Holland & Hart

Emily Schilling

Partner
801.799.5753
Salt Lake City
ecschilling@hollandhart.com

Jake Tyner

Of Counsel & Senior Director of Federal Affairs
202.289.3480
Washington, DC
JMTyner@hollandhart.com

Aaron Tucker

Partner
303.295.8369
Denver, Santa Fe

EPA Proposes to Hand Utah the Keys to Class VI Carbon Storage Permitting

Insight — October 23, 2026

On October 22, 2026, the U.S. Environmental Protection Agency (EPA) published a proposed rule in the *Federal Register* that would let Utah take over permitting of Class VI wells, which are used to inject carbon dioxide (CO_2) deep underground for long-term storage. If EPA finalizes the rule, the Utah Division of Oil, Gas and Mining (DOGM) will issue and enforce Class VI permits in the state in place of EPA Region 8.

For carbon capture and storage (CCS) developers, heavy industry, landowners, and pore-space stakeholders in Utah, this is a significant step. It would put Class VI permitting under the same agency that already regulates the state's oil and gas operations.

EPA will hold one virtual public hearing on the proposed rule and comments are due to EPA on or before **December 7, 2026**.

Why This Matters

Under Section 1422 of the Safe Drinking Water Act, a state can take over a category of underground injection permitting from EPA if it shows that its program is at least as protective as EPA's and that it has the authority to enforce it. Utah already runs permitting for most other well types, including the oil and gas wells it has overseen since 1982. Utah asked EPA for authority over Class VI wells on December 23, 2025, and EPA has now concluded that Utah's program meets federal standards.

Utah's program is built on a 2022 state carbon storage law (amended in 2024 and 2025) and on DOGM rules that took effect in July 2025. If EPA approves the program, those state rules would become part of federal law, meaning both Utah and EPA could enforce them. The one exception is Indian lands, where EPA would continue to issue Class VI permits.

Practical Implications for Operators

First, developers would apply to DOGM, not EPA, for Class VI permits in Utah, starting 30 days after EPA publishes the final rule in the *Federal Register*. The technical requirements would stay largely the same as those required by EPA: developers would still need to show that the geology will hold the CO_2, fix any old wells that could leak, build and monitor the well properly, and set aside money to cover the project through closure.

Second, EPA would still issue permits for projects on Indian lands in Utah. Developers whose projects, or whose underground CO_2 plumes, cross

abtucker@hollandhart.com

Sydney Sell

Associate
801.799.5899
Salt Lake City
sjsell@hollandhart.com

Paul Babbitt

Associate & Director of Federal Affairs
202.289.3490
Washington, DC
PJBabbitt@hollandhart.com

onto Indian lands may need to work with both agencies.

Third, EPA would keep watching over Utah's program. Utah would have to send EPA quarterly reports on operators that are out of compliance, along with yearly reports on how the program is running. EPA also found that DOGM has the staff and outside experts it needs to review complex Class VI applications, which should give developers some confidence that state review will be both faster and thorough.

The Broader Policy Context

Utah has been working toward this for several years. The state held public hearings on its carbon storage law and rules, and DOGM hosted six stakeholder meetings in 2024. DOGM received no public comments on its proposed rules and only one written comment, a supportive one, on its application to EPA. Given how little opposition the program has drawn so far, EPA may well finalize the rule without major changes, but the federal comment period is the last chance to weigh in.

EPA's Push to Speed Up Class VI Approvals

The Utah proposal is part of a broader effort by EPA under the Trump administration to clear the Class VI permitting backlog, largely by handing permitting to states. Since January 2025, EPA has finalized four state approvals: West Virginia (February 2025), Arizona (September 2025), Texas (December 2025), and Colorado (effective November 12, 2026). Those states join North Dakota, Wyoming, and Louisiana, bringing the total to seven once Colorado's approval takes effect, with Utah poised to become the eighth.

In February 2025, Administrator Zeldin directed EPA staff to fast-track state applications, and the Texas approval alone moved 64 pending applications off EPA's desk. EPA is also working to shorten its own reviews, which have often taken three to five years, with a goal of reaching a decision within two years through process standardization and digital tools. Together, these steps signal that EPA sees state permitting as the main path to faster CCS deployment.

Looking Ahead

Comments are due by **December 7, 2026**, and can be submitted at regulations.gov. EPA will also hold one virtual public hearing before then, and additional information will be posted on EPA's webpage as it becomes available. Interested stakeholders should consider reviewing the Utah rules that EPA plans to adopt and commenting on open issues, such as how pending EPA applications will be transferred and how projects near Indian lands will be coordinated.

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.