The Texas Commission on Environmental Quality (commission) proposes amendments to §§331.2, 331.62, 331.65, 331.144, 331.163 and new §331.21.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

Senate Bill (SB) 405, 77th Legislature, established the Texas Board of Professional Geoscientists and the regulation of professional geoscientists. The Texas Geoscience Practice Act (the Act) requires that a person may not take responsible charge of a geoscientific report or a geoscientific portion of a report required by state agency rule unless the person is licensed through the Texas Board of Professional Geoscientists. The primary purpose of the proposed amendments is to establish regulations for the public practice of geoscience in conformance with the Act by requiring a person who prepares and submits geoscientific information to the commission to be a licensed professional geoscientist. The Act also allows certain specified engineers to publicly practice geoscience in conformance with the Act. According to the bill analysis prepared at the time of passage, the ultimate purpose of the Act was public safety through the public registration of the practice of geoscience.

SECTION BY SECTION DISCUSSION

Throughout these sections, the commission has revised the words "shall" and "must," when needed, to reflect guidance provided in the Legislative Council's Drafting Manual. Administrative changes are also proposed in accordance with *Texas Register* requirements and to be consistent with other agency rules.

Proposed §331.2, Definitions, amends the introductory paragraph by deleting the word "shall" and the phrase "unless the context clearly indicates otherwise." The definition of licensed professional geoscientist is proposed to be added as new paragraph (51). The remaining paragraphs are proposed to be renumbered accordingly.

Proposed new §331.21, Required Submission of Geoscientific Information, requires that all geoscientific information submitted to the agency under this chapter shall be prepared by or under the supervision of a licensed professional geoscientist or licensed professional engineer and shall be signed, sealed, and dated by the licensed professional geoscientist or licensed professional engineer in accordance with the Texas Geoscience Practice Act and the Texas Engineering Practice Act.

Proposed §331.62, Construction Standards, adds a licensed professional geoscientist as a person qualified to supervise all phases of well construction and all phases of any well workover. The licensed professional geoscientist shall be knowledgeable and experienced in practical drilling engineering and be familiar with the special conditions and requirements of injection well construction.

Proposed §331.65, Reporting Requirements, adds a licensed professional geoscientist as a person qualified to prepare and seal completion reports.

Proposed §331.144, Approval of Plugging and Abandonment, adds a licensed professional geoscientist as a person qualified to certify the plugging and abandonment of wells in accordance with a plugging and abandonment plan.

Proposed §331.163, Well Construction Standards, adds a licensed professional geoscientist as a person qualified to supervise all phases of well construction and all phases of any well workover. The licensed professional geoscientist shall be knowledgeable and experienced in practical drilling engineering and familiar with the special conditions and requirements of injection well construction.

FISCAL NOTE

Doretta Conrad, Analyst in the Budget and Planning Division, has determined that, for the first five-year period the proposed rules are in effect, there will be no significant fiscal implications for the agency or any other unit of state government as a result of administration or enforcement of the proposed rules. There will be no fiscal impact to the agency; however, there may be fiscal implications to the agency if the agency elects to reimburse staff for the annual renewal fees. The fees associated with obtaining the professional geoscientist license is $200 to cover the application and first-year license, and $150 per year after the first year.

Ms. Conrad also determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated from the enforcement of and compliance with the proposed rules will be potentially improved environmental performance by persons regulated by the commission. The proposed rules might impact other state agencies or local governments with staff geoscientists who need to become licensed under these rules. No significant fiscal implications are anticipated for any individual or business due to implementation of the proposed rules. Additionally, no significant fiscal implications are anticipated for any small or micro-business due to implementation of the proposed rules. The commission has determined that a local employment impact statement is not required

because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because it does not meet the criteria for a "major environmental rule" as defined in that statute.

A "major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

The specific intent of the proposed rules is to establish regulations allowing for the public practice of geoscience in agency procedures in conformance with the Act. The Act requires that a person may not take responsible charge of a geoscientific report or a geoscientific portion of a report required by a state agency rule unless the person is licensed through the Texas Board of Professional Geoscientists. The proposed rules are not specifically intended to protect the environment or reduce risks to human health. The proposed rules are intended to establish procedures to require that specific reports and necessary data submitted to the commission be produced, signed, sealed, and dated by licensed professional geoscientists who have obtained their licenses through the Texas Board of Professional Geoscientists. Therefore, it is not anticipated that the proposed rules will adversely affect in a material way the

economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The commission concludes that these proposed rules do not meet the definition of major environmental rule.

Furthermore, even if the proposed rulemaking did meet the definition of a major environmental rule, the amendments are not subject to Texas Government Code, §2001.0225, because they do not accomplish any of the four results specified in §2001.0225(a). Section 2001.0225(a) applies to a rule adopted by an agency, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

In this case, the proposed amendments to Chapter 331 do not meet any of these requirements. First, there are no federal standards that these proposed rules would exceed. Second, the proposed rules do not exceed an express requirement of state law. Third, there is no delegation agreement that would be exceeded by these proposed rules. Fourth, the commission proposes these rules to allow for the public practice of geoscience in agency procedures in conformance with the Act. Therefore, the commission does not propose the adoption of the rules solely under the commission's general powers.

The commission invites public comment on the draft regulatory impact analysis determination.

TAKINGS IMPACT ASSESSMENT

The commission evaluated these proposed rules and performed a preliminary assessment of whether these proposed rules constitute a takings under Texas Government Code, Chapter 2007. The specific intent of the proposed rules is to establish regulations allowing for the public practice of geoscience in agency procedures in conformance with the Act. The proposed rules would substantially advance this stated purpose by requiring that specific reports and necessary data submitted to the commission be produced, signed, sealed, and dated by licensed professional geoscientists who have obtained their licenses through the Texas Board of Professional Geoscientists.

Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the proposed rules do not affect a landowner's rights in private real property by burdening private real property, nor restricting or limiting a landowner's right to property, or reducing the value of property by 25% or more beyond that which would otherwise exist in the absence of the proposed rulemaking. These rules simply require that specific portions of applications or necessary data submitted to the commission be produced, signed, sealed, and dated by a qualified professional individual who has demonstrated his or her qualifications by obtaining a license to engage in the public practice of geoscience from the Texas Board of Professional Geoscientists. These rules do not affect any private real property.

There are no burdens imposed on private real property, and the benefits to society are better applications for environmental permits based upon reliable reports and data submitted by qualified licensed professional geoscientists.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission has reviewed the proposed rulemaking and found that the rules are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Coastal Management Program, nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the CMP.

SUBMITTAL OF COMMENTS

Comments may be submitted to Lola Brown, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. Comments must be received by 5:00 p.m., June 30, 2003, and should reference Rule Log Number 2001-051F-331-WS. For further information, please contact Michael Bame, Policy and Regulations Division, at (512) 239-5658.

SUBCHAPTER A: GENERAL PROVISIONS

§331.2, §331.21

STATUTORY AUTHORITY

The amendment and new section are proposed under Texas Water Code (TWC), §5.103, which provides the commission with the authority to adopt rules necessary to carry out its power and duties under this code and other laws of this state; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; and Texas Civil Statutes, Article 3271b, the Act, which authorizes the public practice of geoscience in the State of Texas.

These proposed amendment and new section implement TWC, §5.103 and §5.105, and Texas Civil Statutes, Article 3271b, the Act.

§331.2. Definitions.

General definitions can be found in Chapter 3 of this title (relating to Definitions). The following words and terms, when used in this chapter, [shall] have the following meanings[, unless the context clearly indicates otherwise].

(1) - (14) (No change.)

(15) **Caprock** - A geologic formation typically overlying the crest and sides of a salt stock. The caprock consists of a complex assemblage of minerals including calcite ($CaCO_3$) [(CaCO3)], anhydrite ($CaSO_4$) [(CaSO4)], and accessory minerals. Caprocks often contain lost circulation zones characterized by rock layers of high porosity and permeability.

(16) - (21) (No change.)

(22) **Commercial underground injection control [Underground Injection Control] (UIC) Class I well facility** - Any waste management facility that accepts, for a charge, hazardous or nonhazardous industrial solid waste for disposal in a UIC Class I injection well, except a captured facility or a facility that accepts waste only from other facilities owned or effectively controlled by the same person.

(23) - (24) (No change.)

(25) **Cone of influence** - The potentiometric surface area around the injection well within which increased injection zone pressures caused by injection of wastes would be sufficient to drive fluids into an underground source of drinking water [(USDW)] or freshwater aquifer.

(26) **Confining zone** - A part of a formation, a formation, or group of formations between the injection zone and the lowermost underground source of drinking water [USDW] or freshwater aquifer that acts as a barrier to the movement of fluids out of the injection zone.

(27) - (37) (No change.)

(38) **Fresh water** - Water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(A) For the purpose of this subchapter, it will be presumed that water is suitable and feasible for beneficial use for any lawful purpose only if:

(i) (No change.)

(ii) the groundwater [ground water] contains fewer than 10,000 milligrams per liter (mg/L) [mg/l] total dissolved solids; and

(iii) (No change.)

(B) This presumption may be rebutted upon a showing by the executive director or an affected person that water containing greater than or equal to 10,000 mg/L [mg/l] total dissolved solids can be put to a beneficial use.

(39) - (47) (No change.)

(48) **Intermediate casing** - A string of casing with diameter intermediate between that of the surface casing and that of the smaller long string [long-string] or production casing, and which is set and cemented in a well after installation of the surface casing and prior to installation of the long string [long-string] or production casing.

(49) - (50) (No change.)

(51) **Licensed professional geoscientist** - A geoscientist who maintains a current license through the Texas Board of Professional Geoscientists in accordance with its requirements for professional practice.

(52) [(51)] **Liner** - An additional casing string typically set and cemented inside the long string casing and occasionally used to extend from base of the long string casing to or through the injection zone.

(53) [(52] **Long string casing or production casing** - A string of casing that is set inside the surface casing and that usually extends to or through the injection zone.

(54) [(53)] **Lost circulation zone** - A term applicable to rotary drilling of wells to indicate a subsurface zone which is penetrated by a wellbore, and which is characterized by rock of high porosity and permeability, into which drilling fluids flow from the wellbore to the degree that the circulation of drilling fluids from the bit back to ground surface is disrupted or "lost."

(55) [(54)] **Mine area** - The area defined by a line through the ring of designated monitor wells installed to monitor the production zone.

(56) [(55] **Mine plan** - A map of adopted mine areas and an estimated schedule indicating the sequence and timetable for mining and any required aquifer restoration.

(57) [(56)] **Monitor well** - Any well used for the sampling or measurement of any chemical or physical property of subsurface strata or their contained fluids.

(A) Designated monitor wells are those listed in the production area authorization for which routine water quality sampling is required.

(B) Secondary monitor wells are those wells in addition to designated monitor wells, used to delineate the horizontal and vertical extent of mining solutions.

(C) Pond monitor wells are wells used in the subsurface surveillance system near ponds or other pre-injection units.

(58) [(57)] **Motor vehicle waste disposal well** - A well used for the disposal of fluids from vehicular repair or maintenance activities, including, but not limited to, repair and maintenance facilities for cars, trucks, motorcycles, boats, railroad locomotives, and airplanes.

(59) [(58)] **New injection well** - Any well, or group of wells not an existing injection well.

(60) [(59] **New waste stream** - A waste stream not permitted.

(61) [(60)] **Non-commercial facility** - A Class I permitted facility which operates only non-commercial wells.

(62) [(61)] **Non-commercial underground injection control (UIC) [UIC] Class I well facility** - A UIC Class I permitted facility where only non-commercial wells are operated.

(63) [(62)] **Non-commercial well** - An underground injection control [A UIC] Class I injection well which disposes of wastes that are generated on-site, at a captured facility or from other facilities owned or effectively controlled by the same person.

(64) [(63)] **Off-site** - Property which cannot be characterized as on-site.

(65) [(64)] **On-site** - The same or geographically contiguous property which may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which the owner controls and to which the public does not have access, is also considered on-site property.

(66) [(65)] **Out of service** - The operational status when a well is not authorized to inject fluids, or the well itself is incapable of injecting fluids for mechanical reasons, maintenance operations, or well workovers or when injection is prohibited due to the well's inability to comply with the in-service operating standards of this chapter.

(67) [(66] **Permit area** - The area owned, or under lease by, the permittee which may include buffer areas, mine areas, and production areas.

(68) [(67)] **Plugging** - The act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

(69) [(68)] **Point of injection** - For a Class V well, the last accessible sampling point prior to fluids being released into the subsurface environment.

(70) [(69)] **Pollution** - The contamination of water or the alteration of the physical, chemical, or biological quality of water:

(A) that makes it harmful, detrimental, or injurious:

(i) to humans, animal life, vegetation, or property; or

(ii) to public health, safety, or welfare; or[,]

(B) that impairs the usefulness or the public enjoyment of the water for any lawful and reasonable purpose.

(71) [(70)] **Pre-injection units** - The on-site aboveground [above-ground] appurtenances, structures, equipment, and other fixtures including the injection pumps, filters, tanks, surface impoundments, and piping for wastewater transmission between any such facilities and the well that are, or will be, used for storage or processing of waste to be injected, or in conjunction with an injection operation.

(72) [(71)] **Production area** - The area defined by a line generally through the outer perimeter of injection and recovery wells used for mining.

(73) [(72)] **Production area authorization** - A document, issued under the terms of an injection well permit, approving the initiation of mining activities in a specified production area within a permit area.

(74) [(73)] **Production zone** - The stratigraphic interval extending vertically from the shallowest to the deepest stratum into which mining solutions are authorized to be introduced.

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(75) [(74)] **Radioactive waste** - Any waste which contains radioactive material in concentrations which exceed those listed in 10 Code of Federal Regulations [(CFR)] Part 20, Appendix B, Table II, Column 2, [and] as amended.

(76) [(75)] **Restoration demonstration** - A test or tests conducted by a permittee to simulate production and restoration conditions and verify or modify the fluid handling values submitted in the permit application.

(77) [(76)] **Restored aquifer** - An aquifer whose local groundwater quality has, by natural or artificial processes, returned to levels consistent with restoration table values or better as verified by an approved sampling program.

(78) [(77)] **Salt cavern** - A hollowed-out void space that has been purposefully constructed within a salt stock, typically by means of solution mining by circulation of water from a well or wells connected to the surface.

(79) [(78)] **Salt cavern confining zone** - A zone between the salt cavern injection zone and all underground sources of drinking water [USDWs] and freshwater aquifers, that acts as a barrier to movement of waste out of a salt cavern injection zone, and consists of the entirety of the salt stock excluding any portion of the salt stock designated as an underground injection control (UIC) [a UIC] Class I salt cavern injection zone or any portion of the salt stock occupied by a UIC Class II or Class III salt cavern or its disturbed salt zone.

(80) [(79)] **Salt cavern injection interval** - That part of a salt cavern injection zone consisting of the void space of the salt cavern into which waste is stored or disposed of, or which is capable of, receiving waste for storage or disposal.

(81) [(80)] **Salt cavern injection zone** - The void space of a salt cavern that receives waste through a well, plus that portion of the salt stock enveloping the salt cavern, and extending from the boundaries of the cavern void outward a sufficient thickness to contain the disturbed salt zone, and an additional thickness of undisturbed salt sufficient to ensure that adequate separation exists between the outer limits of the injection zone and any other activities in the domal area.

(82) [(81)] **Salt cavern solid waste disposal well or salt cavern disposal well** - For the purposes of this chapter [relating to Underground Injection Control], regulations of the commission, and not to underground injection control (UIC) [UIC] Class II or UIC Class III wells in salt caverns regulated by the Texas Railroad Commission, a salt cavern disposal well is a type of UIC Class I injection well used:

(A) to solution mine a waste storage or disposal cavern in naturally occurring salt; and/or

(B) to inject hazardous, industrial, or municipal waste into a salt cavern for the purpose of storage or disposal of the waste.

(83) [(82)] **Salt dome** - A geologic structure that includes the caprock, salt stock, and deformed strata surrounding the salt stock.

(84) [(83)] **Salt stock** - A geologic formation consisting of a relatively homogeneous mixture of evaporite minerals dominated by halite (NaCl) that has migrated from originally tabular beds into a vertical orientation.

(85) [(84)] **Sanitary waste** - Liquid or solid waste originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned.

(86) [(85)] **Septic system** - A well that is used to emplace sanitary waste below the surface, and is typically composed of a septic tank and subsurface fluid distribution system or disposal system.

(87) [(86)] **Stratum** - A sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock or material.

(88) [(87)] **Subsurface fluid distribution system** - An assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

(89) [(88)] **Surface casing** - The first string of casing (after the conductor casing, if any) that is set in a well.

(90) [(89)] **Temporary injection point** - A method of Class V injection that uses push point technology (injection probes pushed into the ground) for the one-time injection of fluids into or above an underground source of drinking water [a USDW].

(91) [(90)] **Total dissolved solids (TDS)** - The total dissolved (filterable) solids as determined by use of the method specified in 40 Code of Federal Regulations [CFR] Part 136, as amended.

(92) [(91)] **Transmissive fault or fracture** - A fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

(93) [(92)] **Underground injection** - The subsurface emplacement of fluids through a well.

(94) [(93)] **Underground injection control (UIC)** - The program under the federal Safe Drinking Water Act, Part C, including the approved Texas state program.

(95) [(94)] **Underground source of drinking water (USDW)** - An "aquifer" or its portions:

(A) which supplies drinking water for human consumption; or

(B) in which the groundwater contains fewer than l0,000 milligrams per liter [mg/l] total dissolved solids; and

(C) which is not an exempted aquifer.

(96) [(95)] **Upper limit** - A parameter value established by the commission in a permit/production area authorization which when exceeded indicates mining solutions may be present in designated monitor wells.

(97) [(96)] **Verifying analysis** - A second sampling and analysis of control parameters for the purpose of confirming a routine sample analysis which indicated an increase in any control parameter to a level exceeding the upper limit. Mining solutions are assumed to be present in a designated monitor well if a verifying analysis confirms that any control parameter in a designated monitor well is present in concentration equal to, or greater than, the upper limit value.

(98) [(97)] **Well** - A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension, a dug hole whose depth is greater than the largest surface dimension, an improved sinkhole, or a subsurface fluid distribution system but does not include any surface pit, surface excavation, or natural depression.

(99) [(98)] **Well injection** - The subsurface emplacement of fluids through a well.

(100) [(99)] **Well monitoring** - The measurement by on-site instruments or laboratory methods of any chemical, physical, radiological, or biological property of the subsurface strata or their contained fluids penetrated by the wellbore.

(101) [(100)] **Well stimulation** - Several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, including, but not limited to, surging, jetting, blasting, acidizing, and hydraulic fracturing.

(102) [(101)] **Workover** - An operation in which a down-hole component of a well is repaired, the engineering design of the well is changed, or the mechanical integrity of the well is compromised. Workovers include operations such as sidetracking, the addition of perforations within the permitted injection interval, and the addition of liners or patches. For the purposes of this chapter, workovers do not include well stimulation operations.

§331.21. Required Submission of Geoscientific Information.

All geoscientific information submitted to the agency under this chapter shall be prepared by, or under the supervision of, a licensed professional geoscientist or a licensed professional engineer and shall be signed, sealed, and dated by the licensed professional geoscientist or licensed professional engineer in accordance with the Texas Geoscience Practice Act and the Texas Engineering Practice Act.

SUBCHAPTER D: STANDARDS FOR CLASS I WELLS OTHER THAN SALT CAVERN SOLID WASTE DISPOSAL WELLS

§331.62, §331.65

STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which provides the commission with the authority to adopt rules necessary to carry out its power and duties under this code and other laws of this state; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; and Texas Civil Statutes, Article 3271b, the Act, which authorizes the public practice of geoscience in the State of Texas.

These proposed amendments implement TWC, §5.103 and §5.105, and Texas Civil Statutes, Article 3271b, the Act.

§331.62. Construction Standards.

All Class I wells shall be designed, constructed, and completed to prevent the movement of fluids that could result in the pollution of an underground source of drinking water (USDW).

(1) Design criteria. Casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well, including the post-closure [post closure] care period. The well shall be designed and constructed to prevent potential leaks from the well, to prevent

the movement of fluids along the wellbore into or between USDWs, to prevent the movement of fluids along the wellbore out of the injection zone, to permit the use of appropriate testing devices and workover tools, and to permit continuous monitoring of injection tubing, long string casing, and annulus, as required by this chapter. All well materials must be compatible with fluids with which the materials may be expected to come into contact. A well shall be deemed to have compatibility as long as the materials used in the construction of the well meet or exceed standards developed for such materials by the American Petroleum Institute, the American Society for Testing Materials, or comparable standards acceptable to the executive director.

(A) - (B) (No change.)

(2) - (6) (No change.)

(7) Logs and tests.

(A) Integrity testing. Appropriate logs and other tests shall be conducted during the drilling and construction of Class I wells. All logs and tests shall be interpreted by the service company which processed the logs or conducted the test; or by other qualified persons. A minimum of the following logs and tests shall be conducted:

(i) (No change.)

(ii) for surface casing;

(I) spontaneous potential, resistivity, natural gamma, and caliper logs before the casing is installed; [and]

(II) (No change.)

(III) [and] any other test required by the executive director;

(IV) (No change.)

(iii) for intermediate and long string casing: [;]

(I) spontaneous potential, resistivity, natural gamma, compensated density and/or neutron porosity, dipmeter/fracture finder, and caliper logs, before the casing is installed; [and]

(II) - (III) (No change.)

(iv) (No change.)

(B) Pressure tests. Surface casing shall be pressure tested to 1,000 pounds per square inch, gauge (psig) [psig] for at least 30 minutes, and long string casing shall be tested to 1,500 psig for at least 30 minutes, unless otherwise specified by the executive director.

(C) (No change.)

(8) (No change.)

(9) Construction and workover supervision. All phases of well construction and all phases of any well workover shall be supervised by qualified individuals acting under the responsible charge of a licensed, professional engineer or licensed professional geoscientist, with current registration under [pursuant to] the Texas Engineering Practice Act or Texas Geoscience Practice Act, who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

(10) (No change.)

§331.65. Reporting Requirements.

(a) Pre-operation reports. For new wells, including wells converting to Class I status, the requirements are as follows.

(1) Completion report. Within 90 days after the completion or conversion of the well, the permittee shall submit a Completion Report to the executive director. The report must [shall] include a surveyor's plat showing the exact location and giving the latitude and longitude of the well. The report must [shall] also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the well, the well permit number, and its permitted waste streams. The permittee shall also include in the report the following, prepared and sealed by a professional engineer or licensed professional geoscientist with current registration under the Texas Engineering Practice Act or Texas Geoscience Practice Act:

(A) - (K) (No change.)

(L) compliance with the casing and cementing performance standard in §331.62(5) of this title [(relating to Construction Standards)]; and

(M) (No change.)

(2) - (4) (No change.)

(b) Operating reports.

(1) Injection operation quarterly report. For non-commerical facilities only, within 20 days after the last day of the months of March, June, September, and December, the permittee shall submit to the executive director a quarterly report of injection operation on forms supplied by the executive director. These forms will comply with the reporting requirements of 40 Code of Federal Regulations (CFR) §146.69(a). The executive director may require more frequent reporting.

(2) Injection operation monthly report. Commercial [For commercial] facilities shall meet the following requirements. [only:]

(A) (No change.)

(B) The permittee shall submit to the commission within 20 days of the last day of each month a report of injection operations on forms provided by the commission. These forms shall comply with the reporting requirements of 40 CFR §146.69(a) [Code of Federal Regulations (CFR) 146.69(a)]. The executive director may require more frequent reporting.

(3) Injection zone annual report. For all facilities, the permittee shall submit annually with the December report of injection operation an updated graphic or other acceptable report of the pressure effects of the well upon its injection zone as required by §331.64(g) of this title (relating to [Ambient] Monitoring and Testing Requirements). To the extent this information is reasonably available, the report must [shall] also include:

(A) (No change.)

(B) a tabulation of data as required by §331.121(2)(B) of this title [(relating to Class I Wells)] for wells within the area of review that penetrate the injection zone or confining zone;

(C) - (F) (No change.)

(4) - (5) (No change.)

(c) (No change.)

SUBCHAPTER I: FINANCIAL RESPONSIBILITY

§331.144

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which provides the commission with the authority to adopt rules necessary to carry out its power and duties under this code and other laws of this state; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; and Texas Civil Statutes, Article 3271b, the Act, which authorizes the public practice of geoscience in the State of Texas.

The proposed amendment implements TWC, §5.103 and §5.105, and Texas Civil Statutes, Article 3271b, the Act.

§331.144. Approval of Plugging and Abandonment.

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer or licensed professional geoscientist that plugging and abandonment has been accomplished in accordance with the plugging and abandonment plan, the executive director will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for plugging and abandonment of the well, unless the executive director has reason to believe that plugging and abandonment has not been in accordance with the plugging and abandonment plan. Financial assurance may not be released without the written approval of the executive director.

SUBCHAPTER J: STANDARDS FOR CLASS I SALT CAVERN SOLID WASTE DISPOSAL WELLS

§331.163

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which provides the commission with the authority to adopt rules necessary to carry out its power and duties under this code and other laws of this state; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; and Texas Civil Statutes, Article 3271b, the Act, which authorizes the public practice of geoscience in the State of Texas.

The proposed amendment implements TWC, §5.103 and §5.105, and Texas Civil Statutes, Article 3271b, the Act.

§331.163. Well Construction Standards.

(a) - (g) (No change.)

(h) Construction supervision. All phases of well construction and all phases of any well workover shall be supervised by a professional engineer or licensed professional geoscientist, with current registration under [pursuant to] the Texas Engineering Practice Act or Texas Geoscience

Practice Act, who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

(i) Approval of completion of the well construction stage. Prior to beginning cavern construction, the permittee shall obtain written approval from the executive director which states that the well construction is in compliance with the applicable provisions of the permit. To obtain approval, the permittee shall submit to the executive director within 90 days of completion of well construction, including all logging, coring, and testing of the pilot hole, the following reports and certifications prepared and sealed by a professional engineer or licensed professional geoscientist with current registration under [pursuant to] the Texas Engineering Practice Act or Texas Geoscience Practice Act:

(1) - (3) (No change.)