

WATER CODE

TITLE 2. WATER ADMINISTRATION

SUBTITLE D. WATER QUALITY CONTROL

CHAPTER 27. INJECTION WELLS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. SHORT TITLE. This chapter may be cited as the Injection Well Act.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Executive director" means the executive director of the commission.

(3) "Railroad commission" means the Railroad Commission of Texas.

(4) "Pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that makes it harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(5) "Industrial and municipal waste" means any liquid, gaseous, solid, or other waste substance, or combination of these substances, which may cause or might reasonably be expected to cause pollution of fresh water and which result from:

(A) processes of industry, manufacturing, trade, or business;

(B) development or recovery of natural resources other than oil or gas; or

(C) disposal of sewage or other wastes of cities, towns, villages, communities, water districts, and other municipal corporations.

(6) "Oil and gas waste" means waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources, waste arising out of or incidental to the underground storage of hydrocarbons other than storage in artificial tanks or containers, or waste arising out of or incidental to the operation of gasoline plants, natural gas processing plants, or pressure maintenance or repressurizing plants. The term includes but is not limited to salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste material.

(7) "Fluid" means a material or substance that flows or moves in a liquid, gaseous, solid, semi-solid, sludge, or other form or state.

(8) "Fresh water" means water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(9) "Casing" means material lining used to seal off strata at and below the earth's surface.

(10) "Disposal well" means an injection well that is used for the injection of industrial and municipal waste or oil and gas waste.

(11) "Injection well" means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well used for the injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste.

(12) "Extraction of minerals" means the use of an injection well for the development or recovery of natural resources other than resources subject to the jurisdiction of the railroad commission, and includes solution mining of minerals, in situ uranium mining, and mining of sulfur by the Frasch process, but does not include the solution mining of salt when leaching a cavern for

the storage of hydrocarbons.

(13), (14) Renumbered as (11) and (12) by Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985.

(15) "Hazardous waste" has the meaning assigned to that term by Section 361.003, Health and Safety Code.

(16) "Production well" means a well used to recover uranium through in situ solution recovery, including an injection well used to recover uranium. The term does not include a well used to inject waste.

(17) "Monitoring well" means a well that is used to measure or monitor the level, quality, quantity, or movement of subsurface water.

(18) "Area permit" means a permit that authorizes the construction and operation of production and monitoring wells used in operations and restoration associated with in situ recovery of uranium.

(19) "Anthropogenic carbon dioxide":

(A) means:

(i) carbon dioxide that would otherwise have been released into the atmosphere that has been:

(a) stripped, segregated, or divided from any other fluid stream; or

(b) captured from an emissions source, including:

(1) an advanced clean energy project as defined by Section 382.003, Health and Safety Code, or another type of electric generation facility; or

(2) an industrial source of emissions;

(ii) any incidental associated substance derived from the source material for, or from the process of capturing, carbon dioxide described by Subparagraph (i); and

(iii) any substance added to carbon dioxide described by Subparagraph (i) to enable or improve the process of injecting the carbon dioxide; and

(B) does not include naturally occurring carbon dioxide that is recaptured, recycled, and reinjected as part of

enhanced recovery operations.

(20) "Anthropogenic carbon dioxide injection well" means an injection well used to inject or transmit anthropogenic carbon dioxide into a reservoir.

(21) "Enhanced recovery operation" means the use of any process for the displacement of hydrocarbons from a reservoir other than primary recovery and includes the use of any physical, chemical, thermal, or biological process and any co-production project.

(22) "Geologic storage" means the underground storage of anthropogenic carbon dioxide in a reservoir.

(23) "Geologic storage facility" means the underground reservoir, underground equipment, injection wells, and surface buildings and equipment used or to be used for the geologic storage of anthropogenic carbon dioxide and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the geologic storage of anthropogenic carbon dioxide. The term includes any reasonable and necessary areal buffer and subsurface monitoring zones, pressure fronts, and other areas as may be necessary for this state to receive delegation of any federal underground injection control program relating to the storage of carbon dioxide. The term does not include a pipeline used to transport carbon dioxide from the facility at which the carbon dioxide is captured to the geologic storage facility. The storage of carbon dioxide incidental to or as part of enhanced recovery operations does not in itself automatically render a facility a geologic storage facility.

(24) "Oil or gas" means oil, natural gas, or gas condensate.

(25) "Reservoir" means a natural or artificially created subsurface sedimentary stratum, formation, aquifer, cavity, void, or coal seam.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 566, Sec. 14, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 14, Sec. 284(76), eff. Sept. 1,

1991; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.067, eff. Aug. 12, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 1, eff. September 1, 2009.

Sec. 27.003. POLICY AND PURPOSE. It is the policy of this state and the purpose of this chapter to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare and the operation of existing industries, taking into consideration the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy. Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 2001, 77th Leg., ch. 965, Sec. 1.27, eff. Sept. 1, 2001.

SUBCHAPTER B. JURISDICTION OF COMMISSION

Sec. 27.011. PERMIT FROM COMMISSION. Unless the activity is subject to the jurisdiction of the railroad commission or authorized by a rule of the commission, no person may continue utilizing an injection well or begin drilling an injection well or converting an existing well into an injection well to dispose of industrial and municipal waste, to extract minerals, or to inject a fluid without first obtaining a permit from the commission. Amended by Acts 1977, 65th Leg., p. 1647, ch. 644, Sec. 10. Renumbered from Sec. 22.011 and amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985.

Sec. 27.012. APPLICATION FOR PERMIT. (a) The commission shall prescribe forms for application for a permit and shall make the forms available on request without charge.

(b) Applications for hazardous and nonhazardous disposal well permits shall be processed in accordance with this chapter for the benefit of the state and the preservation of its natural resources.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985; Acts 2001, 77th Leg., ch. 347, Sec. 1, eff. May 26, 2001.

Sec. 27.013. INFORMATION REQUIRED OF APPLICANT. An applicant shall furnish any information the executive director considers necessary to discharge his duties under this chapter and the rules of the commission.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985.

Sec. 27.014. APPLICATION FEE. With each application for a disposal well permit, the commission shall collect a fee in the amount provided by and under the terms of Section [5.701](#).

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985; Acts 2001, 77th Leg., ch. 347, Sec. 1, eff. May 26, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 901 (H.B. [2654](#)), Sec. 6, eff. September 1, 2007.

Sec. 27.015. LETTER FROM RAILROAD COMMISSION. (a) A person making application to the commission for a disposal well permit under this chapter shall submit with the application a letter from the railroad commission concluding that drilling or using the disposal well and injecting industrial and municipal waste into the subsurface stratum will not endanger or injure any known oil or gas

reservoir.

(b) In a hearing on an application for a disposal well permit under this chapter, the commission may not proceed to hearing on any issues other than preliminary matters such as notice until the letter required from the railroad commission under Subsection (a) of this section is provided to the commission.

(c) The commission shall find that there will be no impairment of oil or gas mineral rights if the railroad commission has issued a letter under Subsection (a) that concludes that drilling and using the disposal well will not endanger or injure any known oil or gas reservoir.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 638, Sec. 2, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 802, Sec. 2, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 16.02, eff. Sept. 1, 1995.

Sec. 27.016. INSPECTION OF WELL LOCATION. On receiving an application for a permit, the executive director shall have an inspection made of the location of the proposed disposal well to determine the local conditions and the probable effect of the well and shall determine the requirements for the setting of casing, as provided in Sections [27.051](#), [27.055](#), and [27.056](#) of this code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.017. RECOMMENDATIONS FROM OTHER ENTITIES. (a) The executive director shall submit to the Department of State Health Services and to other persons which the commission may designate copies of every application received in proper form. These entities may make recommendations to the commission concerning any aspect of the application within 30 days.

(b) If an application is received in proper form for a permit for an injection well to dispose of industrial and municipal waste and the proposed location of the injection well is in the

territory of a groundwater conservation district, the executive director shall submit a copy of the application to the governing body of the groundwater conservation district.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 638, Sec. 3, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 11.297, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 106 (H.B. 444), Sec. 1, eff. May 21, 2011.

Sec. 27.018. HEARING ON PERMIT APPLICATION. (a) If it is considered necessary and in the public interest, the commission may hold a public hearing on the application. The commission shall hold a hearing on a permit application for an injection well to dispose of industrial and municipal waste if a hearing is requested by a local government located in the county of the proposed disposal well site or by an affected person. In this subsection, "local government" has the meaning provided for that term by Chapter 26 of this code.

(b) The commission by rule shall provide for giving notice of the opportunity to request a public hearing on a permit application. The rules for notice shall include provisions for giving notice to local governments and affected persons. The commission shall define "affected person" by rule.

(c) Before the commission begins to hear testimony in a contested case as defined by Chapter 2001, Government Code, evidence must be placed in the record to demonstrate that proper notice regarding the hearing was given to affected persons. If mailed notice to an affected person is required, the commission or other party to the hearing shall place evidence in the record that notice was mailed to the address of the affected person included in the appropriate county tax rolls at the time of mailing. For the purposes of this subsection, the affidavit of the commission employee responsible for the mailing of the notice, attesting to

the fact that notice was mailed to the address included in the tax rolls at the time of mailing, shall be prima facie evidence of proper mailing. The commission may not proceed with receipt of testimony in a contested case until there is compliance with this subsection.

(d) An application for an injection well to dispose of hazardous waste shall be subject to the pre-application local review process established by Section 361.063, Health and Safety Code, and to the requirements of Section 361.0791, Health and Safety Code.

(e) In addition to the requirements of Subsection (c), before any testimony is heard in a contested case regarding an application for a permit for an injection well to dispose of industrial and municipal waste that is proposed to be located in the territory of a groundwater conservation district, the record of the proceeding must include evidence that:

(1) a copy of each draft permit proposed by the executive director was provided to the governing body of the groundwater conservation district; and

(2) notice of the contested case hearing was mailed to the governing body of the groundwater conservation district.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 566, Sec. 15, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 795, Sec. 1.115, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 638, Sec. 4, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(77), eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 296, Sec. 1.22, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 106 (H.B. 444), Sec. 2, eff. May 21, 2011.

Sec. 27.019. RULES, ETC. (a) The commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter.

(b) Copies of any rules under this chapter proposed by the

commission shall before their adoption be sent to the railroad commission, the Texas Department of Health, and any other persons the commission may designate. Any agency or person to whom the copies of proposed rules are sent may submit comments and recommendations to the commission and shall have reasonable time to do so as the commission may prescribe.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.116, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.298, eff. Sept. 1, 1995.

Sec. 27.020. MINING OF SULFUR. The commission is authorized to develop a regulatory program with respect to the injection of fluid associated with the mining of sulfur by the Frasch process in accordance with the provisions of this chapter. The commission may not impose any requirements more stringent than those promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, 42 U.S.C. 300h et seq., as amended, unless the commission determines that more stringent regulations are necessary to protect human health or the environment.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.116, eff. Sept. 1, 1985.

Sec. 27.021. PERMIT FOR DISPOSAL OF BRINE FROM DESALINATION OPERATIONS OR OF DRINKING WATER TREATMENT RESIDUALS IN CLASS I INJECTION WELLS. (a) The commission may issue a permit to dispose of brine produced by a desalination operation or of drinking water treatment residuals in a Class I injection well if the applicant for the permit meets all the statutory and regulatory requirements for the issuance of a permit for a Class I injection well.

(a-1) A permit issued under this section may authorize the disposal of water treatment residuals produced by the desalination of seawater.

(b) The commission by rule shall provide for public notice

and comment on an application for a permit authorized by this section. Notwithstanding Section 27.018, an application for a permit authorized by this section is not subject to the hearing requirements of Chapter 2001, Government Code.

Added by Acts 2003, 78th Leg., ch. 1118, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 901 (H.B. 2654), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 901 (H.B. 2654), Sec. 2, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 829 (H.B. 4097), Sec. 6, eff. June 17, 2015.

Sec. 27.022. JURISDICTION OVER CARBON DIOXIDE INJECTION. The commission has jurisdiction over the injection of carbon dioxide produced by a clean coal project, to the extent authorized by federal law, into a zone that is below the base of usable quality water and that is not productive of oil, gas, or geothermal resources by a Class II injection well, or by a Class I injection well if required by federal law.

Added by Acts 2005, 79th Leg., Ch. 1097 (H.B. 2201), Sec. 9, eff. June 18, 2005.

Sec. 27.023. JURISDICTION OVER IN SITU URANIUM APPLICATION DEVELOPMENT AND OPERATIONS. (a) The commission has exclusive jurisdiction over and shall regulate wells used during the development of permit applications to obtain required premining geologic, hydrologic, and water quality information.

(b) The commission shall require a well described by Subsection (a) to be registered with the commission. A well described by Subsection (a) is not subject to the commission's permitting, notice, and hearing requirements.

(c) If a well described by Subsection (a) is included in an area permit issued by the commission:

- (1) the registration status of the well ceases; and
- (2) the well is subject to all rules applicable to the area permit, including notice and hearing requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 2, eff. September 1, 2007.

Sec. 27.024. SHARING OF GEOLOGIC, HYDROLOGIC, AND WATER QUALITY DATA. (a) After a person developing an application for an area permit for an area located in a groundwater conservation district has identified a permit boundary, the person shall provide to that district:

(1) information regarding wells encountered by that person during the development of the area permit application that are not recorded in the public record;

(2) a map showing the locations of wells that are located within one-quarter mile of the location for the proposed permit and that are recorded in the public record;

(3) premining water quality information collected from wells described by Section 27.023(a);

(4) on a monthly basis, the amount of water produced from the wells described by Section 27.023(a); and

(5) a record of strata as described by Section 27.053, except confidential information described by Section 131.048, Natural Resources Code.

(b) A person may take not more than 90 days after the person receives the final information described by Subsection (a) to perform standard quality control and quality assurance procedures before the person submits the information to the groundwater conservation district.

Added by Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 2, eff. September 1, 2007.

Sec. 27.025. GENERAL PERMIT AUTHORIZING USE OF CLASS I INJECTION WELL TO INJECT NONHAZARDOUS BRINE FROM DESALINATION OPERATIONS OR NONHAZARDOUS DRINKING WATER TREATMENT RESIDUALS. (a) The commission may issue a general permit authorizing the use of a Class I injection well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals if the commission determines that the injection well and injection activities are more appropriately regulated

under a general permit than under an individual permit based on findings that:

(1) the general permit has been drafted to ensure that it can be readily enforced and that the commission can adequately monitor compliance with the terms of the general permit; and

(2) the general permit will contain proper safeguards to protect ground and surface fresh water from pollution.

(a-1) A general permit issued under this section may authorize an injection well for the disposal of concentrate produced by the desalination of seawater. The general permit must include any requirements necessary to maintain delegation of the federal underground injection control program administered by the commission.

(b) The commission shall publish notice of a proposed general permit in one or more newspapers of statewide or regional circulation and in the Texas Register. The notice must include an invitation for written comments by the public to the commission regarding the proposed general permit and shall be published not later than the 30th day before the date the commission adopts the general permit. The commission by rule may require additional notice to be given.

(c) The commission may hold a public meeting to provide an additional opportunity for public comment. The commission shall give notice of the public meeting under this subsection by publication in the Texas Register not later than the 30th day before the date of the meeting.

(d) The commission shall issue a written response to comments on the general permit at the same time the commission issues or denies the permit. The response to comments is available to the public and shall be mailed to each person who made a comment.

(e) A general permit may provide that an owner of a Class I injection well may obtain authorization to use the well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals under a general permit by submitting to the commission written notice of intent to be covered by the general permit. The commission by rule shall establish the requirements for the notice of intent, including the

information that an owner of an injection well subject to a general permit must submit to authorize the use of the well under the general permit. A general permit may authorize the use of an injection well under the general permit on filing a complete and accurate notice of intent, including all information required by the commission's rules to be submitted, or it may specify a date or period of time after the commission receives the notice of intent, including the required information, on which the use of an injection well is authorized unless the executive director before that time notifies the owner that it is not eligible under the general permit.

(f) Authorization for the use of an injection well under a general permit does not confer a vested right. After written notice to the owner of an injection well, the executive director may suspend authorization for the use of the well under a general permit and may require the owner to obtain authorization for the use of the well under an individual permit.

(g) Notwithstanding the other provisions of this chapter, the commission, after hearing, shall deny or suspend authorization for the use of an injection well under a general permit if the commission determines that the owner's compliance history is classified as unsatisfactory according to commission standards under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to the requirements relating to a contested case hearing under Chapter 2001, Government Code.

(h) A general permit may be issued for a term not to exceed 10 years. After notice and comment as provided by Subsections (b)-(d), a general permit may be amended, revoked, or canceled by the commission or renewed by the commission for an additional term or terms not to exceed 10 years each. A general permit remains in effect until amended, revoked, or canceled by the commission or, unless renewed by the commission, until expired. If before a general permit expires the commission proposes to renew that general permit, that general permit remains in effect until the date on which the commission takes final action on the proposed renewal.

(i) The commission may add or delete requirements for a general permit through a renewal or amendment process. The commission shall provide a reasonable time to allow an owner of an injection well to make the changes necessary to comply with the additional requirements.

(j) The commission may impose a fee for the submission of a notice of intent to be covered by the general permit. The fee must be in the same amount as a fee collected under Section 27.014.

(k) The issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit or the authorization for the use of an injection well under a general permit is not subject to the requirements relating to a contested case hearing under Chapter 2001, Government Code.

(l) The use or disposal of radioactive material under this section is subject to the applicable requirements of Chapter 401, Health and Safety Code.

(m) The commission may adopt rules as necessary to implement and administer this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 901 (H.B. 2654), Sec. 3, eff. September 1, 2007.

Renumbered from Water Code, Section 27.023 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(112), eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. 2694), Sec. 4.20, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 829 (H.B. 4097), Sec. 7, eff. June 17, 2015.

Sec. 27.026. DUAL AUTHORIZATION OF INJECTION WELLS TO INJECT NONHAZARDOUS BRINE FROM DESALINATION OPERATIONS OR NONHAZARDOUS DRINKING WATER TREATMENT RESIDUALS. (a) The commission may authorize by individual permit, by general permit, or by rule a Class V injection well for the injection of nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals into a Class II injection well that is also permitted by the railroad commission under Subchapter C.

(b) The commission and railroad commission by rule shall enter or amend a memorandum of understanding to implement and administer this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 297 (H.B. 2230), Sec. 1, eff. September 1, 2015.

SUBCHAPTER C. OIL AND GAS WASTE; INJECTION WELLS

Sec. 27.031. PERMIT FROM RAILROAD COMMISSION. No person may continue using a disposal well or begin drilling a disposal well or converting an existing well into a disposal well to dispose of oil and gas waste without first obtaining a permit from the railroad commission.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.032. INFORMATION REQUIRED OF APPLICANT. The railroad commission shall require an applicant to furnish any information the railroad commission considers necessary to discharge its duties under this chapter.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.0321. APPLICATION FEE. (a) With each application for an oil and gas waste disposal well permit, the applicant shall submit to the railroad commission a nonrefundable fee of \$100.

(b) The fee collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067, Natural Resources Code.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 71, eff. Sept. 1, 1985.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 45, eff. September 1, 2015.

Sec. 27.033. LETTER OF DETERMINATION. A person making

application to the railroad commission for a permit under this chapter shall submit with the application a letter of determination from the railroad commission stating that drilling and using the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. [2694](#)), Sec. 2.05, eff. September 1, 2011.

Sec. 27.034. RAILROAD COMMISSION RULES, ETC. (a) The railroad commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. The rules for notice shall include provisions for giving notice to local governments and affected persons. The railroad commission shall define "affected person" by rule.

(b) Copies of any rules under this chapter proposed by the railroad commission shall, before their adoption, be sent to the commission, the Texas Department of Health, and any other persons the railroad commission may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the railroad commission and shall have reasonable time to do so as the railroad commission may prescribe.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.117, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.299, eff. Sept. 1, 1995.

Sec. 27.035. JURISDICTION OVER IN SITU RECOVERY OF TAR SANDS. (a) The railroad commission has jurisdiction over the in

situ recovery of tar sands and may issue permits for injection wells used for the in situ recovery of tar sands.

(b) A person may not begin to drill an injection well to be used in the in situ recovery of tar sands unless that person has a valid permit for the well issued by the railroad commission under this chapter.

(c) The railroad commission shall adopt rules that are necessary to administer and regulate the in situ recovery of tar sands.

(d) For purposes of regulation by the railroad commission, an injection well for the in situ recovery of tar sands is designated as a Class V well under the underground injection control program administered by the railroad commission.

Added by Acts 1983, 68th Leg., p. 754, ch. 184, Sec. 1, eff. Sept. 1, 1983.

Text of section as added by Acts 1985, 69th Leg., ch. 795, Sec.

5.013

Sec. 27.036. JURISDICTION OVER BRINE MINING. (a) The railroad commission has jurisdiction over brine mining and may issue permits for injection wells used for brine mining.

(b) A person may not begin to drill an injection well to be used for brine mining unless that person has a valid permit for the well issued by the railroad commission under this chapter.

(c) The railroad commission shall adopt rules that are necessary to administer and regulate brine mining.

(d) For purposes of regulation by the railroad commission, an injection well for brine mining is designated as a Class V well under the underground injection control program administered by the railroad commission.

Added by Acts 1985, 69th Leg., ch. 795, Sec. 5.013, eff. Sept. 1, 1985.

Text of section as added by Acts 1985, 69th Leg., ch. 921, Sec. 2

Sec. 27.036. JURISDICTION OVER BRINE MINING. (a) The railroad commission has jurisdiction over brine mining and may issue permits for injection wells used for brine mining.

(b) A person may not begin to drill an injection well to be used for brine mining unless that person has a valid permit for the well issued by the railroad commission under this chapter.

(c) The railroad commission shall adopt rules that are necessary to administer and regulate brine mining.

(d) For purposes of regulation by the railroad commission, an injection well for brine mining is designated as a Class III well under the underground injection control program administered by the railroad commission.

(e) This section takes effect September 1, 1985.

(f) This section does not invalidate any permit for an injection well used for brine mining that was issued by the Texas Water Commission before the effective date of this section. Within 90 days after the effective date of this section, the Railroad Commission of Texas shall issue a substitute permit under the name and authority of the railroad commission to each person who on the effective date of this section holds a valid permit issued by the Texas Water Commission for an injection well used for brine mining.

(g) Application for injection well permits covering brine mining submitted to the Texas Water Commission before the effective date of this section for which permits have not been issued by the commission shall be transmitted to the railroad commission.

Added by Acts 1985, 69th Leg., ch. 921, Sec. 2, eff. Sept. 1, 1985.
Amended by Acts 1987, 70th Leg., ch. 977, Sec. 32, eff. June 19, 1987.

SUBCHAPTER C-1. GEOLOGIC STORAGE AND ASSOCIATED INJECTION OF ANTHROPOGENIC CARBON DIOXIDE

Sec. 27.041. JURISDICTION. (a) Except as provided by Subsection (b), the railroad commission has jurisdiction over the geologic storage of carbon dioxide in, and the injection of carbon dioxide into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir.

(b) The jurisdiction of the railroad commission over the geologic storage of carbon dioxide in, and the injection of carbon

dioxide into, a saline formation described by Subsection (a) is subject to the review of the legislature based on the recommendations made in the preliminary report described by Section 10, S.B. No. 1387, Acts of the 81st Legislature, Regular Session, 2009.

(c) Except as provided by Subsection (b), the railroad commission has jurisdiction over a well used for the purpose provided by Subsection (a) regardless of whether the well was initially completed for that purpose or was initially completed for another purpose and is converted to the purpose provided by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.042. APPLICABILITY. This subchapter does not apply to the injection of fluid through the use of a Class II injection well as defined by 40 C.F.R. Section 144.6(b) for the primary purpose of enhanced recovery operations.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.043. PERMIT FROM RAILROAD COMMISSION. A person may not begin drilling or operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility regulated under this subchapter without first obtaining the necessary permits from the railroad commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.044. INFORMATION REQUIRED OF APPLICANT. The railroad commission shall require an applicant to provide any information the railroad commission considers necessary to discharge its duties under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.045. FEES. (a) The railroad commission may impose

fees to cover the cost of:

(1) permitting, monitoring, and inspecting anthropogenic carbon dioxide injection wells for geologic storage and geologic storage facilities; and

(2) enforcing and implementing this subchapter and rules adopted by the railroad commission under this subchapter.

(b) Fees collected by the railroad commission under this section shall be deposited to the credit of the anthropogenic carbon dioxide storage trust fund established under Section [121.003](#), Natural Resources Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. [1387](#)), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.002(16), eff. September 1, 2011.

Sec. 27.046. LETTER OF DETERMINATION. (a) The railroad commission may not issue a permit under rules adopted under this subchapter until the railroad commission issues to the applicant for the permit a letter of determination stating that drilling and operating the anthropogenic carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand.

(b) To make the determination required by Subsection (a), the railroad commission shall review:

(1) the area of review and corrective action plans;

(2) any subsurface monitoring plans required during injection or post injection;

(3) any postinjection site care plans; and

(4) any other elements of the application reasonably required in order for the railroad commission to make the determination required by Subsection (a).

(c) The railroad commission shall adopt rules to implement and administer this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. [1387](#)), Sec. 2,

eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. 2694), Sec. 2.06, eff. September 1, 2011.

Sec. 27.047. RULES. The railroad commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this subchapter, including rules for:

(1) the geologic storage and associated injection of anthropogenic carbon dioxide, including:

- (A) geologic site characterization;
- (B) area of review and corrective action;
- (C) well construction;
- (D) operation;
- (E) mechanical integrity testing;
- (F) monitoring;
- (G) well plugging;
- (H) postinjection site care;
- (I) site closure; and
- (J) long-term stewardship;

(2) the enforcement of this subchapter and rules adopted by the railroad commission under this subchapter; and

(3) the collection and administration of:

- (A) fees imposed under Section 27.045; and
- (B) penalties imposed for a violation of this subchapter or rules adopted by the railroad commission under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.048. CONSISTENCY WITH AND IMPLEMENTATION OF FEDERAL REQUIREMENTS. (a) Rules adopted by the railroad commission under this subchapter must be consistent with applicable rules or regulations adopted by the United States Environmental Protection Agency or another federal agency governing the injection and geologic storage of anthropogenic carbon dioxide.

(b) If rules or regulations adopted to govern the geologic storage and associated injection of anthropogenic carbon dioxide under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.) or another federal statute allow this state to seek primary enforcement authority under the underground injection control program:

(1) the railroad commission shall seek primacy to administer and enforce the program subject to the jurisdiction granted under this subchapter; and

(2) this state shall seek primacy to administer and enforce the program for the geologic storage of carbon dioxide in, and the injection of carbon dioxide into, a saline formation.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.049. MEMORANDUM OF UNDERSTANDING. The commission and the railroad commission, as necessary to comply with this subchapter, by rule shall:

(1) amend the memorandum of understanding recorded in 16 T.A.C. Section 3.30; or

(2) enter into a new memorandum of understanding.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.050. FINANCIAL RESPONSIBILITY. (a) A person to whom a permit is issued under this subchapter must provide to the railroad commission annually evidence of financial responsibility that is satisfactory to the railroad commission.

(b) In determining whether the person is financially responsible, the railroad commission shall rely on:

(1) the person's most recent quarterly report filed with the United States Securities and Exchange Commission under Section 13 or 15(d), Securities Exchange Act of 1934 (15 U.S.C. Section 78m or 78o(d)); or

(2) if the person is not required to file with the United States Securities and Exchange Commission a report described by Subdivision (1), the person's most recent audited financial

statement.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

SUBCHAPTER D. ISSUANCE OF PERMITS: TERMS AND CONDITIONS

Sec. 27.051. ISSUANCE OF PERMIT. (a) The commission may grant an application in whole or part and may issue the permit if it finds:

(1) that the use or installation of the injection well is in the public interest;

(2) that no existing rights, including, but not limited to, mineral rights, will be impaired;

(3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution;

(4) that the applicant has made a satisfactory showing of financial responsibility if required by Section 27.073 of this code;

(5) that the applicant has provided for the proper operation of the proposed hazardous waste injection well;

(6) that the applicant for a hazardous waste injection well not located in an area of industrial land use has made a reasonable effort to ensure that the burden, if any, imposed by the proposed hazardous waste injection well on local law enforcement, emergency medical or fire-fighting personnel, or public roadways, will be reasonably minimized or mitigated; and

(7) that the applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the hazardous waste injection well will be constructed.

(b) The railroad commission may grant an application for a permit under Subchapter C in whole or part and may issue the permit if it finds:

(1) that the use or installation of the injection well is in the public interest;

(2) that the use or installation of the injection well

will not endanger or injure any oil, gas, or other mineral formation;

(3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution; and

(4) that the applicant has made a satisfactory showing of financial responsibility if required by Section 27.073.

(b-1) The railroad commission may issue a permit under Subchapter C-1 if it finds:

(1) that the injection and geologic storage of anthropogenic carbon dioxide will not endanger or injure any oil, gas, or other mineral formation;

(2) that, with proper safeguards, both ground and surface fresh water can be adequately protected from carbon dioxide migration or displaced formation fluids;

(3) that the injection of anthropogenic carbon dioxide will not endanger or injure human health and safety;

(4) that the reservoir into which the anthropogenic carbon dioxide is injected is suitable for or capable of being made suitable for protecting against the escape or migration of anthropogenic carbon dioxide from the reservoir; and

(5) that the applicant for the permit meets all of the other statutory and regulatory requirements for the issuance of the permit.

(c) In the permit, the commission or railroad commission shall impose terms and conditions reasonably necessary to protect fresh water from pollution, including the necessary casing.

(d) The commission, in determining if the use or installation of an injection well is in the public interest under Subsection (a)(1), shall consider, but shall not be limited to the consideration of:

(1) compliance history of the applicant and related entities under the method for using compliance history developed by the commission under Section 5.754 and in accordance with the provisions of Subsection (e);

(2) whether there is a practical, economic, and feasible alternative to an injection well reasonably available; and

(3) if the injection well will be used for the disposal

of hazardous waste, whether the applicant will maintain sufficient public liability insurance for bodily injury and property damage to third parties that is caused by sudden and non-sudden accidents or will otherwise demonstrate financial responsibility in a manner adopted by the commission in lieu of public liability insurance. A liability insurance policy which satisfies the policy limits required by the hazardous waste management regulations of the commission for the applicant's proposed pre-injection facilities shall be deemed "sufficient" under this subdivision if the policy:

(A) covers the injection well; and

(B) is issued by a company that is authorized to do business and to write that kind of insurance in this state and is solvent and not currently under supervision or in conservatorship or receivership in this state or any other state.

Text of subsec. (e) as amended by Acts 2001, 77th Leg., ch. 347,
Sec. 2

(e) The commission shall establish a procedure for the preparation of comprehensive summaries of the applicant's compliance history, including the compliance history of any corporation or business entity managed, owned, or otherwise closely related to the applicant. The summaries shall be made available to the applicant and any interested person after the commission has completed its technical review of the permit application and prior to the promulgation of the public notice relating to the issuance of the permit. Evidence of compliance or noncompliance by an applicant for an injection well permit with environmental statutes and the rules adopted or orders or permits issued by the commission may be offered by any party at a hearing on the applicant's application and admitted into evidence subject to applicable rules of evidence. Evidence of the compliance history of an applicant for an injection well permit may be offered by the executive director at a hearing on the application and admitted into evidence subject to the rules of evidence. All evidence admitted, including compliance history, shall be considered by the commission in determining whether to issue, amend, extend or renew a permit. If the

commission concludes that the applicant's compliance history is unacceptable, the commission shall deny the permit.

Text of subsec. (e) as amended by Acts 2001, 77th Leg., ch. 965,
Sec. 16.08

(e) Consistent with Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections, the commission shall establish a procedure for preparing summaries of the applicant's compliance history. The summaries shall be made available to the applicant and any interested person after the commission has completed its technical review of the permit application and prior to the promulgation of the public notice relating to the issuance of the permit. Evidence of compliance or noncompliance by an applicant for an injection well for the disposal of hazardous waste with the rules adopted or orders or permits issued by the commission under this chapter may be offered by any party at a hearing on the applicant's application and admitted into evidence subject to applicable rules of evidence. In accordance with this subsection and Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections, evidence of the compliance history of an applicant for an injection well may be offered at a hearing on the application and may be admitted into evidence, subject to the rules of evidence. All evidence admitted, including compliance history, shall be considered by the commission in determining whether to issue, amend, extend or renew a permit.

Text of subsec. (e) as amended by Acts 2001, 77th Leg., ch. 1161,
Sec. 4

(e) The commission shall establish a procedure by rule for its preparation of compliance summaries relating to the history of compliance and noncompliance by the applicant with the rules adopted or orders or permits issued by the commission under this chapter for any injection well for which a permit has been issued under this chapter. A compliance summary must include as evidence

of compliance information regarding the applicant's implementation of an environmental management system at the facility for which an authorization is sought. The compliance summaries shall be made available to the applicant and any interested person after the commission has completed its technical review of the permit application and prior to the promulgation of the public notice relating to the issuance of the permit. Evidence of compliance or noncompliance by an applicant for an injection well for the disposal of hazardous waste with the rules adopted or orders or permits issued by the commission under this chapter may be offered by any party at a hearing on the applicant's application and admitted into evidence subject to applicable rules of evidence. All evidence admitted, including compliance history, shall be considered by the commission in determining whether to issue, amend, extend or renew a permit. In this subsection, "environmental management system" has the meaning assigned by Section 5.127.

(f) In the issuance of a permit for a hazardous waste injection well into a salt dome, the commission shall consider the location of any geologic fault in the salt dome in the immediate proximity of the injection well bore, the presence of an underground water aquifer, and the presence of sulfur mines or oil and gas wells in the area.

(g)(1) The commission may not issue a permit for a hazardous waste injection well in a solution-mined salt dome cavern unless the United States Environmental Protection Agency and the commission determine that sufficient rules are in place to regulate that activity.

(2) Before issuing a permit for a hazardous waste injection well in a solution-mined salt dome cavern, the commission by order must find that there is an urgent public necessity for the hazardous waste injection well. The commission, in determining whether an urgent public necessity exists for the permitting of the hazardous waste injection well in a solution-mined salt dome cavern, must find that:

(A) the injection well will be designed, constructed, and operated in a manner that provides at least the

same degree of safety as required of other currently operating hazardous waste disposal technologies;

(B) consistent with the need and desire to manage within the state hazardous wastes generated in the state, there is a substantial or obvious public need for additional hazardous waste disposal capacity and the hazardous waste injection well will contribute additional capacity toward servicing that need;

(C) the injection well will be constructed and operated in a manner so as to safeguard public health and welfare and protect physical property and the environment;

(D) the applicant has demonstrated that groundwater and surface waters, including public water supplies, will be protected from the release of hazardous waste from the salt-dome waste containment cavern; and

(E) any other criteria required by the commission to satisfy that the test of urgency has been met.

(h) In determining whether the use or installation of an injection well is in the public interest under Subsection (a)(1), the commission shall consider the compliance history of the applicant in accordance with Subsection (e) and Sections [5.753](#) and [5.754](#) and rules adopted and procedures developed under those sections.

(i) The commission may not authorize by rule or permit an injection well that transects or terminates in the Edwards Aquifer. The commission by rule may authorize injection of groundwater withdrawn from the Edwards Aquifer, or injections of storm water, flood water, or groundwater through improved sinkholes or caves located in karst topographic areas. For purposes of this subsection, "Edwards Aquifer" has the meaning assigned by Section [26.046\(a\)](#).

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1983, 68th Leg., p. 5265, ch. 967, Sec. 14, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 566, Sec. 16, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 638, Sec. 5, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 977, Sec. 33, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 1234, Sec. 1, eff. Aug. 28, 1989; Acts 1991,

72nd Leg., ch. 296, Sec. 1.23, eff. June 7, 1991; Acts 2001, 77th Leg., ch. 347, Sec. 2, eff. May 26, 2001; Acts 2001, 77th Leg., ch. 965, Sec. 16.08, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 966, Sec. 11.03(a), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1161, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. [1387](#)), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(66), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. [2694](#)), Sec. 4.21, eff. September 1, 2011.

Sec. 27.0511. CONDITIONS OF CERTAIN PERMITS. (a) If the railroad commission receives an application for an injection well permit for a well that is to be used for enhanced recovery of oil, before a permit for the well may be granted, the railroad commission shall require the applicant for the permit to provide written information relating to the material that the applicant plans to inject into the well for enhanced recovery purposes and to other material available to the applicant that might be used to inject into the well for enhanced recovery and shall make the determination required by Subsection (c) of this section.

(b) At the time the railroad commission receives an application under Subsection (a) of this section, it shall give notice to the commission that an application covered by this section is being considered and shall supply the commission with a copy of the application and a request for commission comment on the application. On receiving the information requested under Subsection (a) of this section, the railroad commission shall notify the commission that the information has been received and make the information available for the commission's inspection. The commission shall examine the application and information. Before the railroad commission considers the application, the commission shall submit to the railroad commission written comments regarding the use of fresh water under the permit and any problems that the commission anticipates will result from the use of fresh

water under the permit. However, if the commission does not submit its written comments within 30 days after the request, the railroad commission may consider the application without the commission comments.

(c) On receiving the information required by Subsection (a) of this section, the railroad commission shall consider the information at the same time it considers whether or not to grant the permit, and if the applicant proposes to inject fresh water into the injection well for enhanced recovery, the railroad commission shall consider whether or not there is some other solid, liquid, or gaseous substance that is available to the applicant and that is economically and technically feasible for the applicant to use for enhanced recovery purposes.

(d) If the railroad commission finds that there is a solid, liquid, or gaseous substance other than fresh water available and economically and technically feasible for use in enhanced recovery under the permit, the railroad commission shall include as a condition of the permit, if granted, that the permittee use the other substance found to be available and economically and technically feasible and that the applicant not use fresh water or that the applicant use fresh water only to the extent specifically stated in the permit.

(e) This section does not apply to injection well permits that are in effect on September 1, 1983. If fresh water is being injected into an injection well in an enhanced recovery program that is in effect on September 1, 1983, and after that time, another substance or material is used for injection for a period of time, the injection well permit is not canceled, and a new permit under this chapter is not required if the operator plans at a later date to resume the use of fresh water for injection in that enhanced recovery program.

(f) Injection well permits for wells that are used for enhanced recovery remain in force until canceled by the railroad commission.

(g) Except as provided by Subsection (h), a person may not continue utilizing or begin utilizing industrial or municipal waste as an injection fluid for enhanced recovery purposes without first

obtaining a permit from the commission.

(h) The railroad commission may authorize a person to utilize nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals as an injection fluid for enhanced recovery purposes without first obtaining a permit from the commission. The use or disposal of radioactive material under this subsection is subject to the applicable requirements of Chapter 401, Health and Safety Code.

Added by Acts 1983, 68th Leg., p. 5392, ch. 996, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.118, 5.006, eff. Sept. 1, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 901 (H.B. 2654), Sec. 4, eff. September 1, 2007.

Sec. 27.0513. AREA PERMITS AND PRODUCTION AREAS FOR URANIUM MINING. (a) The commission may issue a permit pursuant to Section 27.011 that authorizes the construction and operation of two or more similar injection wells within a specified area for mining of uranium. An application for a new permit issued pursuant to Section 27.011, a major amendment of such a permit, or a renewal of such a permit for mining of uranium is subject to the public notice requirements and opportunity for contested case hearing provided under Section 27.018. A new, amended, or renewed permit must incorporate a table of pre-mining low and high values representing the range of groundwater quality within the permit boundary and area of review, as provided by commission rule, for each water quality parameter used to measure groundwater restoration in a commission-required restoration table. The values in the permit range table must be established from pre-mining baseline wells and all available wells within the area of review, including those in the existing or proposed permit boundary and any existing or proposed production areas. Wells used for that purpose are limited to those that have documented completion depths and screened intervals that correspond to a uranium production zone aquifer identified within the permit boundary.

(b) For a permit for mining of uranium issued on or after

September 1, 2007, pursuant to Section 27.011, the term of the permit to authorize injection for recovery of uranium shall be 10 years. The holder of a permit for mining of uranium issued by the commission before September 1, 2007, pursuant to Section 27.011, must submit an application to the commission before September 1, 2012, for renewal of the permit to authorize construction and operation of injection wells for mining of uranium. Authority to construct or operate injection wells for recovery of uranium under a permit issued before September 1, 2007, pursuant to Section 27.011, expires on September 1, 2012, if an application for renewal of the permit is not submitted to the commission before September 1, 2012. Expiration of authority under this subsection does not relieve the permit holder from obligations under the permit or applicable rules, including obligations to restore groundwater and to plug and abandon wells in accordance with the requirements of the permit and applicable rules.

(c) The commission may issue a holder of a permit issued pursuant to Section 27.011 for mining of uranium an authorization that allows the permit holder to conduct mining and restoration activities in production zones within the boundary established in the permit. The commission by rule shall establish application requirements, technical requirements, including the methods for determining restoration table values, and procedural requirements for any authorization. If a restoration table value for a proposed or amended authorization exceeds the range listed in the permit range table such that it falls above the upper limit of the range, the value within the permit range table must be used or a major amendment to the permit range table must be obtained, subject to an opportunity for a contested case hearing or the hearing requirements of Chapter 2001, Government Code.

(d) Notwithstanding Sections 5.551, 5.556, 27.011, and 27.018, an application for an authorization is an uncontested matter not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, if:

(1) the authorization is for a production zone located within the boundary of a permit that incorporates a range table of groundwater quality restoration values used to measure groundwater

restoration by the commission;

(2) the application includes groundwater quality restoration values falling at or below the upper limit of the range established in Subdivision (1); and

(3) the authorization is for a production zone located within the boundary of a permit that incorporates groundwater baseline characteristics of the wells for the application required by commission rule.

(e) The range of restoration values in the range table used for Subsection (d) must be established from baseline wells and all available well sample data collected in the permit boundary and within one-quarter mile of the boundary of the production zone.

(f) As an alternative to Subsection (d), the first application for an authorization issued under Subsection (c) for a production zone located within the boundary of a permit issued under Subsection (a) is subject to the requirements of Chapter 2001, Government Code, relating to an opportunity for a contested case hearing. The first authorization application must contain the following provisions:

(1) a baseline water quality table with a range of groundwater quality restoration values used to measure groundwater restoration by the commission that complies with the same range requirements as a permit described by Subsection (a);

(2) groundwater quality restoration values falling at or below the upper limit of the range established in Subdivision (1); and

(3) groundwater baseline characteristics of the wells for the application required by commission rule.

(g) If a first authorization has previously been issued for a production zone located within the boundary of a permit, that authorization is effective for the purposes of this subsection. A subsequent authorization application for a production zone that is located within the same permit boundary as a production zone for which an authorization was issued under Subsection (f) is not subject to an opportunity for a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the subsequent application would authorize the following:

(1) the use of groundwater from a well that was not previously approved in the permit for supplemental production water;

(2) expansion of the permit boundary; or

(3) application monitoring well locations that exceed well spacing requirements or reduce the number of wells required by commission rule.

Added by Acts 2007, 80th Leg., R.S., Ch. 1332 (S.B. 1604), Sec. 32, eff. June 15, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 897 (H.B. 1079), Sec. 1, eff. June 14, 2013.

Sec. 27.0515. FACILITIES REQUIRED TO OBTAIN FEDERAL APPROVAL. For a commercial hazardous waste disposal well facility originally permitted by the commission after June 7, 1991, and which is required to obtain from the United States Environmental Protection Agency a variance from the federal land disposal restrictions before injecting permitted hazardous wastes:

(1) a permit or other authorization issued to the facility under this chapter is not subject to cancellation, amendment, modification, revocation, or denial of renewal because the permit holder has not commenced construction or operation of the facility; and

(2) the fixed term of each permit or other authorization issued to the facility under this chapter shall commence on the date physical construction of the authorized waste management facility begins.

Added by Acts 1997, 75th Leg., ch. 1211, Sec. 3, eff. Sept. 1, 1997.

Sec. 27.0516. PERMITS FOR INJECTION WELLS THAT TRANSECT OR TERMINATE IN PORTION OF EDWARDS AQUIFER WITHIN EXTERNAL BOUNDARIES OF BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT. (a) In this section:

(1) "Edwards Aquifer" means that portion of an arcuate belt of porous, waterbearing 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.

(2) "Engineered aquifer storage and recovery facility" means 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.

(3) "Fresh water" means surface water or groundwater, without regard to whether the water has been physically, chemically, or biologically altered, that:

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

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

(4) "Saline portion of the Edwards Aquifer" means the portion of the Edwards Aquifer that contains only groundwater with a total dissolved solids concentration of more than 1,000 milligrams per liter.

(b) This section 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 that district's territory or the territory of the Edwards Aquifer Authority.

(c) This section prevails over Section [27.051\(i\)](#) to the extent of a conflict.

(d) Except as otherwise provided by this section, the commission by rule or permit may not authorize an injection well that transects or terminates in the Edwards Aquifer.

(e) The commission by rule may authorize:

(1) 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

(2) 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.

(f) The commission by general permit may authorize:

(1) an activity described by Subsection (e);

(2) 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:

(A) concentrate from a desalination facility; or

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

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

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

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

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

(A) aquifer remediation;

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

(C) 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.

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

(h) Rules adopted or a general permit issued under this section:

(1) must require that an injection well authorized by the rules or permit be monitored by means of:

(A) a monitoring well operated by the injection well owner if the commission determines that there is an underground source of drinking water in the area of review that is potentially affected by the injection well; or

(B) if Paragraph (A) does not apply, a monitoring well 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;

(2) must ensure that an authorized activity will not result in the waste or pollution of fresh water;

(3) may not authorize an injection well under Subsection (f)(2) or (3) unless the well is initially associated with a small-scale research project designed to evaluate the long-term feasibility and safety of:

(A) the injection of concentrate from a desalination facility; or

(B) an aquifer storage and recovery project;

(4) must require any authorization granted to be renewed at least as frequently as every 10 years;

(5) must require that an injection well authorized under Subsection (f)(2)(A) or (3)(A) be monitored on an ongoing basis by or in coordination with the well owner and that the well owner file monitoring reports with the commission at least as frequently as every three months; and

(6) must ensure that any injection well authorized for the purpose of injecting concentrate from a desalination facility does not transect the fresh water portion of the Edwards Aquifer.

(i) A monitoring well described by Subsection (h)(1), if properly sited and completed, may also be used for monitoring a saline water production well.

(j) A project is considered to be a small-scale research

project for purposes of Subsection (h)(3) if the project consists of one production well and one injection well that are operated on a limited scale to provide requisite scientific and engineering information. Such a project is considered to be a small-scale research project regardless of the borehole size of the wells or the equipment associated with the wells or whether the wells are subsequently incorporated into a larger-scale commercial facility.

(k) Notwithstanding Subsection (h)(3), a general permit may authorize the owner of an injection well authorized under Subsection (f)(2) or (3) to continue operating the well for the purpose of implementing the desalination or engineered aquifer storage and recovery project following completion of the small-scale research project, provided that:

(1) the injection well owner timely submits the information collected as part of the research project, including monitoring reports and information regarding the environmental impact of the well, to the commission;

(2) the injection well owner, following the completion of studies and monitoring adequate to characterize risks to the fresh water portion of the Edwards Aquifer and other fresh water associated with the continued operation of the well, and at least 90 days before the date the owner initiates commercial well operations, files with the commission a notice of intent to continue operation of the well after completion of the research project; and

(3) the commission, based on the studies and monitoring, the report provided by Texas State University--San Marcos under Subsection (l)(2), and any other reasonably available information, determines that continued operation of the injection well as described in the notice of intent does not pose an unreasonable risk to the fresh water portion of the Edwards Aquifer or other fresh water associated with the continued operation of the well.

(l) Before the commission makes a determination under Subsection (k)(3):

(1) the commission, not later than the 15th day after the date of receipt of the results of the studies and monitoring,

must provide the information received to Texas State University--San Marcos; and

(2) Texas State University--San Marcos, not later than the 60th day after the date of receipt of the information, must review and analyze the information and report its findings to the commission.

(m) The commission shall make the information provided by the owner of the injection well under Subsection (k)(1) and the report provided by Texas State University--San Marcos under Subsection (1)(2) easily accessible to the public in a timely manner. The permit may authorize the owner of the well to continue operating the well following completion of the research project pending the determination by the commission.

(n) If the commission preliminarily determines that continued operation of the injection well would pose an unreasonable risk to the fresh water portion of the Edwards Aquifer or other fresh water associated with the continued operation of the well, the commission shall notify the operator and specify, if possible, what well modifications would be adequate to prevent that unreasonable risk. If the operator fails to modify the injection well as specified by the commission, the commission shall require the operator to cease operating the well.

Added by Acts 2013, 83rd Leg., R.S., Ch. 486 (S.B. [1532](#)), Sec. 1, eff. September 1, 2013.

Sec. 27.052. COPIES OF PERMIT; FILING REQUIREMENTS. (a) The commission shall furnish the railroad commission and the Texas Department of Health with a copy of each permit the commission issues. The railroad commission shall furnish the commission with a copy of each permit the railroad commission issues and the executive director shall in turn forward copies to the Texas Department of Health.

(b) Before beginning injection operations, a person receiving a permit to inject industrial and municipal waste shall file a copy of the permit with the health authorities of the county, city, and town where the well is located.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff.

Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.119, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.300, eff. Sept. 1, 1995.

Sec. 27.053. RECORD OF STRATA. The commission or railroad commission may require a person receiving a permit or authorization by rule under this chapter to keep and furnish a complete and accurate record of the depth, thickness, and character of the different strata penetrated in drilling an injection well, monitoring well, or production well.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 3, eff. September 1, 2007.

Sec. 27.054. ELECTRIC OR DRILLING LOG. If an existing well is to be converted to an injection well, monitoring well, or production well, the commission or railroad commission may require the applicant to furnish an electric log or a drilling log of the existing well.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 4, eff. September 1, 2007.

Sec. 27.055. CASING REQUIREMENTS. The casing shall be set at the depth, with the materials, and in the manner required by the commission or railroad commission.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.056. FACTORS IN SETTING CASING DEPTH. Before setting the depth to which casing shall be installed, the commission or railroad commission shall consider:

(1) known geological and hydrological conditions and relationships;

(2) foreseeable future economic development in the area; and

(3) foreseeable future demand for the use of fresh water in the locality.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

SUBCHAPTER E. GENERAL POWERS

Sec. 27.071. POWER TO ENTER PROPERTY. Members of the commission and the railroad commission and employees of the commission and the railroad commission may enter public or private property to inspect and investigate conditions relating to injection well, monitoring well, disposal well, production well, or geologic storage activities within their respective jurisdictions or to monitor compliance with a rule, permit, or other order of the commission or railroad commission. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.120, eff. Sept. 1, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. [3838](#)), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. [1387](#)), Sec. 4, eff. September 1, 2009.

Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the commission and the railroad commission and employees of the

commission and railroad commission may examine and copy those records or memoranda of a business they are investigating as provided by Section 27.071 that relate to the operation of an injection well, monitoring well, disposal well, production well, or geologic storage facility, or any other records required to be maintained by law.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.120, eff. Sept. 1, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 4, eff. September 1, 2009.

Sec. 27.073. FINANCIAL RESPONSIBILITY. (a) A person to whom an injection well permit is issued may be required by the commission or railroad commission to maintain a performance bond or other form of financial security to ensure that:

(1) an abandoned injection well is properly plugged;
or

(2) funds are available for plugging, postinjection site care, and closure of an anthropogenic carbon dioxide injection well subject to Subchapter C-1.

(a-1) Notwithstanding Subsection (a), a person to whom an in situ uranium mining injection well, monitoring well, or production well permit is issued shall be required by the commission to maintain a performance bond or other form of financial security to ensure that an abandoned well is properly plugged.

(b) Each state agency is authorized to receive funds as the beneficiary of a financial responsibility mechanism established under this section for the proper plugging of an injection well. Each state agency is authorized to expend such funds from a financial responsibility mechanism for the plugging of wells covered by that mechanism.

(b-1) The railroad commission is authorized to receive funds as the beneficiary of a financial responsibility mechanism

established under this chapter for the proper management of an anthropogenic carbon dioxide injection well or geologic storage facility.

(c) If liability insurance is required of an applicant, the applicant may not use a claims made policy as security unless:

(1) the policy provides for a right of extension by the insured upon cancellation or nonrenewal of the policy by the insurance company;

(2) the applicant places in escrow as provided by the commission an amount sufficient to enable the commission to exercise the right under the policy to purchase an extension of the policy from the date of cancellation or expiration of the policy that is reasonable in light of the degree and duration of the risks; and

(3) the applicant provides the commission with a limited power of attorney by which the commission is given an irrevocable power to exercise the applicant's right under the policy to purchase such an extension of the policy.

(d) In addition to other forms of financial security authorized by the rules of the commission, the commission may authorize an applicant to use the letter of credit form of financial security if either the issuing institution or another institution which guarantees payment under the letter:

(1) is a bank chartered by the state or by the federal government;

(2) is federally insured and its financial practices are regulated by the state or federal government; and

(3) is solvent and is not in receivership or owned or controlled by an entity that is insolvent or in receivership.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.120, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 638, Sec. 6, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1234, Sec. 2, eff. Aug. 28, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. [3838](#)), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 5, eff. September 1, 2009.

SUBCHAPTER F. CIVIL AND CRIMINAL REMEDIES

Sec. 27.101. CIVIL PENALTY. (a) A person who violates any provision of this chapter under the jurisdiction of the railroad commission, any rule of the railroad commission made under this chapter, or any term, condition, or provision of a permit issued by the railroad commission under this chapter shall be subject to a civil penalty in any sum not exceeding \$5,000 for each day of noncompliance and for each act of noncompliance. A violation under the jurisdiction of the commission is enforceable as provided by Chapter 7.

(b) The action may be brought by the railroad commission in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.121, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1072, Sec. 24, eff. Sept. 1, 1997.

Sec. 27.1011. ADMINISTRATIVE PENALTY. (a) If a person violates the provisions of this chapter or a rule, order, license, permit, or certificate issued under this chapter, the person may be assessed a civil penalty by the railroad commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983.

Sec. 27.1012. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 27.1011 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The railroad commission shall then issue an order requiring that the penalty be paid.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983.

Sec. 27.1013. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the railroad commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post with the railroad commission a supersedeas bond in a form approved by the

railroad commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the railroad commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the railroad commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the railroad commission shall execute a release of such bond.

(d) Failure to forward the money to the railroad commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the railroad commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Subchapter G, Chapter 2001, Government Code.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(53), (59), eff. Sept. 1, 1995.

Sec. 27.1014. RECOVERY OF PENALTY. Civil penalties owed under Sections 27.1011-27.1013 of this code may be recovered in a civil action brought by the attorney general at the request of the railroad commission.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983.

Sec. 27.102. INJUNCTION, ETC. (a) The railroad commission may enforce a provision of this chapter under the jurisdiction of the railroad commission, any valid rule made by the railroad commission under this chapter, or any term, condition, or provision of a permit issued by the railroad commission under this chapter by injunction or other appropriate remedy. The suit shall be brought

in a court of competent jurisdiction in the county where the offending activity is occurring.

(b) The executive director may enforce a provision of this chapter under the jurisdiction of the commission, a commission rule adopted under this chapter, or a term, condition, or provision of a permit issued by the commission under this chapter as provided by Subchapter B, Chapter 7.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1997, 75th Leg., ch. 1072, Sec. 25, eff. Sept. 1, 1997.

Sec. 27.103. PROCEDURE. (a) At the request of the railroad commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in Sections 27.101 and 27.102 of this chapter.

(b) Any party to a suit may appeal from a final judgment as in other civil cases.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1997, 75th Leg., ch. 1072, Sec. 26, eff. Sept. 1, 1997.

Sec. 27.104. EFFECT OF PERMIT ON CIVIL LIABILITY. The fact that a person has a permit issued under this chapter does not relieve him from any civil liability.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.105. CRIMINAL FINES. (a) A person who knowingly or intentionally violates a provision of this chapter under the jurisdiction of the railroad commission, a rule of the railroad commission, or a term, condition, or provision of a permit issued by the railroad commission under this chapter is subject to a fine of

not more than \$5,000 for each violation and for each day of violation. A violation under the jurisdiction of the commission is enforceable under Section 7.157.

(b) Venue for prosecution of an alleged violation is in the county in which the violation is alleged to have occurred or where the defendant resides.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.1211, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1072, Sec. 27, eff. Sept. 1, 1997.

SUBCHAPTER G. AQUIFER STORAGE AND RECOVERY PROJECTS

Sec. 27.151. DEFINITIONS. In this subchapter:

(1) "Aquifer storage and recovery project" means a project involving the injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use by the project operator.

(2) "ASR injection well" means a Class V injection well used for the injection of water into a geologic formation as part of an aquifer storage and recovery project.

(3) "ASR recovery well" means a well used for the recovery of water from a geologic formation as part of an aquifer storage and recovery project.

(4) "Native groundwater" means the groundwater naturally occurring in a geologic formation.

(5) "Project operator" means a person holding an authorization under this subchapter to undertake an aquifer storage and recovery project.

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. 655), Sec. 3, eff. June 16, 2015.

Sec. 27.152. JURISDICTION. The commission has exclusive jurisdiction over the regulation and permitting of ASR injection wells.

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. 655), Sec. 3, eff. June 16, 2015.

Sec. 27.153. AUTHORIZATION FOR USE OF CLASS V INJECTION WELLS. (a) The commission may authorize the use of a Class V injection well as an ASR injection well:

- (1) by rule;
- (2) under an individual permit; or
- (3) under a general permit.

(b) In adopting a rule or issuing a permit under this section, the commission shall consider:

(1) whether the injection of water will comply with the standards set forth under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.);

(2) the extent to which the cumulative volume of water injected for storage in the receiving geologic formation can be successfully recovered from the geologic formation for beneficial use, taking into account that injected water may be commingled to some degree with native groundwater;

(3) the effect of the aquifer storage and recovery project on existing water wells; and

(4) whether the introduction of water into the receiving geologic formation will alter the physical, chemical, or biological quality of the native groundwater to a degree that would:

(A) render the groundwater produced from the receiving geologic formation harmful or detrimental to people, animals, vegetation, or property; or

(B) require an unreasonably higher level of treatment of the groundwater produced from the receiving geologic formation than is necessary for the native groundwater in order to render the groundwater suitable for beneficial use.

(c) All wells associated with a single aquifer storage and recovery project must be located within a continuous perimeter boundary of one parcel of land, or two or more adjacent parcels of land under common ownership, lease, joint operating agreement, or contract.

(d) The commission by rule shall provide for public notice and comment on a proposed general permit authorized under this

section. The commission shall require an applicant for an individual permit authorized under this section to provide notice of the application by first class mail to any groundwater conservation district in which the wells associated with the aquifer storage and recovery project will be located and by publishing notice in a newspaper of general circulation in the county in which the wells will be located.

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. 655), Sec. 3, eff. June 16, 2015.

Sec. 27.154. TECHNICAL STANDARDS. (a) The commission shall adopt technical standards governing the approval of the use of a Class V injection well as an ASR injection well.

(b) This subsection applies only to an aquifer storage and recovery project proposed to be located in a groundwater conservation district or other special-purpose district with the authority to regulate the withdrawal of groundwater. Except as otherwise provided by this section, the commission shall limit the volume of water that may be recovered by an aquifer storage and recovery project to an amount that does not exceed the amount of water injected under the project. If the commission determines that the proposed injection of water into a geologic formation will result in a loss of injected water or native groundwater, the commission shall impose additional restrictions on the amount of water that may be recovered to account for the loss. The commission may not deny a permit based on a determination that a loss described by this subsection will occur. A limitation imposed under this subsection may not prohibit the production of native groundwater by an aquifer storage and recovery project if the production complies with Subchapter N, Chapter 36.

(c) The commission by rule shall prescribe construction and completion standards and metering and reporting requirements for ASR injection wells and ASR recovery wells, including for an ASR injection well that also serves as an ASR recovery well.

(d) The commission may not adopt or enforce groundwater quality protection standards for the quality of water injected into an ASR injection well that are more stringent than applicable

federal standards.

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. 655), Sec. 3, eff. June 16, 2015.

Sec. 27.155. REPORTING OF INJECTION AND RECOVERY VOLUMES.

(a) A project operator shall install a meter on each ASR injection well and ASR recovery well associated with the aquifer storage and recovery project.

(b) Each calendar month, the project operator shall provide to the commission a written or electronic report showing for the preceding calendar month the volume of water:

- (1) injected for storage; and
- (2) recovered for beneficial use.

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. 655), Sec. 3, eff. June 16, 2015.

Sec. 27.156. REPORTING OF WATER QUALITY DATA. A project operator shall:

(1) perform water quality testing annually on water to be injected into a geologic formation and water recovered from a geologic formation as part of the aquifer storage and recovery project; and

(2) provide the results of the testing described by Subdivision (1) in written or electronic form to the commission.

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. 655), Sec. 3, eff. June 16, 2015.

Sec. 27.157. OTHER LAWS NOT AFFECTED. (a) This subchapter does not affect the ability to regulate an aquifer storage and recovery project as authorized under:

(1) Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, for the Edwards Aquifer Authority;

(2) Chapter 8801, Special District Local Laws Code, for the Harris-Galveston Subsidence District;

(3) Chapter 8834, Special District Local Laws Code, for the Fort Bend Subsidence District;

(4) Chapter 8802, Special District Local Laws Code,

for the Barton Springs-Edwards Aquifer Conservation District; or

(5) Chapter [8811](#), Special District Local Laws Code, for the Corpus Christi Aquifer Storage and Recovery Conservation District.

(b) This subchapter does not affect the authority of the commission regarding:

(1) recharge projects in certain portions of the Edwards underground reservoir under Sections [11.023](#)(c) and (d); or

(2) injection wells that transect or terminate in certain portions of the Edwards Aquifer under Section [27.0516](#).

Added by Acts 2015, 84th Leg., R.S., Ch. 505 (H.B. [655](#)), Sec. 3, eff. June 16, 2015.