



Commission Shift’s comments at the Railroad Commission’s Virtual Public Hearing on amendments to Chapter 5 Carbon Dioxide rules and its Pre-Application for Class VI Primacy from the EPA

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My name is Virginia Palacios, and I’m joining you from Laredo, Texas. I am the Executive Director of Commission Shift, a statewide nonpartisan nonprofit focused on reforming oil and gas oversight in Texas. Thank you for allowing public comment today and for holding this meeting virtually, which makes it easier for members of the public who live in Texas’ oil and gas producing regions to participate.

Commission Shift does not support the Railroad Commission’s pre-application for Class VI primacy from EPA. Rather than growing into a model of democratized energy development, the Railroad Commission’s oversight and public participation functions have stagnated. We need transformative innovation from this agency that proves its monitoring and enforcement functions can keep pace with the rapidly changing industries it oversees.

There are several sections in the proposed amendments to the commission’s Chapter 5 Carbon Dioxide rules that give us concern, these include: (1) that the Railroad Commission is considering allowing less than 50 years of monitoring to take place during the post-injection

storage facility care and closure plan;¹ (2) that only 10 years of monitoring records will be required to be maintained for these facilities, even though the facilities must have the ability to store carbon dioxide in perpetuity and leaks from these facilities present risk of fatalities;² (3) the ability for Class VI facilities to be granted indefinite plugging extensions on inactive wells;³ (4) the ease with which Class II enhanced oil recovery wells could improperly act as Class VI facilities,⁴ or be re-permitted as Class VI facilities without being constructed to the same standards,⁵ not to mention the commission's myopic oversight of the blowouts and induced seismicity events across Texas that are likely related to Class II injection;^{6, 7, 8} (5) how accurate the area of review (AOR) will be, considering that the latitude and longitude coordinates for many wells in the Railroad Commission's database are either not available or are inaccurate -sometimes by hundreds of feet;⁹ (6) that the director has the ability to modify a permit with only the permittee's consent and without following Notice and Public Comment Period requirements for many reasons that the public would ordinarily need to provide feedback on;¹⁰ and (7) that the definition of interested persons and affected persons may be overly narrow, excluding people

¹ Railroad Commission of Texas. May 3, 2022. Proposed Amendments to 16 TAC Chapter 5 and Pre-Application for Class VI Primacy from EPA. P. 6 of 59, lines 32 - 36.

² Railroad Commission of Texas supra note 1 at p. 54 of 59, lines 35 - 36.

³ Railroad Commission of Texas supra note 1 at p. 37 of 59, lines 21 - 23 holds operators to the same plugging requirements as 16 TAC 3.14, which references plugging extensions in section 3.15.

⁴ Railroad Commission of Texas supra note 1 at p. 19 of 59, lines 6 - 17.

⁵ Railroad Commission of Texas supra note 1 at p. 32 of 59, lines 22 - 25.

⁶ Admin Monitor. April 12, 2022. Railroad Commission of Texas Open Meeting. Public Input.

⁷ Kim, J. W., & Lu, Z. (2018). Association between localized geohazards in West Texas and human activities, recognized by Sentinel-1A/B satellite radar imagery. Scientific Reports, 8(4727). <https://doi.org/10.1038/s41598-018-23143-6>

⁸ Biven, M. M., & Palacios, V. (2022). Eliminating Orphan Wells and Sites in Texas. Commission Shift. p. 47 and p. 49. <https://commissionshift.org/orphan-wells/>

⁹ G-Forensic White Paper. Commission Shift's analysis of the Railroad Commission's orphaned well database and inactive well plugging report. Comments from John Conner on the Railroad Commission's Draft Monitoring and Enforcement Plan for FY 2023.

<https://www.rrc.texas.gov/oil-and-gas/compliance-enforcement/enforcement-activities/>

¹⁰ Railroad Commission of Texas supra note 1 at p. 24 of 59, lines 3 - 5.

who may be impacted from these facilities from participating in permit hearings.¹¹ This is just a snapshot of the many concerns we have.

More broadly, we do not support the Commission's pre-application for Class VI primacy from the EPA because we have communicated with communities in the Gulf Coast and the Permian Basin who are likely to see the brunt of this development. These communities have expressed that they are already overburdened with the risks and health impacts of unchecked petrochemical development and the Railroad Commission's weak oversight response to emergencies and active contamination caused by both modern and legacy wells it permitted.

Finally, the irony is not lost on us that the sitting Railroad Commissioners have either publicly denied that climate change is human caused or have derided federal efforts to curtail greenhouse gas emissions from the oil and gas supply chain. These statements give us little confidence that the commission will be prepared to improve its monitoring and enforcement function in a manner that prevents leaks and well failures.

Thank you again for the opportunity to address the commission virtually today, I am available for questions. We hope to see the Railroad Commission respond to these serious concerns with appropriate improvements to its monitoring and enforcement functions.

¹¹ Railroad Commission of Texas supra note 1 at p. 22 of 59, lines 21 - 26, and p. 14 of 59, lines 29 - 31.