

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 6, 2026

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Beth Seaton, Director
Office of Waste

Docket No.: 2025-1199-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 331, Underground Injection Control
Senate Bill (SB) 616 and SB 1061: Injection Through the Edwards Aquifer for
Aquifer Storage and Recovery and Class III Production Area Authorization
Amendment
Rule Project No. 2025-033-331-WS

Background and reason(s) for the rulemaking:

This rulemaking adoption implements 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 aquifer storage and recovery (ASR) projects and Class III Production Area Authorizations (PAA) respectively. SB 616 provides additional exceptions to prohibitions on drilling into or through the Edwards Aquifer. SB 1061 provides that amendments to Class III PAAs are to be uncontested matters if certain criteria are met and requires the commission to prioritize the conservation of groundwater resources when considering an application to amend a restoration table value. Because the SB 1061 revisions to TWC, §27.0513(d) include applications for amendments to authorizations for PAAs and all of the applicability provisions applying under paragraphs (d)(1) - (4), all applications for PAAs will be uncontested matters and not subject to an opportunity for contested case hearing if certain criteria are met. Applications for PAAs are still subject to public notice requirements and the opportunity to submit public comments.

Scope of the rulemaking:

The rulemaking implements SB 616 by amending the commission's underground injection control rules 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 in either the area of Williamson County east of Interstate Highway 35 or in Medina County. The rulemaking also implements SB 1061 by amending the commission's underground injection control rules to allow for an amendment to an in-situ uranium mining PAA to be an uncontested matter if certain conditions are met and to require the commission to prioritize the conservation of regional groundwater water supplies when reviewing an application to amend a restoration table value.

A.) Summary of what the rulemaking will do:

The rulemaking will amend 30 Texas Administrative Code (TAC) §331.19 to add new subparagraph (a)(5), which will allow for wells that transect the Edwards Aquifer and that inject water into a geologic formation that underlies the Edwards Aquifer as part of an ASR project in the area of Williamson County east of Interstate Highway 35 or in Medina County. The rulemaking adoption will also amend 30 TAC §331.107 subparagraph (g)(1) to include prioritization of conservation of regional water supplies when considering an application to amend a restoration table value or range table. The adoption amends 30 TAC §331.108 subparagraphs (a)(1) - (4) to include conditions for which amendment to a PAA is not subject to an opportunity for a contested case hearing; 30 TAC §331.108 subparagraph (b) to clarify that a restoration table may not be amended to exceed a respective maximum value of the permit range table; and removal of 30 TAC §331.108

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subparagraph (c). Applications for PAAs are still subject to public notice requirements and the opportunity to submit public comments.

B.) Scope required by federal regulations or state statutes:

The rulemaking is not required by federal regulations. The rulemaking implements state statutes in TWC as established by SB 616 and SB 1061.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

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 provides the commission the authority to adopt any rules necessary to carry out its powers and duties under the TWC and other laws of this 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 requires 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 SB 616 and SB 1061 and TWC, §27.051 and §27.0513, which authorize ASR projects that transect the Edwards Aquifer in certain locations and now contain revised conditions for when an application for a PAA is uncontested.

Effect on the:

A.) Regulated community:

Owners and operators may pursue authorization of ASR projects that transect the Edwards Aquifer if those projects are in the area of Williamson County east of Interstate Highway 35 or in Medina County.

Companies conducting in-situ mining using Class III injection wells will not be subject to contested case hearings when applying for an amended PAA within an existing area permit, provided specific conditions are met.

B.) Public:

The public could benefit from additional ASR projects, which will provide an alternative water source for public water systems and could benefit from increased water availability during periods of drought.

The public will have fewer opportunities to contest PAA applications for the use of Class III injection wells in mining operations.

C.) Agency programs:

The Underground Injection Control Program will authorize by rule, or by permit, ASR projects that transect the Edwards Aquifer if those projects are in the area of Williamson County east of Interstate Highway 35 or in Medina County.

There will be fewer contested case hearings requiring agency participation for PAA applications provided certain specific conditions are met.

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Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking; however, a rule public hearing was held in-person and virtually during the public comment period.

Public Involvement Plan

A public involvement plan is required.

Alternative Language Requirements

Yes. Spanish.

Public comment:

The commission held a public hearing on December 8, 2025. The comment period closed on December 10, 2025. 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.

Comments, both oral and written, were received and summarized as follows:

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

Greater Edwards Aquifer Alliance (GEAA) commented that removing the opportunity to challenge PAA amendments through contested case hearings eliminates the ability to scrutinize restoration plans and mining activities. GEAA opposes efforts to rollback opportunities for contested case hearing on PAA applications. GEAA urges TCEQ to reconsider and reject the provisions of SB 616 and SB 1061 that endanger the Edwards Aquifer and eliminate public recourse. GEAA urges TCEQ to reject provisions of SB 1061 that would reduce or eliminate public involvement.

Texas Environmental Justice Advocacy Services (Tejas) commented that the amendment to §331.19 to implement SB 616 risks contamination of the Edwards Aquifer from failures in well casing, cement, sealing materials, construction flaws, geological movement or long-term degradation, and that surface water, treated effluent or other contaminants from the injection source could be introduced into the Edwards Aquifer. Tejas also commented that any damage to the Edwards Aquifer would be irreversible given the high-flow nature of a karst aquifer.

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

Significant changes from proposal:

In response to the comment from TMRA-UC, the word "maximum" is added to the provision of §331.108(b) to state "a restoration table may not be amended to exceed a respective maximum value of the permit range table." The word "maximum" is needed for consistency with TWC, §27.0513(c) because a restoration table of a PAA value cannot exceed the range listed in the permit range table. In such a case, a value within the permit range table must be used or the permittee

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must apply for and obtain an amendment of the permit range table. The provision in §331.108(b) is also consistent with existing rule in §331.107(a)(1) which provides that “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”.

Potential controversial concerns and legislative interest:

There is legislative interest regarding the implementation of SB 616. Implementation of SB 1061 could be controversial, as it would remove the opportunity for contested case hearing for Class III PAA amendment applications if certain criteria are met. Comments were received opposing implementation of both SB 616 and SB 1061.

Will this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

SB 616 directs TCEQ to adopt rules relating to ASR projects that transect a portion of the Edwards Aquifer by no later than March 1, 2026. SB 1061 does not direct TCEQ to adopt rules; however, SB 1061 amends when an application for a PAA is subject to an opportunity for a contested case hearing. This rulemaking complies with those directives and there are no alternatives to rulemaking.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: November 7, 2025

Anticipated *Texas Register* adoption publication date: March 13, 2026

Anticipated effective date: March 19, 2026

Six-month *Texas Register* filing deadline: May 7, 2026

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Attachments:

SB 616

SB 1061

cc: Chief Clerk, 2 copies
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