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Texas Receives Class VI Primacy: What CCS Developers Need to Know

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Last week, the U.S. Environmental Protection Agency (EPA) announced that it will formally grant the Railroad Commission of Texas (RRC) primary authority (known as “primacy”) to administer the Class VI Underground Injection Control (UIC) program for the geologic sequestration of carbon dioxide under the Safe Drinking Water Act. With this approval, developers pursuing carbon capture and storage (CCS) projects in Texas will work directly with the RRC for Class VI well permitting, rather than navigating the EPA’s permit queue.

What the New Regulatory Framework Means

Under Texas’s new Class VI program:

- The RRC is now the primary permitting authority for Class VI wells, overseeing applications, technical review, construction, operation, monitoring, and long-term site care. Concurrent authorization by both the EPA and the RRC will no longer be required.
- The state’s Class VI rules have been developed to meet or exceed federal UIC requirements, with the EPA maintaining an oversight role.
- Texas-based regulation is expected to streamline permit timing, increase regulatory certainty, and align CCS development with the state’s existing subsurface and injection-well experience.

This shift is significant for CCS developers seeking to advance projects under the federal Section 45Q tax credit framework, where a permitted Class VI well is essential for secure geological storage.

The final rule granting primacy to the RRC is effective on December 15, 2025.

How Troutman Pepper Locke Can Assist

Troutman Pepper Locke advises clients across the full lifecycle of Class VI development, and our team has extensive experience working with the RRC on injection-well, subsurface, and energy regulatory matters. Our work includes:

- Preparing Class VI applications and supporting technical materials.
- Advising on site characterization, well design, corrective action plans, and monitoring requirements.
- Guiding clients through public notice obligations and stakeholder engagement.
- Supporting long-term compliance, reporting, and project financing considerations tied to 45Q.

Our attorneys closely follow regulatory developments in Texas and provide practical guidance to help clients navigate the state's new permitting structure with confidence.

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