

Texas UIC Class VI Update: Proposed Amendments to 16 TAC Ch. 5

Update

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In Volume 48, Number 26 of the *Texas Register*, the Railroad Commission of Texas (RRC) published proposed amendments to 16 Texas Administrative Code Chapter 5 (relating to Carbon Dioxide and related storage activities). These proposed rules are essential to Texas' push to obtain permitting and enforcement primacy for Class VI Underground Injection Control (UIC) wells and are in direct response to the comments of the US Environmental Protection Agency (EPA) to Texas' primacy application that was submitted on December 19, 2022.

The proposed rules build on the initial regulations adopted in 2010 and the subsequent amendments in 2022 (as further described in the timeline set forth below). There are a number of smaller additions/deletions that seek to better mirror Texas regulations with the EPA UIC Class VI regulations (under 40 CFR Part 146, Subpart H). Notably, the proposed rules seek to amend the financial assurance requirements set forth in Section 5.205(c) of Chapter 5. The new inserted language sets forth additional minimum requirements for qualifying financial responsibility instruments (cancellation, renewal and continuation provisions) and further describes how financial assurance is to be adjusted during the active life of the geologic storage project for inflation or changes in cost estimates related to the project.

The RRC will hold a virtual public hearing from 1 p.m. – 4 p.m. on Wednesday, July 19, 2023. The 30-day comment period is set to close on July 31, 2023. The RRC must respond to comments made during this period before publishing the final version of the amended rules. Once the amendments are official, then we anticipate that the EPA will continue to review and ultimately approve Texas's Class VI primacy application. This would allow the RRC authority to permit Class VI UIC wells in Texas and make Texas one of only a few states to achieve this status.

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Timeline

- December 20, 2010: The RRC adopted initial regulations to implement the state Class VI UIC program.
- September 19, 2022: Regulations initially amended to reflect changes in the Texas statutes and to ensure that the state's program meets the minimum federal requirements for Class VI UIC Wells.
- December 19, 2022: State submitted to the EPA its official application for primacy.
- March 2023: The EPA provided comments to the regulations and recommended rule amendments.
- June 13, 2023: Commission Proposed amendments to respond to the EPA's recommendations.
- June 30, 2023: Proposal Published in the *Texas Register* at 48 *TexReg* 3452.
- July 19, 2023: Public hearing webcast at: <https://adminmonitor.com/tx/rrc/hearing/20230717/>
- July 31, 2023: Public comment period ends.

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