond since they have limited staff and available time to

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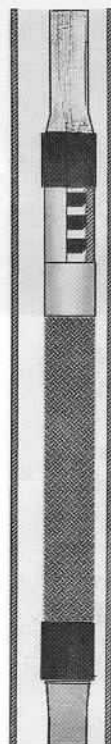
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compile the detailed information requested in the survey. It will be equally burdensome on larger companies that have to compile information that cuts across different business units."

While a revised survey should alleviate excessive administrative burdens on smaller independents, it also should be tailored to gather information from a broad spectrum of operators, says IPAA's Fuller. He points out that failing to get input from smaller producers could skew survey findings, while noting that part of the study process determines the affordability of compliance technology industrywide.

The draft survey's request for companywide rates of return fails to consider that decisions on whether to drill or develop CBM projects are based on the potential profitability of the project at the moment, as well as on what water management or treatment strategy would have to be used, says PAW's Robitaille.

"It is vitally important to recognize that profits elsewhere in the company generally do not factor into the decision of whether to proceed with a CBM well," he says. "The questionnaire should focus on those financial data that are relevant to the decision of whether to proceed with a well, and if so, the water management or treatment strategy."

Many commenters consider the agency's request for in-depth financial information to be intrusive, and ask EPA for assurances that any information forwarded to the agency be kept private.

Limit Data Collection

Pointing out that discharge properties and disposal methods differ widely in basins around the country and within individual basins—further lending to their arguments against initiating an ELG rule-making—associations say they want the EPA to exempt data from CBM-produced water that is injected, discharges that undergo evaporation techniques, and discharges used for beneficial purposes such as watering crops and livestock.

"This narrower focus will have the added benefits of reducing the burden on the CBM operators responding to the survey, and requiring them to divulge less confidential business information," states IOGA WV Executive Director Charlie Burd in his association's comments.

In New Mexico's portion of the San Juan Basin, almost all water produced from coal bed methane is reinjected, observes Karin Foster, director of government affairs for the Independent Petroleum Association of New Mexico. "If a New Mexico operator seeks to dispose by a means other than injection, he must obtain (an) NPDES per-

mit, which is within EPA jurisdiction under the Clean Water Act," she states in comments filed on behalf of IPANM.

"Since the NPDES permit is a rather lengthy process, a quick survey of IPANM membership reveals that the smaller producer rarely applies for it, and therefore the vast majority of operators in New Mexico inject," Foster continues. "However, under the proposed survey, if a New Mexico operator receives the questionnaire, he will be responsible for completing the survey even if he has no effluent surface discharge."

Since subsurface injection, beneficial use, and evaporation are not point sources for discharges to the waters of the United States, the EPA should restrict its study to treatment methods that are technically practical and economically achievable to treat produced water that is discharged on the surface, Foster states.

Impact Gas Production

Much of the CBM-produced water in the Powder River Basin is discharged to containment ponds used by ranchers to water livestock, and into ponds and underground reservoirs tapped for crop irrigation, Robitaille notes. Some is discharged to runoff channels that are otherwise dry. A much smaller portion is injected.

In Wyoming, only a small number of water treatment projects are economical, says Robitaille. And producers already meet extensive regulations from Wyoming's Department of Environmental Quality on surface water quality, discharge management and effluent constituents. Those standards are also approved by the EPA's Region 8 office, he mentions.

Any EPA-mandated ELG could unnecessarily require more treatment or injection, and would result in less investment interest in the basin as treatment and disposal costs increase, forcing companies to shelve or curtail drilling and curb production, Robitaille argues.

"If every company has to treat water, for example, it may not be feasible to maintain the gas production level that we want because of the lack of treatment facilities, capacity and substances used in the water-treatment process," Robitaille says.

The Powder River Basin already finds itself at a price disadvantage because of insufficient pipeline capacity to the West and Midwest, he notes. Late last summer, for example, Robitaille says prices in the region hovered around \$1 an MMBtu compared with \$6-\$7 elsewhere.

In Alabama, CBM-produced water is discharged to surface waters, but Lathem says water quality is monitored both above and below discharge points. He

says the Coalbed Methane Association of Alabama has a more than 20-year history of working closely with state agencies to ensure water quality and provide adequate monitoring.

Injection is uneconomical, and any at-

tempt to force it on operators through an ELG would needlessly drive up costs, deter drilling and production, and hurt small producers, Latham insists. Evaporation techniques and reverse osmosis also are uneconomical or unworkable, he adds.

"We have tried so many different things. We think we have the best and most effective way to handle it. We know of no other way to handle it in Alabama and have our producers continue to produce," Latham says. □

CLIMATE

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National Environmental Policy Act, the Endangered Species Act, and other laws present the risk that the federal government will be forced to create a piecemeal regulatory process. State initiatives have created other avenues.

Any realistic global climate initiative should result in increased demand for natural gas. But it needs to do more; it should provide for better access to American oil and natural gas resources.

IPAA will continue to pursue three broad principles in the development of global climate legislation:

- Natural gas will be a key element

of any GHG-emission reductions, and the legislation should not inhibit American natural gas production; it should enhance access to natural gas resources.

- American oil production should not

be harmed by global climate legislation.

- Global climate legislation should recognize the international nature of the issue and consider the national security interests at stake. □

BP Continues LNG Plans Despite High Court Ruling

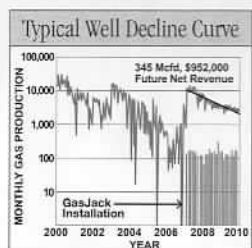
HOUSTON—British supermajor BP says it is continuing development work on a New Jersey-based liquefied natural gas terminal on the Delaware River despite a U.S. Supreme Court ruling that blocked its initial plan.

The state of Delaware opposed the project in 2005 because the terminal's unloading pier would extend into Delaware waters, newspaper reports say. New Jersey attorneys argued that state's authority over the project should be exclusive, but the Supreme Court ruled that both states have a say in transportation affairs.

According to the press accounts, BP spokesman Tom Mueller has acknowledged that the company is exploring other options for delivering LNG to Mid-Atlantic markets. He added that BP continued work on its original Crown Landing terminal site in Logan Township, N.J.

Although BP's original plan called for tankers to stop south of the Pennsylvania line, in April the company notified the Federal Energy Regulatory Commission that it had given security briefings to officials with Delaware County, Pa., and the Sunoco Marcus Hook Refinery, north of the Crown Landing site, news accounts say. The company also reported that its representatives met with the Maritime Exchange in Philadelphia to discuss a vessel control center that could monitor or control LNG cargos on the Delaware River. □

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