

By: Seliger

S.B. No. 1387

A BILL TO BE ENTITLED

AN ACT

relating to the implementation of projects involving the capture,
injection, sequestration, or geologic storage of carbon dioxide.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 27.002, Water Code, is amended by adding
Subdivisions (19), (20), (21), (22), (23), (24), and (25) to read as
follows:

(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

1 described by Subparagraph (i) to enable or improve the process of
2 injecting the carbon dioxide; and

3 (B) does not include naturally occurring carbon
4 dioxide that is recaptured, recycled, and reinjected as part of
5 enhanced recovery operations.

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

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

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

16 (23) "Geologic storage facility" means the
17 underground reservoir, underground equipment, injection wells, and
18 surface buildings and equipment used or to be used for the geologic
19 storage of anthropogenic carbon dioxide and all surface and
20 subsurface rights and appurtenances necessary to the operation of a
21 facility for the geologic storage of anthropogenic carbon dioxide.
22 The term includes any reasonable and necessary areal buffer and
23 subsurface monitoring zones, pressure fronts, and other areas as
24 may be necessary for this state to receive delegation of any federal
25 underground injection control program relating to the storage of
26 carbon dioxide. The term does not include a pipeline used to
27 transport carbon dioxide from the facility at which the carbon

1 dioxide is captured to the geologic storage facility. The storage
2 of carbon dioxide incidental to or as part of enhanced recovery
3 operations does not in itself automatically render a facility a
4 geologic storage facility.

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

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

10 SECTION 2. Chapter 27, Water Code, is amended by adding
11 Subchapter C-1 to read as follows:

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

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

20 (b) The jurisdiction of the railroad commission over the
21 geologic storage of carbon dioxide in, and the injection of carbon
22 dioxide into, a saline formation described by Subsection (a) is
23 subject to the review of the legislature based on the
24 recommendations made in the preliminary report described by Section
25 10, S.B. No. 1387, Acts of the 81st Legislature, Regular Session,
26 2009.

27 (c) Except as provided by Subsection (b), the railroad

1 commission has jurisdiction over a well used for the purpose
2 provided by Subsection (a) regardless of whether the well was
3 initially completed for that purpose or was initially completed for
4 another purpose and is converted to the purpose provided by
5 Subsection (a).

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

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

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

19 Sec. 27.045. FEES. (a) The railroad commission may impose
20 fees to cover the cost of:

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

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

26 (b) Fees collected by the railroad commission under this
27 section shall be deposited to the credit of the anthropogenic

1 carbon dioxide storage trust fund established under Section
2 120.003, Natural Resources Code.

3 Sec. 27.046. LETTER FROM EXECUTIVE DIRECTOR. (a) The
4 railroad commission may not issue a permit under rules adopted
5 under this subchapter until the applicant for the permit provides
6 to the railroad commission a letter from the executive director
7 stating that drilling and operating the anthropogenic carbon
8 dioxide injection well for geologic storage or operating the
9 geologic storage facility will not injure any freshwater strata in
10 that area and that the formation or stratum to be used for the
11 geologic storage facility is not freshwater sand.

12 (b) To make the determination required by Subsection (a),
13 the executive director shall review:

- 14 (1) the area of review and corrective action plans;
15 (2) any subsurface monitoring plans required during
16 injection or post injection;
17 (3) any postinjection site care plans; and
18 (4) any other elements of the application reasonably
19 required in order for the executive director to make the
20 determination required by Subsection (a).

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

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

- 27 (1) the geologic storage and associated injection of

1 anthropogenic carbon dioxide, including:
2 (A) geologic site characterization;
3 (B) area of review and corrective action;
4 (C) well construction;
5 (D) operation;
6 (E) mechanical integrity testing;
7 (F) monitoring;
8 (G) well plugging;
9 (H) postinjection site care;
10 (I) site closure; and
11 (J) long-term stewardship;
12 (2) the enforcement of this subchapter and rules
13 adopted by the railroad commission under this subchapter; and
14 (3) the collection and administration of:
15 (A) fees imposed under Section 27.045; and
16 (B) penalties imposed for a violation of this
17 subchapter or rules adopted by the railroad commission under this
18 subchapter.
19 Sec. 27.048. CONSISTENCY WITH AND IMPLEMENTATION OF FEDERAL
20 REQUIREMENTS. (a) Rules adopted by the railroad commission under
21 this subchapter must be consistent with applicable rules or
22 regulations adopted by the United States Environmental Protection
23 Agency or another federal agency governing the injection and
24 geologic storage of anthropogenic carbon dioxide.
25 (b) If rules or regulations adopted to govern the geologic
26 storage and associated injection of anthropogenic carbon dioxide
27 under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et

1 seq.) or another federal statute allow this state to seek primary
2 enforcement authority under the underground injection control
3 program:

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

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

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

13 (1) amend the memorandum of understanding recorded in
14 16 T.A.C. Section 3.30; or

15 (2) enter into a new memorandum of understanding.

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

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

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

26 (2) if the person is not required to file with the
27 United States Securities and Exchange Commission a report described

1 by Subdivision (1), the person's most recent audited financial
2 statement.

3 SECTION 3. Section 27.051, Water Code, is amended by
4 amending Subsection (b) and adding Subsection (b-1) to read as
5 follows:

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

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

11 (2) that the use or installation of the injection well
12 will not endanger or injure any oil, gas, or other mineral
13 formation;

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

16 (4) that the applicant has made a satisfactory showing
17 of financial responsibility if required by Section 27.073 [~~of this~~
18 ~~code~~].

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

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

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

27 (3) that the injection of anthropogenic carbon dioxide

1 will not endanger or injure human health and safety;

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

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

9 SECTION 4. Sections 27.071 and 27.072, Water Code, are
10 amended to read as follows:

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

23 Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the
24 commission and the railroad commission and employees of the
25 commission and railroad commission may examine and copy those
26 records or memoranda of a business they are investigating as
27 provided by Section 27.071 [~~of this code~~] that relate to the

1 operation of an injection well, monitoring well, disposal well,
2 [~~or~~] production well, or geologic storage facility, or any other
3 records required to be maintained by law.

4 SECTION 5. Section 27.073, Water Code, is amended by
5 amending Subsection (a) and adding Subsection (b-1) to read as
6 follows:

7 (a) A person to whom an injection well permit is issued may
8 be required by the commission or railroad commission to maintain a
9 performance bond or other form of financial security to ensure
10 that:

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

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

16 (b-1) The railroad commission is authorized to receive
17 funds as the beneficiary of a financial responsibility mechanism
18 established under this chapter for the proper management of an
19 anthropogenic carbon dioxide injection well or geologic storage
20 facility.

21 SECTION 6. Chapter 91, Natural Resources Code, is amended
22 by adding Subchapter R to read as follows:

23 SUBCHAPTER R. AUTHORIZATION FOR MULTIPLE OR ALTERNATIVE USES OF
24 WELLS

25 Sec. 91.801. RULES AUTHORIZING MULTIPLE OR ALTERNATIVE USES
26 OF WELLS. The commission shall adopt rules allowing:

27 (1) a person to obtain a permit for a well from the

1 commission that authorizes the well to be used for multiple
2 purposes; and

3 (2) an operator of a well authorized by a permit issued
4 by the commission to convert the well from its authorized purpose to
5 a new or additional purpose.

6 Sec. 91.802. LAW APPLICABLE TO GEOLOGIC STORAGE FACILITIES
7 AND ASSOCIATED INJECTION WELLS. (a) In this section,
8 "anthropogenic carbon dioxide injection well" has the meaning
9 assigned by Section 27.002, Water Code.

10 (b) If a well is authorized as or converted to an
11 anthropogenic carbon dioxide injection well for geologic storage,
12 Subchapter C-1, Chapter 27, Water Code, applies to the well.

13 (c) A conversion of an anthropogenic carbon dioxide
14 injection well from use for enhanced recovery operations to use for
15 geologic storage is not considered to be a change in the purpose of
16 the well.

17 SECTION 7. Subtitle D, Title 3, Natural Resources Code, is
18 amended by adding Chapter 120 to read as follows:

19 CHAPTER 120. OWNERSHIP AND STEWARDSHIP OF ANTHROPOGENIC CARBON
20 DIOXIDE

21 Sec. 120.001. DEFINITIONS. In this chapter:

22 (1) "Anthropogenic carbon dioxide," "anthropogenic
23 carbon dioxide injection well," and "geologic storage facility"
24 have the meanings assigned by Section 27.002, Water Code.

25 (2) "Commission" means the Railroad Commission of
26 Texas.

27 (3) "Storage operator" means a person authorized by

1 the commission to operate a geologic storage facility.

2 Sec. 120.002. OWNERSHIP OF ANTHROPOGENIC CARBON DIOXIDE.

3 (a) This section does not apply to anthropogenic carbon dioxide
4 injected for the primary purpose of enhanced recovery operations.

5 (b) Unless otherwise expressly provided by a contract, bill
6 of sale, deed, mortgage, deed of trust, or other legally binding
7 document or by other law, anthropogenic carbon dioxide stored in a
8 geologic storage facility is considered to be the property of the
9 storage operator or the storage operator's heirs, successors, or
10 assigns.

11 (c) Absent a final judgment of wilful abandonment rendered
12 by a court or a regulatory determination of closure or abandonment,
13 anthropogenic carbon dioxide stored in a geologic storage facility
14 is not considered to be the property of the owner of the surface or
15 mineral estate in the land in which the anthropogenic carbon
16 dioxide is stored or of a person claiming under the owner of the
17 surface or mineral estate.

18 (d) The owner, as designated by Subsection (b) or (c), of
19 the anthropogenic carbon dioxide stored in a geologic storage
20 facility, or the owner's heirs, successors, or assigns, may
21 produce, take, extract, or otherwise possess anthropogenic carbon
22 dioxide stored in the facility.

23 Sec. 120.003. ANTHROPOGENIC CARBON DIOXIDE STORAGE TRUST

24 FUND. (a) The anthropogenic carbon dioxide storage trust fund is
25 created as a special fund in the state treasury.

26 (b) The anthropogenic carbon dioxide storage trust fund is
27 an interest-bearing fund. Interest earned on money in the fund

1 shall be deposited to the credit of the fund.

2 (c) Fees collected by the commission under Subchapter C-1,
3 Chapter 27, Water Code, and penalties imposed for violations of
4 that subchapter or rules adopted under that subchapter shall be
5 deposited to the credit of the anthropogenic carbon dioxide storage
6 trust fund.

7 (d) The anthropogenic carbon dioxide storage trust fund may
8 be used by the commission only for:

9 (1) inspecting, monitoring, investigating, recording,
10 and reporting on geologic storage facilities and associated
11 anthropogenic carbon dioxide injection wells;

12 (2) long-term monitoring of geologic storage
13 facilities and associated anthropogenic carbon dioxide injection
14 wells;

15 (3) remediation of mechanical problems associated
16 with geologic storage facilities and associated anthropogenic
17 carbon dioxide injection wells;

18 (4) repairing mechanical leaks at geologic storage
19 facilities;

20 (5) plugging abandoned anthropogenic carbon dioxide
21 injection wells used for geologic storage;

22 (6) training and technology transfer related to
23 anthropogenic carbon dioxide injection and geologic storage; and

24 (7) compliance and enforcement activities related to
25 geologic storage and associated anthropogenic carbon dioxide
26 injection wells.

27 Sec. 120.004. EXTRACTION OF STORED ANTHROPOGENIC CARBON

1 DIOXIDE. (a) The commission shall adopt rules allowing
2 anthropogenic carbon dioxide stored in a geologic storage facility
3 to be extracted for a commercial or industrial use.

4 (b) The commission has jurisdiction over the extraction of
5 anthropogenic carbon dioxide stored in a geologic storage facility.

6 SECTION 8. Section 27.038, Water Code, is repealed.

7 SECTION 9. (a) In this section:

8 (1) "Anthropogenic carbon dioxide," "geologic
9 storage," and "geologic storage facility" have the meanings
10 assigned by Section 27.002, Water Code, as amended by this Act.

11 (2) "State-owned land" includes state-owned submerged
12 land.

13 (b) Not later than December 1, 2010, the Commissioner of the
14 General Land Office shall prepare and file with the legislature a
15 preliminary report on a recommended framework for managing
16 activities related to geologic storage on state-owned land. The
17 report shall include:

18 (1) recommended criteria for identifying candidate
19 geologic storage sites in each of the following types of onshore and
20 offshore geological settings:

21 (A) operating oil and gas fields;

22 (B) depleted oil and gas fields;

23 (C) unmineable coal seams;

24 (D) saline formations;

25 (E) geological systems that may be used as
26 engineered reservoirs to extract economical quantities of heat from
27 geothermal resources of low permeability or porosity;

1 (F) geological systems containing igneous
2 formations; and

3 (G) coalbeds being used for methane recovery;

4 (2) a proposed regulatory framework for leasing
5 state-owned land for geologic storage, including an assessment of
6 options to ensure that the state receives fair market value for
7 using state-owned property for geologic storage;

8 (3) a proposed procedure for:

9 (A) providing an opportunity for public review
10 of, and the presentation of comments by interested persons
11 regarding, any activities related to geologic storage on
12 state-owned land; and

13 (B) ensuring that the quality of the natural and
14 cultural resources of state-owned land overlying the site of a
15 geologic storage facility are protected from any geologic storage
16 activities at the site;

17 (4) a description of the status of leasehold or
18 mineral estate liability issues related to the geological
19 subsurface trespass of, or caused by, anthropogenic carbon dioxide
20 stored in state-owned land, including any relevant experience from
21 enhanced oil recovery using carbon dioxide on state-owned land;

22 (5) recommendations for additional legislation that
23 may be required to ensure that public land management and leasing
24 laws are adequate to accommodate geologic storage;

25 (6) an identification of the legal and regulatory
26 issues specific to geologic storage in cases in which title to the
27 mineral estate is held by the state but title to the surface estate

1 is not held by the state; and

2 (7) recommendations for additional legislation that
3 may be required to clarify the appropriate framework for issuing
4 rights-of-way for anthropogenic carbon dioxide pipelines on
5 state-owned land.

6 (c) In preparing the preliminary report under Subsection
7 (b) of this section, the Commissioner of the General Land Office
8 shall coordinate with:

9 (1) the Bureau of Economic Geology of The University
10 of Texas at Austin;

11 (2) the Railroad Commission of Texas;

12 (3) the Texas Commission on Environmental Quality; and

13 (4) the heads of other appropriate agencies.

14 (d) This section expires December 31, 2010.

15 SECTION 10. (a) In this section, "anthropogenic carbon
16 dioxide," "geologic storage," and "geologic storage facility" have
17 the meanings assigned by Section 27.002, Water Code, as amended by
18 this Act.

19 (b) Not later than December 1, 2010, the Texas Commission on
20 Environmental Quality and the Railroad Commission of Texas, in
21 consultation with the Bureau of Economic Geology of The University
22 of Texas at Austin, shall prepare and file with the legislature a
23 joint preliminary report that:

24 (1) analyzes the requirements for the injection and
25 geologic storage of anthropogenic carbon dioxide into saline
26 formations that are not productive of oil, gas, or geothermal
27 resources;

1 (2) recommends a permitting process for anthropogenic
2 carbon dioxide injection wells and geologic storage facilities that
3 are used for the injection and storage of anthropogenic carbon
4 dioxide in saline formations not productive of oil, gas, or
5 geothermal resources;

6 (3) recommends the agency or agencies that should have
7 jurisdiction over permitting described by Subdivision (2) of this
8 subsection or any other permitting of geologic storage facilities
9 not subject to Subchapter C-1, Chapter 27, Water Code; and

10 (4) assesses the status of compliance with any federal
11 rules regulating the geologic storage and associated injection of
12 anthropogenic carbon dioxide.

13 (c) The preliminary report shall include:

14 (1) recommended criteria for identifying candidate
15 geologic storage sites in each of the following types of geological
16 settings:

17 (A) operating oil and gas fields;

18 (B) depleted oil and gas fields;

19 (C) unmineable coal seams;

20 (D) saline formations;

21 (E) geological systems that may be used as
22 engineered reservoirs to extract economical quantities of heat from
23 geothermal resources of low permeability or porosity;

24 (F) geological systems containing igneous
25 formations; and

26 (G) coalbeds being used for methane recovery;

27 (2) a proposed procedure for:

1 (A) providing an opportunity for public review
2 of, and the presentation of comments by interested persons
3 regarding, any activities related to geologic storage; and

4 (B) ensuring that the quality of the natural and
5 cultural resources of land overlying the site of a geologic storage
6 facility are protected from any geologic storage activities at the
7 site;

8 (3) recommendations for methods to mitigate any
9 negative effects of federal greenhouse gas reporting requirements
10 on owners and producers of naturally occurring carbon dioxide;

11 (4) a description of the status of leasehold or
12 mineral estate liability issues related to the geological
13 subsurface trespass of, or caused by, anthropogenic carbon dioxide
14 stored in private or state-owned land, including any relevant
15 experience from enhanced recovery operations using carbon dioxide;

16 (5) an analysis of and recommendations to address:

17 (A) the attributes of the subsurface area of
18 operations for geologic storage facilities; and

19 (B) the methods of financial assurance and the
20 allocation of long-term liability for the post-operational phases
21 of geologic storage projects;

22 (6) the status of any applications for permits that
23 have been received before the report is prepared;

24 (7) an update on the exchange of information between
25 the Texas Commission on Environmental Quality and the Railroad
26 Commission of Texas as required by the memorandum of understanding
27 described by Section 27.049, Water Code, as added by this Act, and

1 as required by Section 27.046, Water Code, as added by this Act;

2 (8) the status of any request for primary enforcement
3 authority for the underground injection and geologic storage of
4 anthropogenic carbon dioxide under the underground injection
5 control program; and

6 (9) any recommendations for additional legislation,
7 modifications to the memorandum of understanding, or new rules for
8 regulating geologic storage facilities and associated
9 anthropogenic carbon dioxide injection wells.

10 (d) This section expires December 31, 2010.

11 SECTION 11. (a) The Texas Commission on Environmental
12 Quality shall adopt rules under Section 27.046, Water Code, as
13 added by this Act, as soon as practicable after the effective date
14 of this Act.

15 (b) Not later than March 1, 2010, the Railroad Commission of
16 Texas shall adopt rules under Section 27.047, Water Code, as added
17 by this Act, for the geologic storage and associated injection of
18 carbon dioxide in connection with enhanced recovery operations,
19 excluding enhanced recovery operations for which:

20 (1) there is a reasonable expectation of more than
21 insignificant future production volumes or rates as a result of the
22 injection of anthropogenic carbon dioxide; and

23 (2) operating pressures are not higher than reasonably
24 necessary to produce the production volumes or rates described by
25 Subdivision (1) of this subsection.

26 (c) Not later than September 1, 2010, the Railroad
27 Commission of Texas shall adopt rules under Section 27.047, Water

1 Code, as added by this Act, for the geologic storage of carbon
2 dioxide in, and the injection of carbon dioxide into, a reservoir
3 that is initially or may be productive of oil, gas, or geothermal
4 resources.

5 (d) The Texas Commission on Environmental Quality and the
6 Railroad Commission of Texas shall adopt rules under Section
7 27.049, Water Code, as added by this Act, as soon as practicable
8 after the effective date of this Act.

9 (e) The Railroad Commission of Texas shall adopt rules under
10 Sections 91.801 and 120.004, Natural Resources Code, as added by
11 this Act, as soon as practicable after the effective date of this
12 Act.

13 SECTION 12. This Act does not make an appropriation. A
14 provision in this Act that creates a new governmental program,
15 creates a new entitlement, or imposes a new duty on a governmental
16 entity is not mandatory during a fiscal period for which the
17 legislature has not made a specific appropriation to implement the
18 provision.

19 SECTION 13. This Act takes effect September 1, 2009.