



July 1, 2022

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
P.O. Drawer 12967
Austin, TX 78711-2967

RE: Proposed Amendments to 16 TAC Chapter 5 and Pre-Application for Class VI Primacy from EPA

The Permian Basin Petroleum Association (“PBPA”) appreciates this opportunity to comment on the proposal by the Railroad Commission of Texas (“Commission”) on amendments to 16 TAC Chapter 5 and Pre-Application for Class VI Primacy from the U.S. Environmental Protection Agency (EPA). Our members fully support the efforts of the Commission to amend Chapter 5 and apply for primacy over Class VI Wells.

PBPA is the largest regional oil and gas association in the United States. We represent the women and men who work in the oil and gas industry in the Permian Basin of West Texas and southeastern New Mexico. The Permian Basin is the largest inland oil and gas reservoir, geographically the largest oil and gas producing region in the world and, if the region were its own nation, would be third in the world in oil production. Our members are innovators in the energy space and while some of our members are the largest producers and the smallest producers, all continue to safely and responsibly develop our region’s natural resources to increase American energy security.

Our members are also innovators who view our industry with a forward looking lens and the effort, innovation, and investment in the Class VI well space is environmentally and efficiently served best through Commission primacy over Class VI wells.

As I testified during the House Energy Resources Committee on March 29, 2021 in support of House Bill 1284 (87th Regular Session), PBPA fully supports these efforts because carbon storage is a key component to ongoing energy industry innovations to manage carbon emissions. Our members’ support for HB 1284 was to consolidate jurisdiction to the Commission so that the state may more easily apply and obtain primacy from the EPA. There is no question a clear and robust regulatory framework must be in place and a program at the Commission is the best opportunity for operators to further utilize this innovative concept with the highest standards in place for human

health and safety. We could not disagree more with assertions made by some commenters that put into question the ability of the Commission to undertake this task and would reflect on the positive record of the Commission's award winning UIC program.

We greatly appreciate the work done by Commission staff to prepare this proposal and offer the following comments to assist in constructing the best program possible.

Some of our members have expressed concerns that a broad definition in 5.102(1) is overly such that it could include parties claiming economic damage that is not linked to the facility. It would be preferred that the damage be tied to permitted activity only.

Additionally it would seem that changes made in 5.201(b)(2) could be construed as being applicable to Class II wells, for which this rule is not intended. This should be clarified to only address circumstances where a Class II well has been converted to a Class VI well.

Further, operators would contend that with regard to 5.203(e)(1)(B)(ii), their ability to integrate standards that achieve equal results based on reservoir characteristics and approval should be fully considered and a clarification to afford them that opportunity would be preferable to the language as proposed.

There is also concern that in 5.203(m), the post site closure requirements would be completed during permitting, where it is more appropriate that the demonstrations be broadened to include post injection scenarios as well.

PBPA members also note that section 5.203 should generally allow alternative methods that are approved by the director as that would provide greater flexibility in changing environments.

In 5.204 our members support transparency throughout the process, but would like a clearer understanding of how the Commission would protect proprietary or confidential information while complying with the public hearing process that serves the public interest without disclosing internal knowledge or other important and sensitive business information.

Further in this section, the Commission refers to notice provisions and our members would suggest that notice be waived in the event that a well would threaten the public or imperil underground drinking water or in a scenario that is otherwise approved by the director.

PBPA members live, work and raise their families in the Permian Basin and support a clear and robust definition of how the Commission would establish its environmental justice efforts to best serve these communities as well as those across the state.

As the Commission has established its program, one concern that has been raised is that the annual fee, currently set at \$50,000, could serve as a barrier to entry and may be more than necessary to fund the program, and incidents would likely already be covered through the financial assurance requirements.

We greatly appreciate the Commission for allowing us to share the feedback that we received from our members and look forward to continue working with you to ensure that this program lives up to the potential that it affords Texans in the future.

Regards,

A handwritten signature in blue ink that reads "Ben Shepperd". The signature is written in a cursive style with a large initial 'B'.

Ben Shepperd
President