The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§331.19, 331.107, and 331.108.

Amended §331.19 and §331.107 are adopted *without changes* to the proposed text and, therefore, will not be republished. Amended §331.108 is adopted *with change* to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7224) and, therefore, will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

This rulemaking implements Senate Bill (SB) 616 and SB 1061, 89th Texas Legislature, Regular Session, 2025, which amended Texas Water Code (TWC), §§27.051 and 27.0513, relating to certain injection wells transecting the Edwards Aquifer used for an aquifer storage and recovery (ASR) project, and Class III production area authorizations (PAA) respectively. SB 616 allows for additional exceptions to prohibitions on drilling into or through the Edwards Aquifer. SB 1061 allows for an application for an amendment to a Class III PAA to be an uncontested matter if certain conditions are met and requires the commission to prioritize conservation of regional groundwater supplies when considering amendment to restoration table values.

The adopted rulemaking implements SB 616 by amending the commission's underground injection control rules to allow authorization of certain types of injection wells that transect or terminate in the Edwards Aquifer, either by permit or by rule, and to allow for authorization of an ASR injection well that transects the Edwards Aquifer as long as the geologic formation used for injection underlies the Edwards Aquifer and the injection well will be located in either the area of Williamson County east of Interstate Highway 35 or in Medina County. The adopted rulemaking implements SB 1061 by amending the commission's underground injection control

rules to allow for amendment to an in-situ uranium mining PAA to be an uncontested matter if certain conditions are met and requiring the commission to prioritize the conservation of regional groundwater water supplies when reviewing an application to amend a restoration table value.

A PAA is an authorization, issued under the terms of a Class III injection well area permit for uranium mining, that approves the initiation of mining activities in a specified production area within a permit area, and sets specific conditions for production and restoration in each production area within a permit area. Because the SB 1061 amendments of TWC, §27.0513(d) now include an amendment application for a PAA and all of the applicability provisions applying under paragraphs (d)(1)-(4), all applications for a PAA will be uncontested matters and not subject to an opportunity for a contested case hearing. An application for a PAA is still subject to public notice requirements and an opportunity to submit public comment.

Section by Section Discussion

The commission adopts amendments to 30 Texas Administrative Code (TAC) §331.19 to implement SB 616 and TWC, §27.051(i). The adopted amendment revises the prohibition against certain injection wells in the Edwards Aquifer to allow authorization of certain aquifer storage and recovery projects. The commission adopts the amendment to §331.19 by adding new §331.19(a)(5) which states “wells that transect the Edwards Aquifer and that inject water into a geologic formation that underlies the Edwards Aquifer as part of an aquifer storage and recovery project in the area of Williamson County east of Interstate Highway 35 or in Medina County.” An injection well subject to this allowance will still be required to comply with other applicable requirements in Chapter 331 for ASR projects.

The commission adopts amendments to 30 TAC §§331.107 and 331.108 to implement SB 1061 and TWC, §27.0513. The commission adopts the amendment to §331.107 by adding "The commission shall prioritize the conservation of regional water supplies when considering an application to amend a restoration table value or range table" to §331.107(g)(1). The adopted amendment to §331.107 implements TWC, §27.0513(c-1) as amended by SB 1061. Accordingly, the commission will give priority to the conservation of regional water supplies over the other factors listed in §331.107(g)(1)(A)-(I). The commission specifically solicited comments on the amendment to paragraph 331.107(g)(1) to apply the prioritization of regional groundwater supplies when considering an application for amendment of a permit range table but received no comments about this provision. Because the same considerations are given to the amendment of a restoration table and amendment of a permit range table under §331.107(g), the commission adopts this amendment to give priority to the conservation of regional water supplies over the other factors when considering an amendment of a permit range table.

The commission's rule in §331.108 establishes that an application for a PAA is not subject to an opportunity for a contested case hearing if the conditions established in TWC, §27.0513(d) are met. The commission adopts the amendment of §331.108 by adding the phrase "or an amendment to production area authorization" in §331.108(a). The commission amends §331.108(a)(1)-(3) to implement the amendments to TWC, §27.0513(d)(1)-(3) as established by SB 1061. The commission adopts the amendment to §331.108 by adding new §331.108(a)(4), which establishes that an application for a PAA is not subject to an opportunity for a contested case hearing if the Notice of Receipt of Application and Intent to Obtain Permit is provided to the individual land owners, mineral rights owners and an applicable Groundwater Conservation District not later than 30 days after the date the executive director commission determines the new or amended PAA application to be administratively complete. Adopted new §331.108(a)(4)

implements TWC, §27.0513(d) as amended by SB 1061. The public notice requirements for an application for a PAA has not changed and the amendments in §331.108(a)(4) are consistent with the existing public notice requirements in 30 TAC §§39.418 and 39.653. Under existing §39.653, the chief clerk is required to mail the Notice of Receipt of Application and Intent to Obtain Permit not later than 30 days after the executive director declares an application to be administratively complete. The commission amends §331.108(b) because the adopted revision of subsection (a) applies to an amendment application and to specify that a restoration table value in a PAA may not be amended to exceed the respective maximum value of the permit range table and is consistent with the existing requirement in §331.107(a)(1). In response to comment, the word “maximum” is added to the provision in §331.108(b). The commission adopts the removal of §331.108(c) because all Class III injection well permits for in situ uranium mining include a permit range table as required by TWC, §27.0513(a). Because the revisions to §331.108 now include amendment applications as specified by SB 1061, all applications for PAAs will be expected to fall within the conditions in §331.108(a)(1)-(4) that render the applications as uncontested matters and not subject to an opportunity for a contested case hearing. Applications for PAAs are still subject to public notice requirements and an opportunity to submit public comment.

Final Regulatory Impact Analysis

The commission reviewed the rulemaking adoption action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to Texas Government Code, §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is 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 adopted amendments implement SB 616 and SB 1061 from the 89th Texas Legislature, Regular Session, 2025. SB 616 provides additional exceptions to the prohibition of injection wells into or through the Edwards Aquifer to allow for certain ASR projects in Williamson or Medina Counties. SB 1061 is procedural in addressing application requirements for PAAs and revises the conditions for which applications for PAAs are uncontested matters and requires the commission to prioritize the conservation of regional groundwater supplies when considering an application for amendment to a restoration table value. The adopted rules revise the exceptions to the prohibition of injection wells that terminate in or transect the Edwards Aquifer to allow for certain ASR projects in Williamson or Medina Counties. The allowance for injection wells that transect the Edwards Aquifer for certain ASR projects in Williamson or Medina Counties does not alleviate or change existing requirements that will otherwise apply to ASR projects. The adopted rules also specify that the commission will prioritize the conservation of regional groundwater supplies when considering an application to revise a restoration table or permit range table. The adopted rules specify the conditions that render an application for a new or amended PAA an uncontested matter and not subject to an opportunity for a contested case hearing. The adopted rules do not change any existing requirements that protect the environment or reduce risks to human health from environmental exposure, nor do the adopted rules 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.

As defined in the Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is

specifically required by federal law; 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 adopt a rule solely under the general authority of the commission. The adopted rules do not exceed a standard set by federal law. The adopted amendments do not exceed an express requirement of state law or a requirement of a delegation agreement. These rules were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and TWC, that are cited in the statutory authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period.

Takings Impact Assessment

The commission evaluated the rulemaking adoption and performed an analysis of whether Texas Government Code, Chapter 2007, is applicable. The adopted amendments implement SB 616 and SB 1061 from the 89th Texas Legislature, Regular Session, 2025. The adopted amendments in Chapter 331 do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the adopted rules. The adopted amendments to Chapter 331 amend the prohibition for injection wells that transect or terminate in the Edwards Aquifer to allow certain aquifer and storage and recovery projects in Williamson or Medina Counties and amend procedural requirements for the processing of applications for PAAs. Consequently, this rulemaking action does not meet the definition of a taking under Texas Government Code, §2007.002(5). Therefore, this rulemaking action will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program (CMP).

The commission invited public comment regarding the consistency with the coastal management program during the public comment period.

Public Comment

The commission held a public hearing on December 8, 2025. The comment period closed on December 10, 2025. The commission received comments from Brazos River Authority, Greater Edwards Aquifer Alliance (GEAA), Texas Environmental Justice Advocacy Services (Tejas), and The Owner/Operator Members of the Uranium Committee of the Texas Mining & Reclamation Association (TMRA-UC).

Brazos River Authority supported the rulemaking. TMRA-UC was generally supportive of the rulemaking, but requested the commission not adopt amendment of §331.108(b). GEAA and Tejas were generally against the rulemaking.

Response to Comments

Comment

Brazos River Authority commented that TCEQ's proposed amendment of §331.19(a)(5) is consistent with both the plain language and intent of SB 616 and that it supports its adoption by the commission.

Response

The commission acknowledges Brazos River Authority's comment. No changes were made in response to the comment.

Comment

Tejas commented that the amendment to §331.19 to implement SB 616 raises a risk of contamination of the Edwards Aquifer from failures in well casing, cement, sealing materials, construction flaws, geological movement or long-term degradation.

Response

The implementation of SB 616 to amend rules to allow for certain exceptions to injection wells that transect the Edwards Aquifer does not alter rule provisions that require injection wells to be sited, designed, constructed and operated to protect underground sources of drinking water from pollution. Current underground injection control rules under 30 TAC Chapter 331 Subchapters A, H and K do not allow for Class V injection well design/construction and operation associated with ASR systems to introduce contaminants from the injection source into a non-designated receiving aquifer. No changes were made in response to the comment.

Comment

Tejas commented that the amendment to §331.19 to implement SB 616 could introduce surface water, treated effluent or other contaminants from the injection source into the Edwards Aquifer.

Response

The commission does not agree that amendment of §331.19 could introduce contaminants into the Edwards Aquifer. Any injection wells subject to this allowance in SB 616 will still be required to comply with other applicable requirements in Chapter 331 for ASR projects. Under existing rule 30 TAC §331.5(a), "No permit or authorization by rule shall be allowed where an injection well causes or allows the movement of fluid that would result in the pollution of an underground source of drinking water. A permit or authorization by rule shall include terms and conditions reasonably necessary to protect fresh water from pollution." No changes were made in response to the comment.

Comment

Tejas commented that any damage to the Edwards Aquifer would be irreversible given the high-flow nature of a karst aquifer.

Response

The commission does not agree that amendment of §331.19 imposes greater risk to the Edwards Aquifer due to the permeability of the aquifer or karst conditions. Any injection wells subject to §331.19 must still comply with the other applicable requirements of 30 TAC Chapter 331. No changes were made in response to the comment.

Comment

GEAA urged the TCEQ to reconsider and reject the provisions of SB 616 and SB 1061 asserting that this will endanger the Edwards Aquifer and eliminate public recourse. GEAA also urged TCEQ to reject provisions of SB 1061 that would reduce or eliminate public involvement.

Response

The commission is implementing law enacted by the legislature. The commission does not have the authority to reconsider SB 616 and SB 1061. No changes were made in response to the comment.

Comment

GEAA commented that removing the opportunity to challenge PAA amendments through contested case hearings eliminates the ability to scrutinize restoration plans and mining activities and thus opposes efforts to rollback opportunities for contested case hearing on PAA applications.

Response

The commission's amendments to §331.108 that establish when an application for a PAA is not subject to an opportunity for a contested case hearing implement SB 1061. By enacting the statutory amendments, the legislature established the requirements for a PAA application and when an application can or cannot be contested. The commission's rule amendments are consistent with SB 1061. No changes were made in response to the comment.

Comment

The Owner/Operator Members of the Uranium Committee of the Texas Mining & Reclamation Association (TMRA-UC) commented in support of the overall effort to align the TCEQ rules with SB 1061.

Response

The commission acknowledges TMRA-UC's comment. No changes were made in response to the comment.

Comment

TMRA-UC requested that the commission not adopt the proposed amendment to §331.108(b) and that the existing rule language in §331.108(b) be retained. TMRA-UC contends that the proposed amendment to §331.108(b) is not required by SB 1061 and conflicts with §331.107(g) and TWC, §27.0513(c). TMRA-UC states that if a restoration table value exceeds the upper limit of a permit range table, the statute allows a permittee to apply for a major amendment of the permit range table. TMRA-UC asserts that the rule should be revised to match the statutory language to retain the ability for applicants to apply for a major amendment of the permit.

Response

The commission does not agree that the amendment of §331.108(b) conflicts with §331.107(g) and TWC, §27.0513(c). However, for clarification, §331.108(b) has been revised since proposal to state "A restoration table may not be amended to exceed a respective maximum value of the permit range table." This provision is consistent with TWC, §27.0513(c) and 30 TAC §331.107(a)(1). A PAA restoration table value cannot exceed the range listed in the permit range table. If a proposed restoration table were to exceed the

range listed in the permit table such that it falls above the upper limit of the range, the value from the permit range table must be used or the permittee must apply for an amendment of the permit range table. There is no authorization for a PAA restoration table to have a restoration value that exceeds the respective maximum value of a permit range table for a particular constituent in TWC, §27.0513(c) and 30 TAC §331.107.

SUCHAPTER A: GENERAL PROVISIONS

§331.19

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.120, which authorizes the commission to administer the law so as to promote the judicious use and maximum conservation and protection of the environment and natural resources of the state; TWC, §27.051 which establishes conditions for the issuance of a UIC permit; and TWC, §27.019, which authorizes the commission to adopt rules for the performance of its powers, duties, and functions under the Injection Well Act.

The adopted rules implement Senate Bill (SB) 616, 89th Texas Legislature, Regular Session, 2025; and TWC, § 27.051.

§331.19. Injection Into or Through the Edwards Aquifer.

(a) Except as authorized in subsection (c) of this section, for applications submitted on or after September 1, 2001, injection wells that transect or terminate in the Edwards Aquifer may be authorized by rule under §331.9 of this title (relating to Injection Authorized by Rule) or by permit only as follows:

(1) wells that inject groundwater withdrawn from the Edwards Aquifer may be authorized only if:

(A) the groundwater is unaltered physically, chemically, or biologically; or

(B) the groundwater is treated in connection with remediation that is approved by state or federal order, authorization, or agreement and does not exceed the maximum contaminant levels for drinking water contained in §290.104 of this title (relating to Summary of Maximum Contaminant Levels, Maximum Residual Disinfectant Levels, Treatment Techniques, and Action Levels);

(2) wells that inject non-toxic tracer dyes into the Edwards Aquifer for the purpose of conducting scientific studies to determine hydrologic flowpaths may be authorized if the owner or operator is a federal or state agency, county, municipality, river authority, or groundwater district;

(3) improved sinkholes or caves located in karst topographic areas that inject storm water, flood water, or groundwater may be authorized; [and]

(4) wells that terminate in a portion of the Edwards Aquifer that contains groundwater with a total dissolved solids (TDS) concentration of more than 5,000 milligrams per liter, and:

(A) the water is injected by a utility owned by the City of New Braunfels;

(B) the injected water has a TDS of less than 1,500 milligrams per liter and is not domestic wastewater, municipal wastewater, or reclaimed water as defined by Chapter 210 of this title (relating to Use of Reclaimed Water);

(C) if the injected water is state water, the utility has a water right or contract for use of the water that does not prohibit use of the water in an aquifer storage and recovery project; and

(D) the injection of the water complies with the requirements of Subchapter K of this chapter (relating to Additional Requirements for Class V Injection Wells Associated [With] with Aquifer Storage and Recovery Projects)[.]; or

(5) wells that transect the Edwards Aquifer and that inject water into a geologic formation that underlies the Edwards Aquifer as part of an aquifer storage and recovery project in the area of Williamson County east of Interstate Highway 35 or in Medina County.

(b) For the purposes of subsection (a) of this section, Edwards Aquifer means that portion of an arcuate belt of porous, water-bearing limestones composed of the Edwards Formation, Georgetown Formation, Comanche Peak Formation, Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, and Edwards Group trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, Hays, Travis, and Williamson Counties. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

(c) This subsection applies only to the portion of the Edwards Aquifer that is within the geographic area circumscribed by the external boundaries of the Barton Springs-Edwards Aquifer Conservation District but is not in the jurisdiction of the Edwards Aquifer Authority.

(1) Unless authorized by rule as provided in paragraph (4) of this subsection or authorized by rule, individual permit, or general permit issued by the commission as provided in paragraph (5) of this subsection, all injection wells within the geographic area described in this subsection are prohibited.

(2) This subsection does not apply to a wastewater facility permitted under Texas Water Code (TWC), Chapter 26 or a subsurface area drip dispersal system permitted under TWC, Chapter 32.

(3) Definitions. For the purposes of this subsection:

(A) Edwards Aquifer--That portion of an arcuate belt of porous, water-bearing limestones composed of the Edwards Formation, Georgetown Formation, Comanche Peak Formation, Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, and Edwards Group, together with the Upper Glen Rose Formation where scientific studies have documented a hydrological connection to the overlying Edwards Group trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, Hays, Travis, and Williamson Counties. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south,

overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

(B) Engineered aquifer storage and recovery facility--A facility with one or more wells that is located, designed, constructed, and operated for the purpose of injecting fresh water into a subsurface permeable stratum and storing the water for subsequent withdrawal and use for a beneficial purpose.

(C) Fresh water--Surface water or groundwater, without regard to whether the water has been physically, chemically, or biologically altered, that:

(i) contains a total dissolved solids concentration of not more than 1,000 milligrams per liter; and

(ii) is otherwise suitable as a source of drinking water supply.

(D) Saline portion of the Edwards Aquifer--The portion of the Edwards Aquifer that contains groundwater with a total dissolved solids concentration of more than 1,000 milligrams per liter.

(4) Injection wells authorized by rule. Injection wells within the geographic area described within this subsection may be authorized by rule under §331.9 of this title for:

(A) the injection of fresh water withdrawn from the Edwards Aquifer into a well that transects or terminates in the Edwards Aquifer for the purpose of providing additional recharge; or

(B) the injection of rainwater, storm water, flood water, or groundwater into the Edwards Aquifer by means of an improved natural recharge feature such as a sinkhole or cave located in a karst topographic area for the purpose of providing additional recharge.

(5) Injection wells authorized by rule, individual permit, or general permit. Injection wells within the geographic area described in this subsection may be authorized under a rule, individual permit, or general permit issued by the commission. A rule, individual permit, or general permit under this paragraph may authorize:

(A) an activity described under paragraph (4) of this subsection;

(B) an injection well that transects and isolates the saline portion of the Edwards Aquifer and terminates in a lower aquifer for the purpose of injecting:

(i) concentrate from a desalination facility; or

(ii) fresh water as part of an engineered aquifer storage and recovery facility;

(C) an injection well that terminates in that part of the saline portion of the Edwards Aquifer that has a TDS concentration of more than 10,000 milligrams per liter for the purpose of injecting into the saline portion of the Edwards Aquifer:

(i) concentrate from a desalination facility, provided that the injection well must be at least three miles from the closest outlet of Barton Springs; or

(ii) fresh water as part of an engineered aquifer and storage recovery facility, provided each well used for injection or withdrawal from the facility must be at least three miles from the closest outlet of Barton Springs;

(D) an injection well that transects or terminates in the Edwards Aquifer for:

(i) aquifer remediation;

(ii) the injection of a nontoxic tracer dye as part of a hydrologic study; or

(iii) another beneficial activity that is designed and undertaken for the purpose of increasing protection of an underground source of drinking water from pollution or other deleterious effects; or

(E) an injection well that transects the Edwards Aquifer for the purpose of injecting fresh water provided that:

(i) the well isolates the Edwards Aquifer and meets the construction standards in §331.183 of this title (relating to Construction and Closure Standards);

(ii) the well is part of an engineered aquifer storage and recovery facility;

(iii) the injected water is sourced from a public water system, as defined in §290.38 of this title (relating to Definitions), that is permitted by the commission;

(iv) the injected water meets water quality standards for public drinking water established in Chapter 290 of this title (relating to Public Drinking Water); and

(v) the injection complies with the provisions of Subchapter K of this chapter that are not in conflict with this section.

(6) The commission must hold a public meeting before issuing a general permit under this section.

(7) Special requirements for all injection wells subject to this subsection.

(A) Monitoring wells. An injection well subject to this subsection must be monitored by means of:

(i) one or more monitoring wells operated by the injection well owner if the executive director determines that there is an underground source of drinking water in the area of review that is potentially affected by the injection well; or

(ii) if clause (i) of this subparagraph does not apply, one or more monitoring wells operated by a party other than the injection well owner, provided that all results of monitoring are promptly made available to the injection well owner.

(iii) A monitoring well described under this subparagraph, if properly sited and completed, may also be used for monitoring a saline water production well.

(B) An injection well subject to this subsection:

(i) must not result in the waste or pollution of fresh water; and

(ii) may be authorized for a term not to exceed ten years, and the authorization for the injection well may be renewed.

(8) An authorization by rule, individual permit, or general permit under paragraph (5)(B), (C), or (E) of this subsection:

(A) must initially be associated with a small-scale research project designed to evaluate the long-term feasibility of the injection of concentrate from a desalination facility; or an aquifer storage and recovery project;

(B) may be continued following completion of the research project if:

(i) the research project information is submitted to the commission in a timely schedule;

(ii) adequate characterization of risks to the fresh water portion of the Edwards Aquifer, the fresh water portion of formations in the Trinity Group or other fresh water demonstrates to the commission's satisfaction that continued operation or continued operations with commission-approved well modifications or operational controls does not pose unreasonable risk to the fresh water portion of the Edwards Aquifer, the fresh water portion of formations in the Trinity Group, or other fresh water; and

(iii) the commission receives a notice of intent to continue operation at least 90 days before initiation of commercial well operations.

(9) Authorization under paragraph (5)(B) or (C) of this subsection must require monitoring reports be filed with the executive director at least every three months.

SUBCHAPTER F: STANDARDS FOR CLASS III WELL PRODUCTION AREA DEVELOPMENT

§§331.107, 108

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.120, which authorizes the commission to administer the law so as to promote the judicious use and maximum conservation and protection of the environment and natural resources of the state; §27.019, which authorizes the commission to adopt rules for the performance of its powers, duties, and functions under the Injection Well Act; and §27.0513 which establishes conditions for area permits and production areas for uranium mining.

The adopted rules implement Senate Bill (SB) 1061, 89th Texas Legislature, Regular Session, 2025; and TWC, §27.0513.

§331.107. Restoration.

(a) Aquifer restoration. Groundwater in the production zone within the production area must be restored when mining is complete. Each Class III permit or production area authorization shall contain a description of the method for determining that groundwater has been restored in the production zone within the production area. Restoration must be achieved for all values in the restoration table of all parameters in the suite established in accordance

with the requirements of §331.104(b) of this title (relating to Establishment of Baseline and Control Parameters for Excursion Detection).

(1) Restoration table. Each permit or production area authorization shall contain a restoration table for all parameters in the suite established in accordance with the requirements of §331.104(b) of this title. The restoration value for each parameter listed in the restoration table cannot exceed the maximum value for the respective parameter in the permit range table required under §331.82(e)(7) of this title (relating to Construction Requirements). A restoration table value for a parameter shall be established by:

(A) the mean concentration or value for that parameter based on all measurements from groundwater samples collected from baseline wells prior to mining activities; or

(B) a statistical analysis of baseline well information proposed by the owner or operator and approved by the executive director that demonstrates that the restoration table value is representative of baseline quality.

(2) Achievement of restoration. Achievement of restoration shall be determined using one of the following methods:

(A) when all mean concentration values from groundwater samples from all baseline wells for a restoration parameter are equal to or below (or, in the case of pH, within an established range) the restoration table value for that parameter, then restoration for that parameter will be assumed to have occurred. Complete restoration will be assumed to have

occurred when mean concentration values from all samples from all baseline wells for all restoration parameters are equal to or below (or, in the case of pH, within an established range) each respective restoration table value; or

(B) a statistical analysis of information from groundwater samples from baseline wells proposed by the owner or operator and approved by the executive director that demonstrates that the groundwater quality is representative of the restoration table values.

(b) Mining completion. When the mining of a permit or production area is completed, the permittee shall notify the appropriate commission regional office and the executive director and shall proceed to reestablish groundwater quality in the affected permit or production area aquifers in accordance with the requirements of subsection (a) of this section. Restoration efforts shall begin as soon as practicable but no later than 30 days after mining is completed in a particular production area. The executive director, subject to commission approval, may grant a variance from the 30-day period for good cause shown.

(c) Timetable. Aquifer restoration, for each permit or production area, shall be accomplished in accordance with the timetable specified in the currently approved mine plan, unless otherwise authorized by the commission. Authorization for expansion of mining into new production areas may be contingent upon achieving restoration progress in previously mined production areas within the schedule set forth in the mine plan. The commission may amend the permit to allow an extension of the time to complete restoration after considering the following factors:

(1) efforts made to achieve restoration by the original date in the mine plan;

(2) technology available to restore groundwater for particular parameters;

(3) the ability of existing technology to restore groundwater to baseline quality in the area;

(4) the cost of achieving restoration by a particular method;

(5) the amount of water which would be used or has been used to achieve restoration;

(6) the need to make use of the affected aquifer; and

(7) complaints from persons affected by the permitted activity.

(d) Reports. Beginning six months after the date of initiation of restoration of a permit or production area, as defined in the mine plan, and until receiving written acknowledgment from the executive director that restoration for the production areas has been accomplished, the operator shall provide to the executive director semi-annual restoration progress reports. This report shall contain the following information:

(1) all analytical data generated to monitor restoration progress for certain parameters, as approved by the executive director, during the previous six months;

(2) graphs of analysis for each restoration parameter for each baseline well or for each restoration parameter that has been amended in accordance with subsection (g) of this section;

(3) the volume of fluids injected and produced;

(4) the volume of fluids disposed;

(5) water level measurements for all baseline and monitor wells, and for any other wells being monitored;

(6) a potentiometric map for the area of the production area authorization, based on the most recent water level measurements; and

(7) a summary of the progress achieved towards aquifer restoration.

(e) Restoration table values achieved. When the permittee determines that constituents in the aquifer have been restored to the values in the Restoration Table, the restoration shall be demonstrated by stability sampling in accordance with subsection (f) of this section.

(f) Stability sampling. The permittee shall obtain stability samples and complete an analysis for all parameters listed in the restoration table from all production area baseline wells. Stability sampling may commence 60 days after cessation of restoration operations. Stability samples shall be conducted at a minimum of 30-day intervals for a minimum of three sample sets and reported to the executive director. The permittee shall notify the executive

director at least two weeks in advance of sample dates to provide the opportunity for splitting samples and for selecting additional wells for sampling, if desired. To ensure water quality has stabilized, a period of one calendar year must elapse between cessation of restoration operations and the final set of stability samples. Upon acknowledgment in writing by the executive director confirming achievement of final restoration, the permittee shall accomplish closure of the area in accordance with §331.86 of this title (relating to Closure).

(g) Amendment of restoration table or range table values. After an appropriate effort has been made to achieve restoration in accordance with the requirements of subsection (a) of this section, the permittee may cease restoration operations, reduce bleed and request that the restoration table be amended. With the request for amendment of the restoration table values, the permittee shall submit stability sampling results in accordance with subsection (f) of this section. The permittee shall notify the executive director of his or her intent to cease restoration operations and reduce the bleed 30 days prior to implementing these steps. If any restoration table value for any parameter listed in the restoration table will exceed the maximum value for the respective parameter in the permit range table, the permittee must submit an application for a major amendment of the permit range table.

(1) <u>The commission shall prioritize the conservation of regional groundwater water supplies when considering an application to amend a restoration table value or range table.</u> In determining whether the restoration table or range table should be amended, the commission will consider the following items addressed in the request:

(A) uses for which the groundwater in the production area was suitable at baseline water quality levels;

(B) actual existing use of groundwater in the production area prior to and during mining;

(C) potential future use of groundwater of baseline quality and of proposed restoration quality;

(D) the effort made by the permittee to restore the groundwater to baseline;

(E) technology available to restore groundwater for particular parameters;

(F) the ability of existing technology to restore groundwater to baseline quality in the area under consideration;

(G) the cost of further restoration efforts;

(H) the consumption of groundwater resources during further restoration; and

(I) the harmful effects of levels of particular parameter.

(2) The commission may amend the restoration table or range table if it finds that:

(A) reasonable restoration efforts have been undertaken, giving consideration to the factors listed in paragraph (1) of this subsection;

(B) the values for the parameters describing water quality have stabilized for a period of one year;

(C) the formation water present in the exempted portion of the aquifer would be suitable for any use to which it was reasonably suited prior to mining; and

(D) further restoration efforts would consume energy, water, or other natural resources of the state without providing a corresponding benefit to the state.

(3) If the restoration table is amended, stability sampling shall be repeated and conducted as described in subsection (f) of this section, except that only the parameters that were amended in accordance with this subsection will be sampled and a period of two calendar years must elapse between cessation of restoration operations and the final set of stability samples unless the permittee can demonstrate through modeling or other means that a period of less than two years is appropriate for a demonstration of stability.

(4) If the request for an amendment of the restoration table or range table values is not granted, the permittee shall restart restoration efforts.

§331.108. Opportunity for a Contested Case Hearing on a Production Area Authorization Application.

(a) An application for a new production area authorization or an amendment to a production area authorization is not subject to opportunity for a contested case hearing if:

(1) the authorization is for a production area within the boundary of the permit under which the authorization will be issued and the permit includes, for each production area addressed in the application, a range table with values established in accordance with the requirements in §305.49(a)(10) of this title (relating to Additional Contents of Application for an Injection Well Permit);

(2) the application includes, for each production area addressed in the application, a restoration table with restoration parameter values that do not exceed the high values for the respective parameters in the permit range table; [and]

(3) the application is for a production area within the boundary of the permit under which the [proposed] authorization will be issued, and the application meets the requirements at §331.104(a) - (d) of this title (relating to Establishment of Baseline and Control Parameters for Excursion Detection) regarding baseline wells; [or]and

(4) [the application requests authorization for a new, and subsequent, production area within the permit boundary of a permit after the first production area authorization has been issued for a production area within the permit boundary.]not later than 30 days after the date the executive director determines the application to be administratively complete, the Notice of Receipt of Application and Intent to Obtain Permit is mailed to:

(A) the owners of the surface of:

(i) the tract of land on which the existing or proposed production area is or will be located; and

(ii) the tracts of land adjacent to the tract of land on which the existing or proposed production area is or will be located;

(B) the owners of mineral rights underlying:

(i) the tract of land on which the existing or proposed production area is or will be located; and

(ii) the tracts of land adjacent to the tract of land on which the existing or proposed production area is or will be located; and

(C) any groundwater conservation district established in the county in which the existing or proposed production area is or will be located.

(b) A restoration table may not be amended to exceed a respective maximum value of the permit range table. [An application to amend a restoration table included in an issued production area authorization is not subject to opportunity for a contested case hearing if the restoration parameter values in the proposed amended restoration table do not exceed the respective values in the permit range table included in the permit under which the production area authorization was issued.]

[(c) An application to amend a restoration table to increase any restoration table value included in an issued production area authorization is subject to opportunity for a contested case hearing if the permit under which the production area authorization was issued does not include a permit range table, established in accordance with the requirements of §305.49(a)(10) of this title.]