

New Legislation and Rulemaking Related to Aquifer Storage and Recovery

David Murry, P.G.

Underground Injection Control (UIC) Permits Section

Radioactive Materials Division

Texas Commission on Environmental Quality

Aquifer Storage and Recovery

Aquifer Storage and Recovery (ASR):

“The injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use.”

TCEQ has jurisdiction for issuing Class V UIC well authorizations or permits, including those for ASR projects

To date, TCEQ has approved Class V UIC wells for ASR projects through authorizations by rule rather than by permit

ASR In Texas

Presently, there are two fully-authorized, operating ASR projects in Texas:

- **San Antonio Water System ASR**

Groundwater from the Edwards Aquifer is injected into sediments of the Carrizo Formation

- **City of Kerrville ASR**

Treated surface water is injected into sediments of the Lower Trinity Group

House Bill 655

- House Bill (HB) 655, passed during the 84th Texas Legislature (2016), amended the Texas Water Code (TWC), Chapters 11, 27, and 36 regarding requirements for aquifer storage and recovery projects.
- Bill was authored by Representative Lyle Larson, Texas House District 122.
- Bill required TCEQ to adopt rules by May 1st, 2016.

House Bill 655

To implement HB 655, the following Chapters of Title 30 of the Texas Administrative Code (30 TAC) were revised:

- Chapter 39 (Public Notice)
- Chapter 295 (Water Rights, Procedural)
- Chapter 297 (Water Rights, Substantive)
- Chapter 331 (Underground Injection Control)

Rules

- Proposed rules were published in the December 25, 2015 edition of the Texas Register (40 TexReg 9552-9563), with a 45-day comment period.
- Based on comments received, proposed rules were revised.
- Rules were adopted by TCEQ on April 27, 2016.
- Adopted rules were published in the May 13, 2016 edition of the Texas Register (40 TexReg 3500-3525).
- Rules are effective as of May 19, 2016.

Rule Changes

- ASR projects may be authorized by individual permit, general permit, or by rule
- Public notice required for individual ASR permit
- Groundwater conservation districts and other special purpose districts with authority to regulate groundwater withdrawal notified of application for authorization by rule
- Two-stage authorization process (pilot project and final authorization) was removed; pilot project authorization no longer required

Rule Changes

- Requirement that injected water had to meet the drinking water standards in 30 TAC Chapter 290 removed; injected water now must meet requirement of Section 1421(d)(2) of the Federal Safe Drinking Water Act:
- “Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system’s not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.”

Rule Changes

- Additional authorizations no longer required for injection of appropriated water.
- Determination must be made regarding the volume of water that can be recovered as compared to the volume of water injected.
- ASR projects within the jurisdiction of a groundwater conservation district or other special purpose district with authority to regulate withdrawal of groundwater are subject to district's rules for the volume of water produced that exceeds the volume that can be recovered.

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Contact Information:

David Murry

Underground Injection Control Permits Section

Radioactive Materials Division

Texas Commission on Environmental Quality

Austin, Texas

david.murry@tceq.texas.gov

512-239-6080