

The Texas Natural Resource Conservation Commission (commission) proposes amendment to §331.63, concerning operating requirements.

#### EXPLANATION OF PROPOSED RULE

The purpose of this rule package is to make the Underground Injection Control rules consistent with federal regulations, with regard to a certain notification requirement. While state requirements must be at least as stringent as the corresponding federal requirement, states authorized to implement the federal Underground Injection Control (UIC) program are not required to adopt the federal requirements verbatim (see 40 CFR §145.11(b)(1)). Therefore, this proposed rule package incorporates language that is identical to the federal regulations, but also incorporates the phrase “in writing,” and a reference to another portion of the state regulations for clarity.

Proposed §331.63 is being amended by adding new subsection (l), which reflects the federal regulation at 40 CFR 146.71(a)(7). In addition to the language which is identical to the federal regulation, language is proposed to be added under §331.63(l) to require that the notification be done in writing, and to reference 30 TAC §305.154(a)(7) concerning notification to the executive director. Section 305.154(a)(7) includes the requirement for closure of an injection well that has not operated for two years, unless notice is provided to the executive director and certain other actions and procedures are described. Proposed §331.63 states that the owner or operator of an injection well that has ceased operations for more than two years and is subject to 30 TAC §305.154(a)(7) to notify the executive director in writing 30 days prior to resuming operation of the well.

#### FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section as proposed is in effect there are no significant fiscal implications anticipated for state or local governments as a result of enforcement and administration of the sections.

#### PUBLIC BENEFIT

Mr. Minick has also determined that for the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be the clarification of existing regulations relating to UIC and consistency between state and federal regulations. Compliance with the proposed state regulation will result in no costs to affected parties that would not otherwise result from compliance with the existing federal regulation proposed for incorporation. There are no additional costs anticipated for any person required to comply with the proposed sections.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to incorporate federal language into current state regulations so that the UIC Program can maintain compliance with the federal program. The rules will significantly advance this specific purpose by allowing the commission to maintain primacy, and thus state control, for the UIC

Program without making the existing rules any less stringent. Promulgation and enforcement of this rule amendment will not create a burden on private real property.

This rule amendment is minor in nature and does not impose any additional or substantial burden on private real property. Authorized UIC facilities are already subject to this federal requirement, this amendment merely incorporates the federal requirement into the state UIC program. Also, because this rulemaking is reasonably taken to fulfill an obligation mandated by federal law, this rule amendment is excepted from the Private Real Property Preservation Act pursuant to §2007.3(b)(4) of the Texas Government Code.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking action is not subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et. seq.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program.

#### SUBMITTAL OF COMMENTS

Written comments may be submitted by mail to Bettie Bell, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087; or by fax at (512) 239-4808. All comments must be received within 30 days following the date of this publication and should refer to

Rule Log No. 97168-331-WS. Comments received by 5:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. For further information, please contact Ray Austin at (512) 239-6814.

#### STATUTORY AUTHORITY

The amended section is proposed under the authority of Texas Water Code §§5.103, 5.105, and 27.019, which provide the commission with the authority to adopt rules reasonably required for the performance of its powers and duties under the Texas Water Code and other laws of the state; and under the Texas Health and Safety Code, §361.017 and §361.024, which further authorize the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

These amendments implement Texas Water Code Chapter 27.

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

**§331.63**

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**§331.63. Operating Requirements.**

(a) - (k) (No change.)

(l) The owner or operator of an injection well that has ceased operations for more than two years and is subject to 30 TAC §305.154(a)(7) of this title (relating to Standards) shall notify the executive director in writing 30 days prior to resuming operation of the well.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on