

**EPA Response to Public Comments on the State of Texas Underground Injection Control
Program Revision to Add Class VI Primacy
Docket ID: EPA-HQ-OW-2025-0157**

Section 1422 of the Safe Drinking Water Act (SDWA) directs the EPA to establish requirements that States, Territories, and eligible federally recognized Tribes must meet to be granted primary enforcement responsibility or “primacy” for implementing an Underground Injection Control (UIC) program, including a Class VI program. An applicant seeking primacy under SDWA section 1422 for a Class VI program must demonstrate to EPA that the applicant's Class VI program meets Federal requirements, including jurisdiction over underground injection and provisions for the necessary civil and criminal enforcement remedies, so that the proposed program is protective of underground sources of drinking water (USDWs).

On February 20, 2025, Texas submitted to the EPA a program revision application to add Class VI wells to the State’s SDWA section 1422 UIC program. The UIC program revision application from Texas includes a description of the State's proposed UIC Class VI program, copies of all applicable rules and forms, a statement of legal authority, a summary of Texas' public participation activities, and an addendum to the existing Memorandum of Agreement (MOA) between Texas and the EPA's Region 6 office. The EPA reviewed the application for completeness and performed a technical evaluation of the application materials. In accordance with SDWA section 1422 and 40 Code of Federal Regulations (CFR) 145.32, the EPA determined that the revised Texas UIC program meets the requirements of 40 CFR Parts 144, 145, and 146. EPA is amending 40 CFR Part 147 to reflect EPA’s approval of the Texas Railroad Commission (RRC) application for Class VI primacy.

On June 17, 2025, the EPA published a notice in the Federal Register (90 FR 25547) proposing to approve by rule the State of Texas’ application to implement a UIC program for Class VI injection wells within the State, except those located on Indian lands. The notice established a 45-day public comment period that closed on August 1, 2025. The EPA held a virtual public hearing on July 24, 2025, at which 90 people provided oral testimony: 63 in support of the action and 26 in opposition. EPA received 7,534 written public comments from individual citizens, energy and industry groups, potential Class VI permittees, environmental and civil rights non-government organizations, local governments, members of the Texas State Legislature and the Governor of Texas, academia, and others. Of these, 7,037 commenters supported approving Class VI primacy and 497 opposed Class VI primacy. Most of the written comments that the EPA received on the proposed rule were in the form of several “mass mailing” letter campaigns. These included comments from stakeholders supporting approval of Class VI primacy and those opposing Class VI primacy. Such “mass mailing” comments are included in the summaries below.

The EPA reviewed and considered each unique oral and written comment, including attached reports and papers, before finalizing its decision to approve the State of Texas’ application to revise its UIC program to add Class VI primacy. Copies of unique comments are available as part of the public record and can be accessed through the EPA’s docket (EPA-HQ-OW-2025-0157 at www.regulations.gov). In addition, the materials referenced in this responsiveness document are also available in the docket.

This responsiveness document summarizes the public comments received on the proposed primacy approval and provides the EPA's responses. It is organized into several topic-specific sections that reflect commenters' arguments supporting and opposing Class VI primacy approval as follows:

- *Comments about the Program Description (PD)*, including comments about the Texas Railroad Commission's (RRC) inspection activities and past enforcement of UIC program requirements; public engagement activities; the RRC's technical capabilities, capacity, and financial resources to oversee a Class VI program; its independence from political or oil and gas industry influences; and recommended enhancements to Texas' Class VI program.
- *Comments about the Class VI addendum to the UIC Memorandum of Agreement (MOA)*, including comments about transferring permitting activities from EPA to the RRC and suggested coordination with other state agencies.
- *Comments about Texas' UIC Class VI Regulations* and whether the State's Class VI regulations are as stringent as the Federal Class VI requirements.
- *Comments about the primacy approval process* related to opportunities for public input on the EPA's proposed approval; the public hearing; and whether the EPA adequately considered unique circumstances of Texas in reviewing the program revision application.
- *General comments* about the safety of and need for geologic sequestration (GS); Class II injection and oil and gas regulations; and specific carbon capture and storage (CCS)/GS projects outside of Texas.

Comments on the Program Description

1. Commenters supporting approval of Class VI primacy for Texas assert that the State's application meets all requirements at 40 CFR Part 145 and SDWA section 1422 and that the RRC has demonstrated the ability and authority required for Class VI primacy approval. They assert that the RRC is experienced with UIC permitting, has a robust UIC permitting program, has effectively regulated deep injection wells since 1982, and is familiar with carbon dioxide (CO₂) injection via permitting of Class II enhanced oil recovery (EOR) wells. They assert that the RRC has the financial resources and capacity to ensure thorough Class VI permit application reviews, and that the RRC has in-house staff trained in the technical disciplines needed to review Class VI permit applications and oversee operators, as well as a familiarity with Texas' geology and local communities and their needs.

EPA response: the EPA agrees with commenters that the RRC's proposed Class VI program has met the EPA regulatory requirements for Class VI primacy and SDWA section 1422 and that approving the State of Texas' program revision application to obtain Class VI primacy is appropriate. The EPA conducted a comprehensive technical and legal evaluation of Texas' program revision application to determine whether the State's proposed UIC Class VI program—including statutes and regulations, program description, Attorney General's statement, and MOA addendum—meets the requirements of SDWA section 1422 and EPA regulations. Upon review, the EPA determined that Texas' program revision application demonstrates that the State has adopted and will implement a Class VI UIC program that meets the requirements of 40 CFR Parts 144, 145, and 146. The EPA examined the effectiveness of the

RRC's proposed Class VI program to implement its regulations. This included the RRC's Class VI permit application review and issuance forms and processes; Class VI permit owner and operator oversight and inspection materials and reporting forms; Class VI permit testing, compliance and enforcement forms standards and processes; Class VI program structure, funding and staffing credentials and capacity; and many other items that can be found in the state Class VI regulations and Program Description. As mentioned in the preamble to both the proposed and final rules (*Supplementary Information Sections I. C. and III. B.*, respectively), the EPA worked closely with the RRC to provide input and recommendations as the RRC developed its Class VI regulations and UIC program revision application to obtain Class VI primacy. The application materials submitted by the State of Texas on February 20, 2025, reflect the EPA's input and recommendations.

2. Commenters (including writers of mass mailing letters) opposing approval of Class VI primacy for the State of Texas expressed concerns related to the RRC's ability to effectively oversee the UIC Class VI program. Commenters allege the RRC has been unable to adequately oversee Class II injection wells and enforce Class II regulations. As such, they assert that the RRC's oversight of Class VI injection wells and enforcement of Class VI regulations would be likewise inadequate, potentially impacting public health and the environment. Commenters allege the RRC has demonstrated a past inability to adequately inspect all the Class II wells under its authority and past instances of improper Class II injection wells inspections. Commenters also allege that the RRC has a poor "track record" investigating complaints or enforcing violations associated with Class II injection wells. They assert that the RRC often fails to provide public notice or water testing for impacted residents. Commenters reference the Joint Groundwater Monitoring and Contamination Report for calendar year 2023 (Texas Groundwater Protection Committee, SFR-56/23), which they assert documented 539 cases of groundwater contamination under the RRC's jurisdiction proceeding through the enforcement process. These commenters also allege that the RRC has a poor record of enforcing its Class II program requirements; they referenced the EPA's oversight reports on Mechanical Integrity Test (MIT) enforcement and provided examples of environmental incidents associated with projects under the RRC's existing UIC program, especially those related to plugging orphaned wells and environmental contamination caused by abandoned well blowouts. Commenters allege that the RRC does not have a demonstrated history of robust public engagement, environmental justice reviews, or accessible hearings.

Commenters allege the RRC has a shortage of inspectors relative to the number of Class II wells in the state. Commenters also assert the RRC does not require proper review of water quality impacts and data that are necessary to protect critical groundwater and drinking water resources.

Commenters also assert that the RRC does not maintain or publicly disclose a centralized database of known groundwater contamination incidents from Class II operations, which they assert makes it impossible for communities to assess the risks they face. One commenter recommended the RRC use the Groundwater Protection Council (GWPC)'s Risk Based Data Management System to provide transparency and efficiency when handling Class VI permits.

EPA Response: the EPA agrees with commenters that inspections and enforcement actions are key components of a UIC program and are essential to ensuring compliance with UIC requirements. The EPA has determined that the RRC's proposed Class VI program meets EPA regulatory requirements for compliance evaluation (40 CFR 145.12) and enforcement (40 CFR 145.13). As the RRC describes in its Class VI Program Description, it will conduct announced or unannounced inspections to:

witness construction, testing, maintenance and operation of injection and monitoring wells and corrective action; verify compliance with plans or permit conditions; witness work required by any emergency response and corrective action plan; investigate unauthorized injection activities; participate in water quality sampling; and investigate complaints (Program Description, Section V; see also 40 CFR 145.12(b)(2)). The RRC will inspect Class VI facilities annually and at the discretion of the RRC to identify existing problems or prevent potential problems from developing that may cause or lead to violations; update RRC records on the facility; verify operational procedures; respond to complaints; and maintain a regulatory presence in the area of the project. The RRC intends to devote five percent of its Class VI budget to inspections and enforcement activities (Program Description, pg. 4). The EPA considers these inspection and enforcement activities to be appropriate and adequate to ensure that Class VI well owners or operators in Texas comply with the UIC requirements and their permits. Per Section V of the Program Description, the appropriate RRC district will investigate public complaints involving an imminent threat to public health and safety or the environment immediately, and other pollution-related complaints are investigated within 24 hours.

The EPA agrees with commenters that timely enforcement is important in protecting USDWs. Texas' regulations meet the Federal UIC requirements for enforcement authority, which includes the ability to immediately and effectively restrain any person from engaging in any authorized activity that is endangering or causing damage to public health or the environment (40 CFR 145.13).

Section V of the Program Description describes the RRC's procedures for initiating, pursuing and resolving enforcement actions, which may result in modification, revocation, or suspension of any UIC Class VI permit. In the event of discovery of a violation, RRC staff have multiple enforcement mechanisms available to address it, depending on the nature of the violation. The RRC will attempt to handle all minor violations through informal means, such as correspondence between agency staff and the alleged violator. Other options include: notices of violation that specify a deadline for compliance after which the RRC would return to the location or review RRC records to verify compliance; cancellation of the Certificate of Compliance that is required to operate a well in the state (after which the RRC may place a physical seal on the well and the operator may not resume operations until the well is returned to compliance); permit actions (i.e., to modify, suspend, or terminate a permit based on violations of RRC rules); and legal enforcement in which a penalty of up to \$10,000 a day for each violation is assessed.

The EPA disagrees with commenters who assert that the RRC has a poor record of enforcing its Class II program requirements, and that this "track record" indicates that Class VI enforcement will likewise be inadequate. RRC staff have developed the necessary expertise for evaluating Class VI UIC permit applications, operations, compliance monitoring, and enforcement from past oversight of other injection well classes. Annual inspection data reported to the EPA by Texas in their annual narratives between 2021 and 2024 revealed that RRC staff performed an average of over 30,000 UIC-related inspections each year, including witnessing on average about 6,000 mechanical integrity tests on injection wells. Moreover, according to annual data reported to the EPA, the RRC has taken an average of over 5,000 UIC enforcement actions (most of which are Class II related) annually over the last several years, including issuing notices of violation, civil and criminal referrals, and administrative orders. The EPA disagrees with commenters that its MIT report from nearly 30 years ago is indicative of the RRC's current implementation of its Class II UIC Program or that it demonstrates that the RRC's Class VI

program fails to meet EPA requirements for compliance evaluation and enforcement. The EPA finds that the RRC's record of enforcement for its existing UIC program rebuts commenters' concerns about RRC's potential compliance monitoring and enforcement of the Class VI program. As is the case with all States which obtain UIC program primacy, the EPA will oversee the RRC's administration of the UIC Class VI program. Since the establishment of the UIC program and availability of state primacy under the SDWA, the EPA has conducted UIC program oversight to help ensure that States that have been granted primacy continue to implement their programs in a manner consistent with the SDWA, applicable Federal regulations, their State regulations, and their MOAs with the EPA. See Class VI MOA addendum, section V, EPA Oversight. As part of the EPA's oversight responsibility, the Agency will conduct, at least annually, performance evaluations of Texas' Class VI program using program reports and other requested information to determine State Class VI program consistency with the RRC's approved program, SDWA, and applicable regulations (Class VI MOA addendum, section V). This includes a review of financial expenditures, progress on program implementation, and any departures from the Program Description and Class VI MOA addendum, including regarding compliance evaluation and enforcement. *Id.* Any deficiencies that the EPA finds in Texas' Class VI program performance will be shared with the State, along with recommendations for improving State operations. *Id.*

Furthermore, the EPA Region 6 Regional Administrator may select Class VI activities and facilities within the State for the EPA to inspect jointly with the State (Class VI MOA addendum, section V.I). In States with UIC primacy, the EPA maintains its independent authority to enforce violations of applicable UIC program requirements under SDWA section 1423(a)(1), and its authority to act to address imminent and substantial endangerment under SDWA section 1431. Pursuant to the Class VI MOA addendum, the RRC must notify the EPA of Class VI enforcement actions taken by the RRC. If the RRC were to fail to initiate appropriate enforcement action against a substantive violation, the EPA has the authority under section 1423 of the SDWA to intercede and take appropriate enforcement actions to ensure that USDWs are protected (MOA, Part IV.A). The EPA adds that failure by the RRC to inspect and monitor permittee activities or to act on violations of permits or other program requirements are grounds for program withdrawal (40 CFR 145.33(a)(3)). The EPA performs annual evaluations of the RRC's UIC program performance, which have been positive. The EPA Region 6's 2024 annual evaluation deemed the RRC's compliance surveillance and enforcement program for Class II and III injection wells to be effective.

Additionally, the EPA agrees with commenters that public notice and participation are key elements of the UIC program, and that the public should have access to information about compliance with Class VI permits. The EPA has found that the RRC regulatory requirements for public notice and comment on permit actions at 16 Texas Administrative Code (TAC) § 5.204 and further elaborated on in the Program Description meet the obligations under section 1422 of the SDWA and EPA regulations (*e.g.*, 40 CFR 145.11(a)(28)-(30)) to obtain primacy for the UIC Class VI program. In response to commenters asserting that the RRC Class VI program does not adequately integrate or consider "environmental justice," the EPA notes that these are not UIC regulatory requirements to obtain primacy. Please see the Agency's response to Comment 6 below for additional information on the RRC's integration of community engagement and public education under its Class VI UIC program. In Appendix H of the Program Description, the RRC states it will make Class VI monitoring and compliance reporting data (*e.g.*, injection pressures, monitoring data, mechanical integrity test results) available on the RRC's website in a manner that is user-friendly and understandable to the general public. Where appropriate, the RRC will also post all Class VI permit violations on the RRC's website.

3. Other commenters expressed concern that the RRC lacks expertise in subsurface plume modeling, risk analysis, financial security, and monitoring, and that it has insufficient staff capacity to oversee, and issue permits for Class VI projects in Texas (which commenters note are significantly different from Class II oil and gas injection wells). One commenter alleges the Program Description does not describe details on staffing. Commenters also assert that the RRC lacks capacity to review the number of anticipated Class VI permit applications and oversee Class VI projects to address the risk associated with CO₂ injection. Commenters refer to the RRC's oversight of its Class II well program, citing thousands of unplugged wells. Commenters believe that the RRC's stated plan to hire additional staff to help implement its Class VI program will be insufficient to meet the demands of the anticipated number of new Class VI projects. Commenters also raised concerns about the RRC's plan to contract out certain work, citing the potential for operator-contractor-agency conflicts of interest. Commenters offered recommendations to make permitting and project oversight more efficient, including coordinating with RRC's sister state agencies and relevant local authorities. One commenter encouraged RRC staff to take the GWPC Class VI regulatory training.

EPA Response: the EPA disagrees that RRC staff lack the necessary skills and expertise to oversee a Class VI program. The RRC's UIC team is comprised of staff with significant institutional knowledge and expertise in the variety of technical specialties needed to issue and oversee Class VI permits, including geologic site characterization, modeling/reservoir simulation, well construction and testing, finance, policy, and risk analysis. The EPA disagrees that the Program Description did not contain sufficient information about the staff who will be performing oversight duties. Consistent with 40 CFR 145.23(b)(1), Texas provided information on the disciplines and expertise of their staff and the associated activities they would perform, e.g., geologists, hydrogeologists, log analysts/experts, and geochemists who will review site characterization data submitted during permitting and throughout the project duration. The EPA agrees that ongoing training is important and encourages all UIC permitting agencies to develop appropriate training opportunities for their staff.

As briefly mentioned in EPA Response to *Comment 2*, the EPA has determined that the RRC will have the capacity to perform inspections as appropriate of all Class VI facilities and activities subject to the RRC's oversight to identify permittees who have failed to comply with program requirements (40 CFR 145.12(b)). The RRC's Program Description describes staff who can initiate and pursue appropriate enforcement actions when permit or regulatory requirements are violated, and inspectors (including well engineers or log analysts/experts) to inspect wells or witness construction activities, workovers, and/or mechanical integrity tests (Program Description, page 3).

From past oversight of other injection well classes, RRC staff have developed the necessary expertise for evaluating Class VI UIC permit applications and operations, conducting compliance monitoring, and enforcement. The EPA reviewed inspection data reported by Texas in their annual narratives between 2021 and 2024 and found that RRC staff have performed an average of over 30,000 UIC-related inspections each year, including witnessing over 6,000 mechanical integrity tests on injection wells.

The EPA disagrees with commenters who assert that the RRC's plan to rely, in part and as needed, on contract support for Class VI permit application reviews presents a conflict of interest (COI). Both States and EPA UIC programs routinely utilize contract support in permit application reviews. These contractors are often experts in the field with relevant knowledge in geology, well engineering, modeling, and other disciplines via industry experience. With proper protocols in place by the RRC, a contractor's past work

for a regulated industry does not rule out the contractors' ability to apply this expertise on behalf of the RRC without a COI. Both States and the EPA generally have protocols in place requiring contractors to disclose any potential COI and recuse themselves from any matter with a real or apparent COI. RRC guidance explains that RRC contracts include terms directly addressing COI, requiring contractors to give the RRC notice of any actual, apparent, or potential COI involving the contractor or any individual or entity performing any work contemplated by the contract. Whether a COI exists and the remedies for any conflict are within the sole discretion of the RRC. *See e.g.*, RRC, PROCUREMENT & CONTRACT MANAGEMENT GUIDE 12 (Nov. 2019, as amended Oct. 2024). All final permitting decisions will be made by the RRC, not contractors, pursuant to Federal and State regulation.

The EPA disagrees that the RRC's oversight of its Class II well program, including oversight of well plugging, demonstrates that the RRC will not properly implement its Class VI program. As described in further detail in EPA's recent denial of a petition to withdraw Texas' Class II program, Texas is taking the necessary corrective action to address those UIC wells that are abandoned and not properly closed in accordance with rules established in the State as part of its Class II program. Texas requires Class II wells, upon abandonment, to be plugged in a manner which will not allow the movement of fluids into or between USDWs, and the RRC has appropriate mechanisms to ensure the proper plugging of wells upon abandonment.

4. Commenters expressed concern that the RRC has insufficient financial resources to oversee Class VI wells in the State and claim that the State is unwilling to invest the necessary resources, asserting that the State's UIC program has historically been underfunded. Commenters assert that the Program Description does not describe funding levels. One commenter encourages the EPA to provide grant funding to ensure the state has capacity to oversee the Class VI program and process the number of permit applications anticipated during the first two years after primacy approval.

EPA Response: the EPA reviewed the RRC's proposed budget, which was included in their Program Description (page 4), and disagrees that the State has insufficient sources of financial resources to run an effective and protective Class VI program. In Section II of its Program Description, the RRC describes the Anthropogenic Carbon Dioxide Storage Trust Fund, established by the Texas Legislature in 2009, which will be the primary source of programmatic funding. Sources of monies to be deposited into this fund pursuant to § 121.003, Texas Natural Resources Code and 16 TAC § 5.205(a) include application fees, annual injection fees, post-injection care fees, penalties, financial security, and interest.

The Program Description also describes funding levels over the initial years after Texas assumes Class VI primacy. The RRC estimates that running the Class VI Program will cost between \$300,000 and \$500,000 in the first year of primacy, and \$1 million in the second year, with annual adjustments thereafter.

The EPA acknowledges that in the first fiscal year of the RRC's Class VI program implementation, projected application fee collections are lower than later fiscal years. The RRC may rely on a combination of Federal funds (an annual portion of the UIC State and Tribal Assistance Grant and \$1.93M from the UIC Class VI grant in 2025) and the RRC's Oil and Gas Regulation and Cleanup Fund, along with annual injection fees starting in the first year of program implementation. The RRC anticipates these annual injection fees deposited into Anthropogenic Carbon Dioxide Storage Trust Fund will be sufficient for complete funding by the second fiscal year of Class VI program implementation. The EPA clarifies that, subject, as always, to appropriations and the availability of funds, it is committed to providing the UIC grant funding to which commenters refer.

5. Commenters allege that the RRC lacks independence from political or oil and gas industry influences and expressed concerns about conflicts of interest. They express concern that the RRC Commissioners, who are elected, may have personal financial interests in the companies the RRC oversees, and have not recused themselves from decisions about these companies. A commenter also alleged that a Commissioner could make decisions that do not comply with state regulations.

EPA Response: the EPA disagrees that RRC UIC Class VI permitting and oversight decisions will be inappropriately influenced by political or industry influences. As described in the Program Description, permit applications will be reviewed by staff-level geologists, engineers, and policy experts to ensure that each application meets the requirement at 16 TAC chapter 5, including: the suitability of the site (16 TAC § 5.206(b)(6)), an evaluation of the geologic system (per 16 TAC § 5.203(b)), the well (16 TAC § 5.203(e)), and the proposed operations (16 TAC § 5.203(i)) to ensure that the project will be protective of USDWs. These staff will be overseen by a Class VI UIC Manager, who will have a significant technical management role in the program. The RRC's permitting decision would be based on an administrative record and subject to judicial review, in accordance with the process for appealing a final decision in 16 TAC Chapter 1., Practice and Procedure. *See also*, Texas Government Code Sec. 2001.171. The EPA's UIC primacy regulations do not include requirements governing conflicts of interest or campaign contribution limitations, and the EPA does not agree that, as a general matter, the democratic election of such officials undermines their ability to faithfully administer the program pursuant to Federal and State law and regulations.

The commenter who asserted that the RRC is authorized to make decisions that do not comply with state regulations appears to be referring 16 TAC § 5.201(i). This regulation addresses how to reconcile any conflict between a provision of a RRC order or permit and the RRC's Class VI regulations, should any such conflict arise. Specifically, 16 TAC § 5.201(i) states that if any provision of the RRC Class VI regulations conflicts with any provision or term of a RRC order or permit, the permit controls provided that the permit provision satisfies the minimum requirements for the EPA's Class VI UIC program. In the event any such conflict arises between a permit term and the RRC Class VI regulations, 16 TAC § 5.201(i) ensures that the RRC's Class VI program remains as stringent as required by EPA regulations because it expressly requires that any permit term that conflicts with the RRC Class VI regulations must still meet the minimum requirements for EPA's Class VI UIC program. The EPA notes that this provision is similar to the EPA's UIC regulation at 40 CFR 144.35(a), which provides that compliance with certain EPA-issued UIC permits, including Class VI permits, constitutes compliance, for purposes of enforcement, with the UIC provisions of the SDWA. The RRC regulation 16 TAC § 5.201(i) does not cause the Texas Class VI program to fall short of any requirements for Class VI primacy. The EPA will review the RRC's Class VI program annually at the end of each fiscal year and can revoke primacy if the RRC does not uphold the regulations or operate the program as described.

6. Commenters recommended enhancements to Texas' Class VI program, including: more community engagement and public education, addressing impacts on overburdened populations in permitting decisions and in fact sheets, longer comment periods for permitting decisions, and making permit applications available online. Commenters, including writers of mass mailing letters, request that EPA require Texas to demonstrate that it has procedures to meaningfully consider and prevent disproportionate exposure and cumulative environmental impacts on low-income populations, communities of color, and susceptible sub-populations.

EPA Response: the EPA agrees with commenters that community engagement and public education are important parts of an effective Class VI program, although not specifically required by regulation for UIC primacy apart from the requirements related to public notice and comment on permitting actions and public participation in the state enforcement process. Community engagement and public education can help stakeholders understand the potential risks and benefits of a proposed Class VI injection project and give people a voice in the decision-making process; it can also facilitate permit issuance.

The Program Description (section III.A) describes a public participation program and State requirements that meet all federal requirements, including: preparing a fact sheet; issuing a public notice of the draft permit, fact sheet, and a public comment period; and scheduling and holding of public hearings according to procedures detailed in 16 TAC § 5.204(a)&(b).

In the Program Description, the RRC identifies robust and ongoing opportunities for public participation regarding Class VI injection wells. For example, the RRC will provide notice of proposed Class VI wells and tailor public participation to specific community needs and interests. As described in Appendix H to the Program Description, the RRC will fully incorporate robust and ongoing opportunities for public participation, including the following:

- During project planning and development, the RRC will encourage operators to initiate community engagement to incorporate input from the surrounding community. Operators will be required to conduct engagement with key stakeholders, such as state and local emergency response officials, while developing required Class VI project plans such as the Emergency and Remedial Response Plan to better understand community concerns and needs.
- In the pre-permitting phase, the RRC will encourage operators, where practicable, to implement additional mitigation measures to address concerns raised by the local community (e.g., CO₂ monitoring and release notification networks or enhanced pollution controls).
- The RRC will encourage applicants to ensure that appropriate community representatives are a part of the development of the Emergency and Remedial Response and Testing and Monitoring plans, including:
 - Training local responders to respond to emergencies at the facility; working with the community to identify the chain of command for notifying the public of an emergency; and developing plans for notification of well related issues and emergencies (considering local community language needs and the needs of persons with disabilities); and
 - Developing a Testing and Monitoring Plan that addresses the risks of the project.
- The RRC will implement a public participation process targeting affected communities, including hosting pre-permitting informational meetings; developing permit support materials and educational documents in languages that are appropriate for interested communities to ensure meaningful access to persons with disabilities; and implementing extended public comment periods in response to significant interest.
- After permits are issued, the RRC will encourage permittees to conduct community engagement throughout the life of the project and require permittees to report on their outreach activities to the RRC in annual reports.
- The RRC will make Class VI monitoring and compliance reporting data (e.g., injection pressures, monitoring data, and mechanical integrity test results) available on the RRC's website in a

manner that is user-friendly and understandable to the general public. Where appropriate, the RRC will provide public notification of all Class VI permit violations on the RRC's website.

The EPA agrees with commenters that having permit applications available online informs and facilitates public review. This is reflected in Appendix H, where the RRC states it will ensure that the permitting process is transparent by posting appropriate contents of Class VI permit applications on the RRC's website. In response to commenters requesting that the EPA require Texas to integrate environmental justice into its program, the EPA notes that integration of environmental justice is not UIC regulatory requirement to obtain primacy. A State primacy authority may choose to establish more stringent State regulations that consider criteria beyond those listed under 40 CFR 145.11 for their UIC program. However, such additional criteria cannot be required by the EPA as a condition of UIC primacy. The EPA also notes that on January 20, 2025, and January 21, 2025, respectively, President Trump issued Executive Orders titled Initial Rescissions of Harmful Executive Orders and Actions and Ending Illegal Discrimination and Restoring Merit-Based Opportunity. These orders revoked Executive Order 14096 and Executive Order 12898, both of which pertain to environmental justice. The RRC provides widely attainable Class VI permit compliance information as part of their program operations.

Comments on the Memorandum of Agreement (MOA)

1. Commenters supporting approval of Class VI primacy assert that the Class VI MOA addendum outlines clear coordination and cooperation between the EPA and the RRC, ensuring continued Federal involvement and accountability.

EPA Response: the EPA conducted a thorough review of State of Texas' Class VI MOA addendum and agrees with commenters that it meets the requirements of 40 CFR Part 145. The Class VI MOA addendum addresses coordination between the State/RRC and the EPA; permitting and oversight of projects throughout their life; compliance monitoring and enforcement; public outreach and community engagement; and information sharing.

A commenter who supports primacy encouraged the EPA to work closely with Texas (as described in the Class VI addendum to the MOA) to ensure that pending permit applications are transferred to the State to avoid a delay in processing, citing delays in Louisiana following that State's receipt of primacy. Another commenter requested that the RRC work with the Texas Commission on Environmental Quality (TCEQ), which has a role to play in Class VI permitting, especially in Class I no-harm determinations.

EPA Response: Per Section II.D of the MOA addendum, the EPA will transfer to the RRC any pending permits, applications, and any other information relevant to Class VI UIC program operation not already in the possession of the RRC when the RRC assumes primacy for the Class VI UIC program. In Section II.E of the MOA addendum, the EPA and the RRC commit to coordinate, when appropriate, on the processing of permits for facilities or activities that require permits from both the EPA and the RRC under different programs.

The EPA agrees that TCEQ has a role to play in Class VI permitting under the RRC's Class VI program. A person applying to RRC for a Class VI must submit a copy of the application to TCEQ and must submit to the RRC a letter of determination from TCEQ concluding that drilling and operating a Class VI wells or constructing or operating a GS facility will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted

by TCEQ. 16 TAC § 5.203(a)(2)(D). The letter must be submitted to the RRC before a Class VI permit may be issued. Furthermore, should any Class I wells be within the area of review (AoR) of a Class VI project, the RRC would need to consider this in the Class VI permitting decision, including regarding potential corrective action at 16 TAC § 5.203(d)(1)(C) and in the AoR modeling, which must consider anticipated operating data per 16 TAC § 5.203(d)(1)(A)(ii)(II), and in determining the suitability of the proposed geologic system per 16 TAC § 5.203(b).

Comments on Texas' UIC Class VI regulations

1. Commenters who supported approval of Class VI primacy, including writers of mass mailers, asserted that the State's Class VI regulations are as stringent as the Federal regulations, particularly related to environmental protection, with commenters pointing to the RRC's track record of environmental compliance and their knowledge of local environmental conditions.

EPA Response: the EPA conducted a thorough line-by-line review of Texas' Class VI regulations and has determined that they are as stringent as the Federal Class VI regulations. The EPA agrees with commenters that Texas' proposed UIC Class IV program meets Federal regulatory requirements, that approving Class VI primacy for the RRC is appropriate, and that the State will implement a Class VI program protective of USDWs.

In response to the commenter discussing the potential conversion of Class V stratigraphic test wells to Class VI injection wells, the EPA first agrees with the commenter that the RRC meets the EPA's regulatory requirements for Class VI primacy, and more specifically that 16 TAC § 5.201(h) provides that operators that drill a stratigraphic test well with "plans to convert" to a Class VI well must meet the well construction requirements of Class VI injection wells as specified in RRC regulations. The commenter also raised 16 TAC § 5.203(e), asserting that while exemptions from the equivalent rigor of Class VI construction requirements should not be allowed, RRC regulations at 16 TAC § 5.203(e) appear to provide operators that begin the life of their CO₂ storage project as a Class II or Class V project an opening for exemption before they begin their operation. The EPA notes in response that 16 TAC § 5.203(e)(1)(B)(vii) is consistent with EPA regulations at 40 CFR 146.81(c), which provide that "Owners or operators seeking to convert existing Class I, Class II, or Class V experimental wells to Class VI geologic sequestration wells must demonstrate to the Director that the wells were engineered and constructed to meet the requirements at § 146.86(a) and ensure protection of USDWs, in lieu of requirements at §§ 146.86(b) and 146.87(a)." In other words, these wells must meet the EPA's general performance criteria of 40 CFR 146.86(a) for Class VI well construction, but not necessarily the specific casing and cementing requirements of 40 CFR §§ 146.86(b) and 146.87(a). The RRC regulations build upon this by clarifying that such a converted well "must meet all other requirements" for Class VI wells, and by identifying seven specific elements that must be included in any demonstration that a converted well meets the RRC's general well construction performance criteria.

The commenter also referred to 40 CFR 144.15, which prohibits non-experimental Class V wells for geologic sequestration, and quoted a passage from EPA's 2010 Class VI rule preamble regarding geologic sequestration, experimental technology, and Class V versus Class VI classifications (75 FR 77245-46). There is no indication that the RRC would implement its Class VI program contrary to 40 CFR 144.15 or

the quoted passage from the EPA's preamble. The EPA agrees with the commenter that the RRC meets regulatory requirements for Class VI primacy.

One commenter, although recognizing that the RRC meets regulatory requirements for Class VI primacy, asserted that GS in Texas is likely to occur in and around areas of historical drilling and that while operators must conduct, in the words of the commenter, a "paper exercise" to explore potential fluid conduits within the AoR, it is likely that not all relevant penetrations will be in the official record. The commenter recommended that the RRC require instrumented undocumented orphan well surveys for projects in areas with historical drilling. The EPA notes in response that the RRC's requirements regarding identification of all penetrations within the AoR are as stringent as EPA's corresponding requirements. *Compare* 40 CFR 146.84(c) *with* 16 TAC § 5.203(d). The RRC regulations recognize "visual inspections of the facility and adjoining properties" and "interviews with past and present owners, operators, and occupants" as among the potential methods of identifying penetrations within the AoR.

One commenter asserted that the RRC regulatory provisions regarding emergency and remedial response plans meet federal regulations and provide more specificity than the federal regulations, but also recommended further enhancements, including regarding coordinating with and providing adequate resources, for local emergency responders. The EPA agrees that the RRC regulatory requirements regarding emergency and remedial response plans meets EPA regulatory requirements. *Compare* 40 CFR 146.88 *to* 16 TAC § 5.203(l).

2. Commenters opposing Class VI primacy approval assert that the Texas UIC Class VI regulations are less stringent than the Federal Class VI Rule in manners addressed below. Commenters recommended additional requirements for inclusion in the RRC's rules related to: addressing pressure interactions with other projects, orphaned wells, or faults; well reviews and corrective action in the AoR including the RRC's purported lack of authority to deny drilling permits within the AoR of a Class VI well; AoR reevaluations; corrosion monitoring for monitoring wells; seismicity monitoring; construction standards for Class II and Class V wells converted for Class VI; use of Class II wells as CO₂ storage wells; enhanced requirements for Class VI projects in coastal and offshore areas; financial responsibility instruments; emergency and remedial response planning and local emergency preparedness; incident response procedures for well blowouts; and post-injection site care timeframes. One commenter requested that the EPA or the RRC write additional guidance on several of these topics.

EPA Response: the EPA disagrees that the RRC's Class VI regulations fail to meet the Federal UIC Class VI regulatory requirements for Class VI programs. The EPA conducted a thorough, line-by-line, review of Texas' regulations and has determined that they are as stringent as the Federal Class VI regulations. The RRC's Class VI regulations, like the Federal Class VI regulations, are tailored to the unique nature of injecting large volumes of CO₂ into geologic formations for long-term storage to ensure protection of USDWs.

Texas Class VI rules are at least as stringent and protective as the Federal Class VI rule, including:

- Site characterization/site suitability considerations at 16 TAC § 5.206(b)(6), which are as stringent as 40 CFR 146.83 requiring that Class VI projects be sited in areas with a suitable geologic system, including an injection zone that can receive the total anticipated volume of CO₂ and confining zone(s) and contain the injected CO₂ stream and displaced formation fluids.

Applicants must fully characterize the site geology including evaluating faults within the AoR (16 TAC § 5.203(c)(2)).

- Requirements for modeling the extent of the plume and pressure front and pressure increases at 16 TAC § 5.203(d)(A)(i), which are as stringent as 40 CFR 146.84, including the requirement to re-evaluate the AoR at a minimum fixed frequency of five years during the life of the project and when monitoring and operational conditions warrant. These requirements will ensure that the AoR, as modeled, appropriately represents the area in which USDWs may be endangered by the injection operation, including potential pressure interactions with other projects, which would be considered in setting permit limits.
 - Corrective action requirements at 16 TAC § 5.203(d)(C), which are as stringent as 40 CFR 146.84(c), to require that all wells in the AoR of a Class VI project are plugged with CO₂-resistant materials to prevent fluid movement along abandoned wells.
 - Construction requirements at 16 TAC § 5.203(e), which are as stringent as 40 CFR 146.86, to ensure that all Class VI injection wells, including those converted for Class VI injection, will be constructed in a manner that is appropriate to planned operations, are compatible with the injected CO₂ and subsurface chemistry, and will maintain integrity throughout their anticipated life.
 - Comprehensive testing and monitoring requirements, including corrosion monitoring requirements at 16 TAC § 5.305(1)(D), which are as stringent as 40 CFR 146.90(c), to provide early indication if well materials are being damaged due to contact with CO₂; and seismicity monitoring, if needed based on site-specific circumstances.
 - Emergency and remedial response planning requirements at 16 TAC § 5.203(l), which are as stringent as 40 CFR 146.94 to ensure expeditious and appropriate responses to protect USDWs from endangerment should an emergency event (such as seismicity or well blowout) occur. Also, as described in Attachment H of the Program Description, the RRC will require applicants to train local responders to respond to emergencies at the facility and work with them as they develop the Emergency and Remedial Response Plan.
 - Post-injection monitoring requirements at 16 TAC § 5.203(m), which are as stringent as 40 CFR 146.83, to ensure that owners or operators will perform appropriate monitoring to demonstrate that USDWs are not endangered and validate modeled predictions until a non-endangerment demonstration can be made.
- Financial responsibility requirements at 16 TAC § 5.205(b), which are as stringent as 40 CFR 146.85, to ensure that, in the event that owners or operators experience financial difficulties, resources are available to carry out activities related to corrective action, well plugging, post-injection site care and site closure and, if needed, remediating GS sites to ensure that USDWs are not endangered, without the use of taxpayer monies.
- Requirements for the transition of Class II wells to Class VI at 16 TAC § 5.201(b)&(c), which are as stringent as 40 CFR 144.19, to ensure that wells that are being used for the primary purpose of GS are regulated as Class VI wells.
 - Permitting public notice and public participation requirements at 16 TAC §§ 5.204 and 5.202(e), which are as stringent as 40 CFR 145.11 regarding this topic.

In response to the commenter that asserted that the RRC lacked authority to deny drilling permits within the AoR of a Class VI well, the EPA first notes that a person applying to the RRC for a Class VI

permit must submit a copy of the application to the TCEQ and must submit to the RRC a letter of determination from the TCEQ concluding that drilling and operating a Class VI wells or constructing or operating a GS facility will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted by the TCEQ. 16 TAC § 5.203(a)(2)(D). The letter must be submitted to the RRC before a Class VI permit may be issued. Additionally, periodic reviews of the AoR, as well as testing and monitoring requirements, and emergency and remedial response plans assist in addressing the possibility of changing conditions within the AoR including new artificial penetrations. See 75 FR 77247.¹

Comments on the Primacy Approval Process

1. Commenters supporting primacy approval assert that Texas' proposed Class VI primacy program meets all the requirements of 40 CFR Part 145 and satisfies all applicable statutory and regulatory standards for approval.

EPA Response: the EPA agrees with these commenters that approving Class VI primacy for the State of Texas is appropriate. The EPA conducted a thorough review of Texas' program revision application and proposed Class VI program and determined that it meets the requirements of 40 CFR Part 145. Based on its review of the program revision application that Texas submitted on February 20, 2025, the EPA has determined that Texas has developed effective and sufficiently stringent requirements for Class VI wells and the RRC has the capacity to implement an effective and protective Class VI program.

2. Commenters opposing primacy approval assert that the EPA gave insufficient opportunity for public input by having only one virtual hearing, which they assert limited opportunities to comment. Some commenters assert that the timing and setup of the hearing limited opportunities to participate for communities most likely to be affected by Class VI wells, such as those in rural communities with limited access to internet or who work long hours. They also allege that restricting speaking time at the hearing limited opportunity for input and that the EPA's "defaulting" to written comments is not sufficient in a State where, they assert, literacy rates can reach as low as 40%. Commenters objected to the fact that the EPA did not hold hearings in communities that will be directly impacted by proposed projects.

Commenters also requested that the EPA extend the comment period for reviewing the program revision application. Commenters allege that the EPA provided an insufficient amount of time and opportunity for public comment in a large State. Commenters also requested a Spanish translation of EPA's public notice webpage and the Zoom registration form.

EPA Response: the EPA disagrees that the public was not provided adequate opportunity to provide input on Texas' application to receive Class VI primacy. The EPA provided a comment period of 45 days for the public to comment on the EPA's proposed approval of Texas' Class VI program; this is longer than

¹ The EPA also notes that the RRC's purported lack of authority to deny drilling permits within the AoR of a Class VI permit would not conflict with any federal UIC requirement for UIC primacy. The EPA's UIC program regulates injection wells, which are used to place fluid (CO₂ in the case of Class VI wells) underground. See 40 CFR 144.3. Production wells, on the other hand, are wells that are used to bring oil and gas to the surface. Regulation of production wells is largely governed by State law. The EPA's UIC regulations do not directly regulate when and where production wells may be drilled, and do not specifically prohibit the drilling of new wells (production or injection) within the AoR or through the confining zones of a UIC injection well, Class VI or otherwise.

the 30-day requirement for public notice of a substantial program revision at 40 CFR 145.32(b)(2) or the 30-day requirement for proposed initial approval of UIC program required at 40 CFR 145.31(c)(2). Any person who was not able to attend the virtual hearing could have submitted written comments either electronically or by mail. As noted above, stakeholders provided the EPA with 7,534 comments.

The EPA held a 4.5-hour public hearing on July 24, 2025, at which 90 people raised comments supporting and opposing Class VI primacy approval. The EPA provided simultaneous Spanish translation of the hearing proceedings and offered opportunity to provide oral testimony in Spanish. The EPA clarifies that it gave equal weight in responding to comments submitted verbally as it did to the thousands of written comments which the EPA accepted via a web page, e-mail, and postal delivery. The EPA's responses to comments made at the hearing are included within this document.

The EPA agrees with commenters that communities should be provided opportunity to participate in hearings related to projects within their communities. For specific proposed Class VI permitting actions, 16 TAC § 5.204(b)(2)(A) requires that local hearings be held if the public requests one or if there is substantial public interest. Also, as described in Appendix H of the Program Description, the RRC will enhance opportunities for public participation in affected communities by: hosting at least one informational meeting prior to issuing a draft Class VI permit; developing permit support materials and educational documents in languages that are appropriate for interested communities and ensuring meaningful access to persons with disabilities; and directing communities to additional resources that may be of assistance to them through handouts and online information. However, the EPA clarifies that, because primacy approval is a statewide process, a virtual hearing was appropriate to allow input of residents across the State on EPA's proposed approval of the Texas Class VI program.

3. Some commenters who oppose primacy assert that the application fails to consider unique circumstances of Texas. These include the number of existing injection wells (especially Class II); orphaned wells; seismicity; and the uniqueness of Ogallala aquifer water supply. These commenters assert that EPA should require Texas to include more stringent regulations.

EPA Response: the EPA disagrees that the State's application for Class VI primacy does not address the geologic and other circumstances within Texas that may affect Class VI wells. The EPA reviewed Texas' Class VI regulations and determined that they are as stringent as the Federal Class VI Rule, which EPA designed to ensure USDW protection considering local and regional differences including in geology and potential injection formations. 75 FR 77254. The EPA concludes that Texas's Class VI program includes adequate protective measures to address risks posed to USDWs (including the Ogallala aquifer) accounting for any unique circumstances of GS in Texas, including the concerns raised by commenters. For example, the corrective action requirements at 16 TAC § 5.203(d)(2) will ensure that any orphaned wells in the AoR of a Class VI project are identified and plugged. Additionally, seismicity concerns will be addressed via requirements to characterize seismic history and risk (16 TAC § 5.203(c)(2)(D)); seismic monitoring, if appropriate in the Monitoring, Sampling, and Testing Plans for Class VI projects required at 16 TAC §5.305; and addressing seismic events (along with other adverse conditions) as part of the Emergency and Remedial Response Plan required at 16 TAC § 5.203(l). Local geologic considerations including abandoned wells and over-pressurized formations are also accounted for under the RRC's Class VI program, including under the required permit information at 16 TAC § 5.203 and site characterization/site suitability considerations at 16 TAC § 5.206(b)(6). See also the EPA's responses to "Comments about Texas' UIC Class VI regulations" above.

General comments

1. Commenters who supported approving Class VI primacy, including writers of mass mailers and Texas Governor Greg Abbott, asserted that granting primacy to Texas would provide multiple benefits, including expediting Class VI permitting; providing regulatory certainty; and promoting and incentivizing investment in CCS. They assert that Texas can meet the needs of implementing CCS projects, including suitable geologic storage formations, large industrial sources of CO₂, pipeline infrastructure, and a skilled workforce. They assert that the benefits of CCS include mitigating climate change, supporting clean energy innovation, and economic opportunities. These commenters describe an overall State-level commitment (including the support of both chambers of the State legislature and the governor) to Class VI oversight and advancing CCS. Many of these commenters, including writers of mass mailing letters, also expressed general support for the oil and gas industry and what they describe as associated economic/quality of life benefits.

EPA Response: the EPA agrees with these commenters that approving the State of Texas' program revision application to obtain Class VI primacy is appropriate. Based on a thorough review of Texas' application materials and its Class VI regulations, the EPA determined that Texas' Class VI program meets the requirements of 40 CFR Part 145 and will ensure that Class VI projects will be sited, constructed, operated, monitored, and closed in a manner that will protect USDWs. The EPA acknowledges that Class VI primacy approval, and GS/CCS in general, may offer wide ranging benefits, including incentivizing CCS projects and technological innovation in carbon management, stimulating economic growth, and enhancing energy security. However, the EPA clarifies that these considerations are outside the regulatory requirements to obtain primacy and did not form the basis of the EPA's decision whether to grant Class VI primacy or not.

2. Commenters opposing primacy, including writers of mass mailers, expressed concerns about the safety of CO₂ injection and related CCS activities. They reference the asserted risk associated with GS, including: the potential for leakage; induced seismicity; corrosivity (citing wells at the ADM project in Illinois); potential effects near the Gulf Coast, which they assert is ecologically sensitive with densely industrialized areas and a history of environmental justice concerns; and local emergency preparedness. One commenter requests that, before granting primacy, the EPA evaluate the conditions that caused the ADM leaks. One commenter asserted that the RRC failed to comply with Title VI of the Civil Rights Act of 1964 by not including a substantive review of environmental justice impacts of Class VI injection wells. One commenter encouraged the RRC to consider emerging research and information on the limitations of "pressure space" in addition to pore space. One commenter asserted that Texas should not allow any exceptions or alterations to permit requirements of the Class VI program in coastal areas or Texas state waters, even if USDWs are not present.

Commenters also expressed concerns about pipeline safety, pore space, increased air pollution and greenhouse gas emissions that they assert would result from an increase in CO₂ projects, and sinkholes; some referenced CO₂ injection/leaks at Satartia, Mississippi, and Sulphur, Louisiana. Commenters also expressed concern that primacy approval favors the oil and gas industry which, they assert, has a disproportionate influence on the State Legislature and State agencies, including the RRC. Commenters also raised concerns about Class II wells (not connected by the commenters to Class VI primacy) and oil

and gas production wells (including a backlog of addressing orphaned/abandoned wells) and expressed concerns about past compliance with environmental rules by prospective Class VI owners or operators.

Commenters opposing primacy also assert that the RRC has a poor track record overseeing Class II injection wells (without connecting that track record to Class VI primacy) and ask the EPA to defer granting primacy until the RRC addresses these deficiencies. A commenter alleges the EPA misinterpreted and inappropriately disregarded the incidents raised by Commission Shift and Clean Water Action in their March 2024 petition to withdraw Texas Class II primacy. Commenters also expressed concerns about the requirements for Class II wells in Texas.

EPA Response: Many of these comments are outside the scope of this action because they concern issues that are outside the regulatory requirements to obtain Class VI primacy and therefore cannot form the basis of the EPA's decision on whether to grant Class VI primacy to the State of Texas or not. To the extent these comments raise issues regarding the regulatory requirements to obtain Class VI primacy, those comments have been addressed above. Given the volume of comments submitted on certain topics that are generally outside the scope of this action, the EPA notes the following:

- Prior to the promulgation of the Federal UIC Class VI Rule, the EPA participated in and supported research on the GS of CO₂ to inform the rulemaking. This research is described in the preamble to the final Class VI Rule at 75 Fed. Reg. 77230, 77238 (Dec. 10, 2010). As a result, the EPA concluded that Class VI injection of CO₂ for GS can be conducted in a safe manner, and that enough information existed to write regulations to implement the program in a manner that would meet SDWA requirements to ensure that underground injection would not endanger underground sources of drinking water. Texas' Class VI requirements reflect the same goals of protecting USDWs. Texas' Class VI regulations, which are as stringent as the Federal Class VI regulations, will be implemented to protect USDWs via permitting, siting, construction, operation, injection, and post-injection site care and site closure requirements that are tailored to address the unique nature of CO₂ GS.
- The EPA agrees with commenters that orphaned wells, in general, are a concern. However, oil and gas production wells are not within the purview of the UIC Program, and Class II wells are outside the scope of this Class VI primacy decision. As explained in comment response #3 above, The EPA disagrees that the RRC's oversight of its Class II well program, including oversight of well plugging, demonstrates that the RRC will not properly implement its Class VI program. Further, the EPA clarifies that the corrective action requirements at 16 TAC § 5.203(d)(2) require a thorough search for and evaluation of all artificial penetrations within the AoR of a proposed Class VI project and corrective action must be performed on all identified deficient wells. This requirement, which is as stringent as the Federal corrective action requirement at 40 CFR 146.84(d), provides an opportunity to focus orphaned well searches on wells near GS projects, with permit applicants, not the public, incurring corrective action costs.
- The RRC is continually working to improve its ability to analyze and measure the effectiveness of its oil and gas monitoring and enforcement program. House Bill 1818 (85th Legislature, Regular Session, 2017) directed the RRC to develop an annual plan to assess the most effective use of its limited resources to protect public safety and minimize damage to the environment. The purpose of this plan is to define and communicate the Oil and Gas Division's strategic priorities for its monitoring and enforcement efforts.

- In response to the commenters concerns about “environmental justice” considerations, the EPA notes that these are not UIC regulatory requirements to obtain primacy. Please see the Agency’s response to *Comments on the Program Description* Comment 6 above for additional information on the RRC’s integration of community engagement and public education under its Class VI UIC program.
- The EPA did not propose, nor is finalizing, any federal financial assistance for any program or activity in this rulemaking, so comments related to Title VI of the Civil Rights Act of 1964 are out of the scope of this rulemaking.
- Regarding the commenter who asserted that the EPA misinterpreted, and inappropriately disregarded incidents raised in a petition to the EPA to withdraw Texas Class II primacy, the EPA clarifies that the petition and the EPA’s response are separate from this EPA action approving Texas for Class VI primacy.
- EPA agrees that the Class VI program must be able to account for emerging concerns, concepts, technological capabilities, etc., such as “pressure space capacity limitation” as research related to geologic sequestration advances. The EPA Class VI permit requirements were developed specifically to account for changes by allowing director discretion to require additional information and by establishing performance standards rather than prescribing a limited suite of data to be submitted with an application and relied on through-out the life of a project. The example of recent research into the potential of reservoir capacity being limited by “pressure space” is accounted for under the initial and periodic plume modeling and monitoring required for on-going Class VI operations.
- In response to the comment regarding offshore Class VI wells, future potential offshore Class VI permitting actions by the RRC, including any conditions that may be in those permits, are outside the scope of this action approving Texas for Class VI primacy. EPA also notes that the RRC regulations governing Class VI apply both onshore and offshore, 16 TAC § 5.201(a), and that the RRC Class VI regulations, like EPA regulations, require that offshore wells include automatic shut-off systems installed down-hole. *Compare* 16 TAC § 5.206(d)(2)(F)(i) *with* 40 CFR 146.88(e)(3). Finally, the EPA notes that the UIC program applies in State territorial waters. *See* 40 CFR 144.1(g)(1)(i).

The EPA also reviewed papers attached to comments that address other topics such as specific projects or permits, the potential risks associated with carbon sequestration, Texas’ well plugging regulations unrelated to Class VI injection, tax revenues from CCS projects, and environmental effects on media other than USDWs, such as wetlands, surface water, and air. However, these topics do not fall within the Class VI regulations and requirements for Class VI primacy and cannot form the basis of the EPA’s decision whether to grant Texas Class VI primacy or not.