

LOUISIANA'S CCS LANDSCAPE

**Air and Waste
Management
Association**

Annual Conference

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Please note:

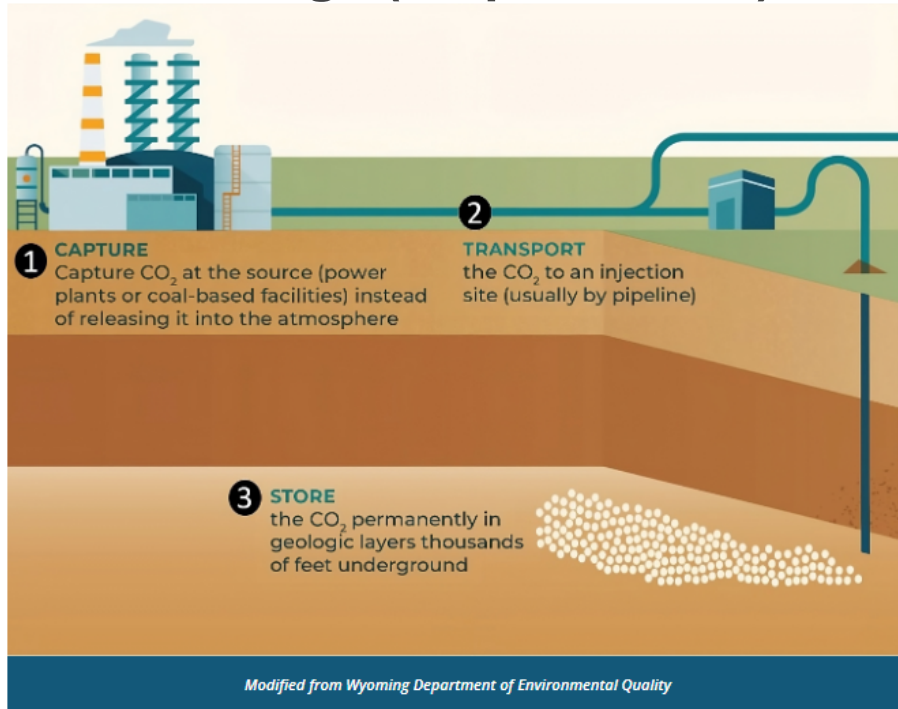
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Agenda

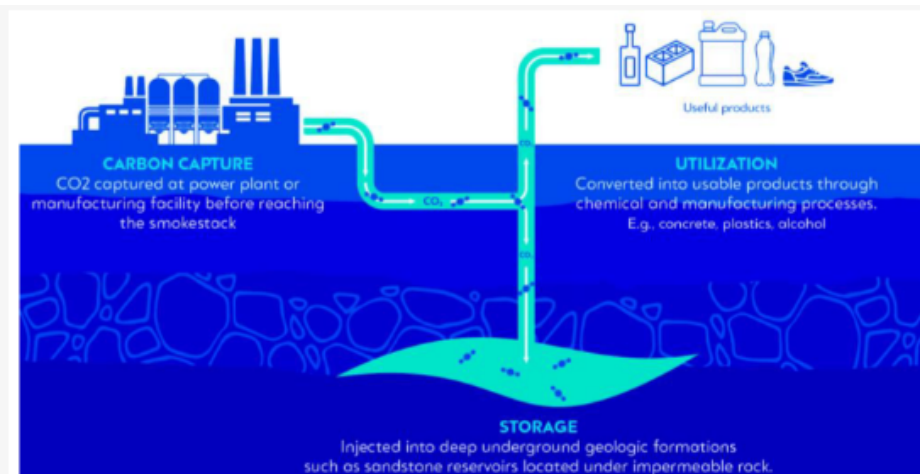
1. General Overview of CCS
2. Economic Impacts
3. Primacy for Class VI Wells
4. Class VI Primacy Challenge
5. Legislation
 - A. 2023 Regular Session
 - B. 2024 Regular Session

CCS vs. CCUS

Carbon Capture and Storage (Sequestration)



Carbon Capture Utilization & Sequestration



Louisiana Economic Development

<https://www.opportunitylouisiana.gov/key-industry/energy/carbon-reduction/carbon-capture-storage>

Geography and Logistics

- The state offers favorable geology for CO2 injection and storage with confining layers of shale and clay, minimal seismic activity and deep layers of sand.
- A leading pipeline state, Louisiana's existing network of nearly 50,000 miles of integrated pipelines crisscross every major highway, railroad and navigable waterway in the state. Some of the state's pipeline system is already transporting CO2 to and from other states.

Economic Impact

\$20B+

In private investments has been announced for Louisiana

3.5K

Jobs for Louisiana residents

Louisiana CCS Projects (2018-24 YTD)

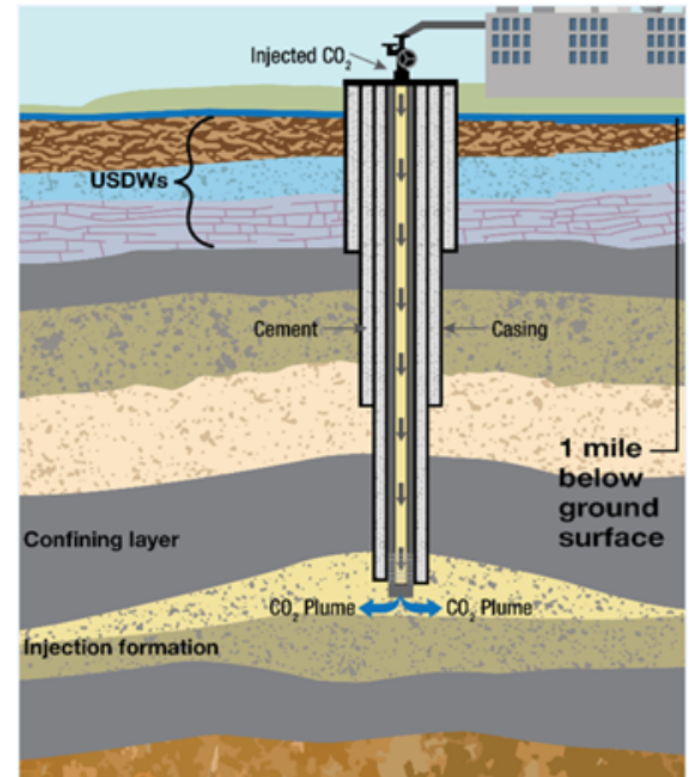
<https://www.opportunitylouisiana.gov/key-industry/energy/projects>

02/14/2024	Lake Charles Methanol	Low-Carbon Intensity Methanol with CCS	728	\$3.24 Billion	Calcasieu
10/12/2022	ExxonMobil, CF Industries and EnLink	Carbon transport and sequestration	12	\$200 Million	Ascension/ Capital Region, Donaldsonville
08/05/2022	CF Industries	Adding carbon capture to existing ammonia facility	12	\$198.5 Million	Ascension
12/16/2021	Bia Energy Operating Company	Blue Hydrogen/CCUS	465	\$550 Million	Caddo
12/02/2021	Venture Global	LNG production and export with carbon capture and sequestration	1067	\$10 Billion	Cameron
10/14/2021	Air Products	Blue Hydrogen/CCUS	583	\$4.5 Billion	Ascension

Class VI Wells

<https://www.epa.gov/uic/class-vi-wells-used-geologic-sequestration-carbon-dioxide>

- Class VI wells are used to inject CO₂ into deep rock formations for the purpose of long-term underground storage, also known as geologic sequestration.
- Geologic sequestration, when used as a part of carbon capture and storage and carbon dioxide removal projects, is a promising tool for reducing the amount of carbon dioxide in the atmosphere.
- Class VI injection wells are regulated under an existing, rigorous Safe Drinking Water Act (SDWA) permitting framework that protects underground sources of drinking water



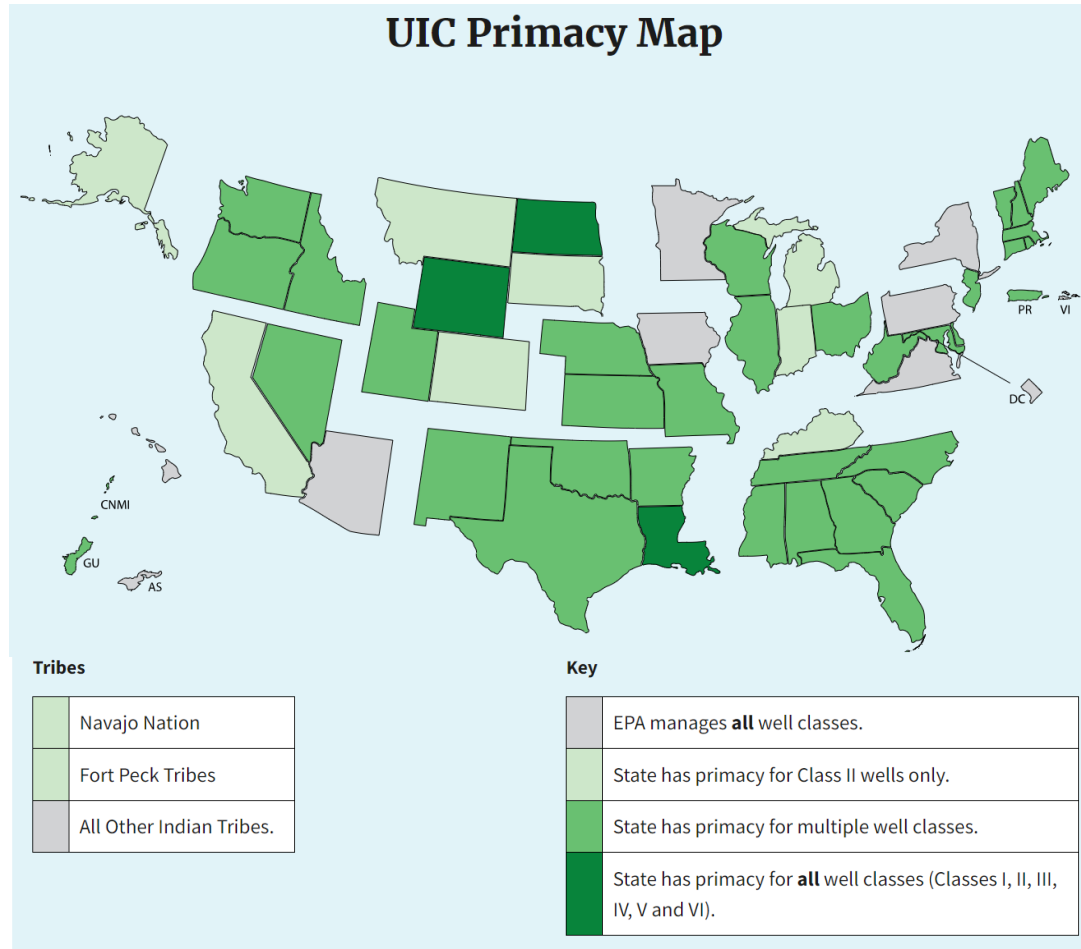
Injection of carbon dioxide is typically thousands of feet below the surface into rock formations isolated from underground sources of drinking water. Figure is not to scale.

Louisiana Class VI Primacy – Timeline

- 2009: Louisiana Geologic Sequestration of Carbon Dioxide Act (LGSCDA) was first passed
- 2020 and 2021: Amendments to the LGSCDA were passed
- Sept. 17, 2021: Louisiana submitted application to EPA to add Class VI injection wells to state's existing UIC program
- Oct. 13, 2021: State of Louisiana, Louisiana Dept. of Wildlife & Fisheries, and Louisiana Wildlife & Fisheries Commission—through the State Mineral and Energy Board—execute the first Carbon-Dioxide Storage Agreements (La. R.S. 30:209(4)(e) Operating Agreements)
- May 4, 2023: EPA notice of proposed rule
 - four public hearings
 - 45,000 comments received
- June 20, 2023: LDNR supplemented primacy application with Act No. 378 (HB 571), amending the LGSCDA, signed into law and immediately effective on June 14, 2023
- Dec. 28, 2023: EPA signed final rule
- Feb. 5, 2024: final rule effective date
 - This final rule allows the Louisiana Department of Natural Resources to issue UIC permits for geologic carbon sequestration facilities as Class VI wells and ensure compliance of Class VI wells under the UIC program within the state.
 - The EPA will remain the permitting authority for all well classes in Indian lands within the state and will also oversee Louisiana's administration of the state's UIC Class VI program as authorized under SDWA.

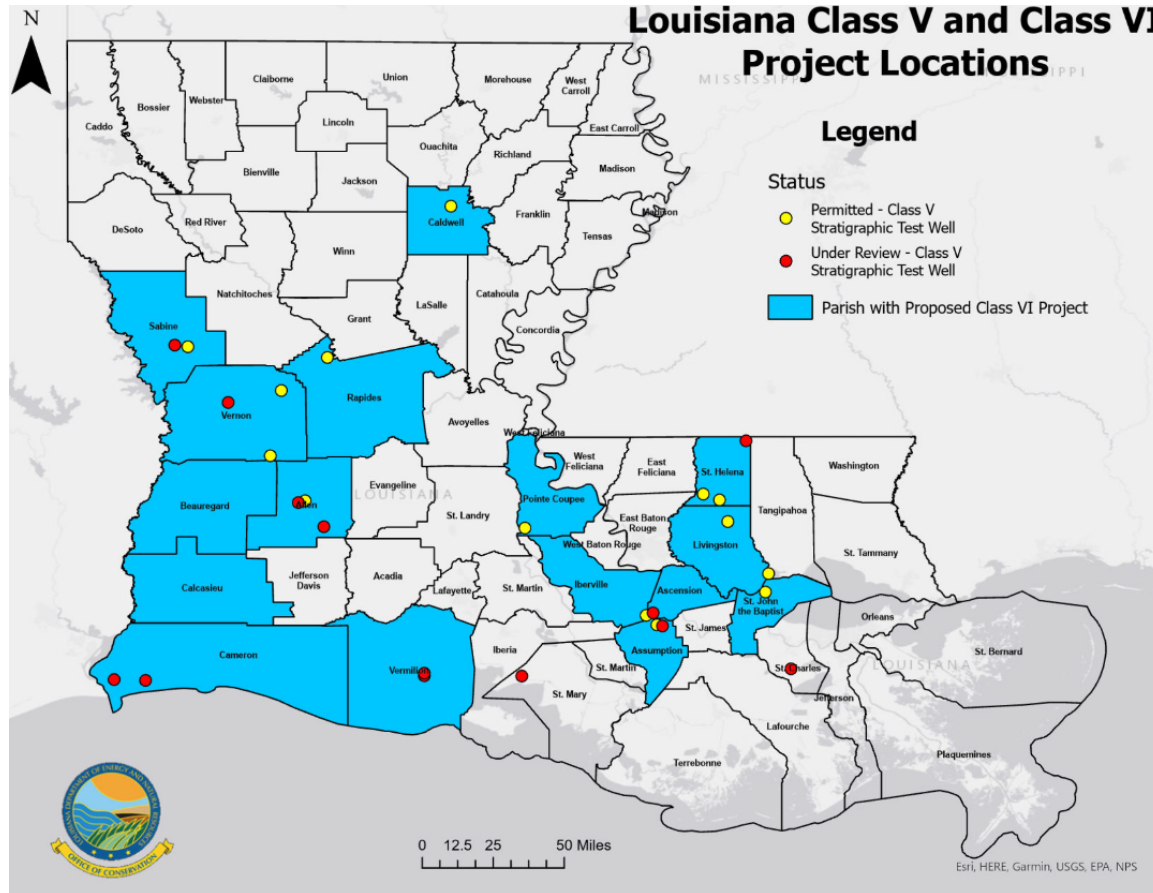
Primacy as October 2024

https://www.epa.gov/uic/primary-enforcement-authority-underground-injection-control-program-0#what_prim



Louisiana Class VI Well Applications as of October 2024

https://www.dnr.louisiana.gov/assets/OC/ClassVI/PermitsandApplications/LDENR_Class_V_and_VI_Online_Map_October_2024_Update.PNG



Litigation – *Class VI Primacy Challenge*

- *Deep South Ctr. for Env. Justice v. EPA*, No. 24-60084 (5th Cir.)
- Effective February 5, 2024, EPA granted Louisiana primacy over the Class VI well program.
- On February 22, 2024, ENGOs filed a petition for review. They did not request a stay. Primacy remains in effect
- State of Louisiana and API intervened in support of EPA
 - Amicus briefs also filed in support of grant of primacy by trade organizations
- NGO's argument against grant of primacy centers on statutory liability release provision
- Briefing was completed in September 2024
- Next up: the Fifth Circuit may rule or schedule oral argument

2023 Regular Legislative Session

- Fiscal session
- 11 bills proposed regarding CCS
 - Multiple bills seeking to impose a moratorium on CCS in various parts of State
- Only one CCS bill passed during 2023 Regular Legislative Session
 - Bill by former-State House Speaker Clay Schexnayder
 - Allowed for revenue splitting for local parishes for projects on State lands
 - Provided for additional notices to local parishes directly affected by CCS projects
 - Required environmental analysis for Class VI applications
 - Changed default time period to obtain certificate of completion of injection operations
 - Increased funding into Carbon Dioxide Geologic Storage Trust Fund for storage operators with multiple storage facilities

2024 Regular Legislative Session

- General session
- Convened on March 11, 2024
- Final adjournment on June 3, 2024
- 14 bills proposed regarding CCS
- Six bills passed regarding CCS
 - One of those bills was vetoed by the Governor
- In general, the Acts became effective on August 1, 2024
 - Except for Act 702, which became effective on June 19, 2024

Unitization

- Eliminated expropriation for pore space for CCS projects
 - Part of package of bills that also enacted unitization for pore space for CCS projects
- Authorized unitization for CCS projects
 - Requires consent from 75% of owners in interest prior to issuance of unitization order
 - Percentage based on acreage at issue for the storage unit.
- Requires a public hearing and a finding by commissioner that unit is for a “public and necessary purpose”
- If unitization is determined by a court of law to be unconstitutional, expropriation rights for CCS pore space will be reinstated

Proposed Unitization Regulations

- In the August 2024 *Louisiana Register*, LDENR solicited comments for its forthcoming regulations on CCS unitization
 - Specifically, LDENR sought comments on preferred requirements for procedures, applications, hearings, evidence, definitions, requirements for unit and survey plats, and other related matters consistent within the requirements of R.S. 30:1104.2.
- LDENR further requested comments on what changes to its existing oil and gas unitization requirements for hearings and unit plats should be made for carbon dioxide storage unit operations
- Deadline to submit comments was September 9, 2024
 - LOGA and LMOGA submitted joint comments after numerous discussions with industry working group

Pipeline Expropriation

- Clarified expropriation for pipelines that are transporting CO₂ to CCS projects
 - Provides that expropriation for the CO₂ pipeline can be exercised by the transporter of the CO₂ by pipeline, whether or not the transporter is also the storage operator for the CCS project.
- Adds requirements that the transporter of the CO₂ by pipeline must obtain a certificate of public convenience and necessity prior to expropriating land
 - All general, procedural requirements for expropriation under Louisiana law remain in place.

CO₂ Pipeline Regulations

- On September 20, 2024, LDENR adopted revisions to CO₂ pipeline regulations
 - Bring safety standards for CO₂ pipelines in line with PHMSA requirements
 - Revised requirements for issuance of order for the authority to acquire, construct, extend, or operate a CO₂ pipeline for either a CCS or EOR facility
 - Eliminated requirement that the CCS or EOR project has to be approved by the Commissioner prior to issuance of the relevant Order

Liability Protections

- Revised the caps on recovery for compensatory damages for noneconomic losses in civil actions against certain CCS parties
 - La. R.S. §30:1109(B)(1)
 - Civil actions against “the owner or operator of a storage facility, carbon dioxide transmission pipeline, or the generator of the carbon dioxide being handled by either the facility or pipeline”
- Changed caps from “per occurrence” to “per person”
 - General cap raised to \$250,000 per person
 - Cap raised to \$500,000 per person for more serious circumstances
- Added protections for certain landowners in connection with CCS projects

Setback Requirements

- Provides that no Class VI injection wellhead shall be located within 500 feet of the following:
 - (1) inhabited dwellings not owned by the storage operator or any owner in interest bound by a contract with the storage operator that allows for location of a Class VI injection well within 500 feet of an inhabited dwelling,
 - (2) schools, and
 - (3) health care facilities.

Notice Requirements

- Added reciprocal notice requirements for oil and gas operators and CCS operators in connection with operations in the same area
 - Good faith effort to provide notice (via US mail) required to certain oil and gas operators and other property right holders within 30 days of receiving notice that application for Class VI injection well is deemed administratively complete
 - Good faith effort to provide notice (via US mail) required to certain oil and gas operators and other property right holders within 10 days of filing application for Class V stratigraphic test well
 - Commissioner must provide notice of application for drilling permit and notice of public hearing to operator of a CCS facility with area of review within 500 feet of proposed site before issuing drilling permit

Notice Requirements

- After the issuance of a Class VI permit, the owner or operator must record a notice of the permit with the clerk of court for any parish included in the area of review for the permit application
 - With the filing, must include the area of review map filed with the permit application (bearing the permit number) showing the location of certain facilities (to extent those are required under Class VI regulations to be on the map filed with the Class VI application)

Emergency and Remedial Response Plan

- Added new section to CO₂ Sequestration Act regarding the “emergency and remedial response plan” included with Class VI permit applications and emergency preparedness
 - Required that the plan be provided to local government officials prior to commencing injection into Class VI well
 - Emergency and remedial response plan must provide for continuing training programs for operating and maintenance personnel regarding potential hazards, risk scenarios, and response actions
 - In addition to other Class VI regulatory requirements
 - Prior to commencing injection, must conduct at least one tabletop exercise simulating emergency situations and responses thereto for each storage facility
 - Done in coordination with appropriate emergency preparedness and response agencies for each parish within area of review

Groundwater Monitoring

- Provides that owner or operator of a storage facility must conduct periodic testing and monitoring of ground water quality above the confining zone and report the testing and monitoring to the commissioner semi-annually
 - Aligns with Class VI regulations

HB 934

- Vetoed by Governor Jeff Landry on June 19, 2024
- Provided for the dedication of revenue from CCS on state lands and water bottoms, including properties under the jurisdiction of the Louisiana Department of Wildlife and Fisheries or the Wildlife and Fisheries Commissions such as WMA's and refuges.
 - Under the bill, 30% of the revenues would have been remitted to the governing authority of the parish located in a specific area of interest.
 - The bill would have applied prospectively only and was brought to ensure that locals were able to share in the revenue from these types of properties, which seemed to be inadvertently left out of Speaker Schexnayder's bill from the previous year.

HB 73

- Would have authorized parishes to levy a tax on CO₂ injected for geologic sequestration.
- Pulled from committee prior to hearing
- Replaced with HSR 5
 - Approved on May 9, 2024
 - Requests the House Committee on Natural Resources and Environment to study sources of revenue for local governments from CO₂ storage

Statewide Order 29-N-7

- In the February 2024 *Louisiana Register*, LDENR published the Notice of Intent to adopt Statewide Order 29-N-7
 - Intended to establish regulatory framework for permit application review fees
 - Officially adopted in May 2024 *Louisiana Register*
- Allows for retention of “qualified third-party reviewers” (QTP) to review Class VI applications and provides that the cost for the QTP review will be drawn from the filing fee.
 - LDENR could require additional fees if QTP review exceeds the filing fee
 - Applicant can request QTP review of application before commencement of technical review of the permit application

Statewide Order 29-N-7

- Base filing fee is capped at \$100,000 for an initial application, with \$10,000 for each additional Class VI well proposed
 - Total filing fee cannot exceed \$200,000 total per storage facility.
- Filing fee of \$25,000 for periodic area of review (AoR) re-evaluation.
 - At least once every five years or sooner if conditions warrant
- LDENR could require additional funds be paid for total cost of review.

Thank you



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