

BILL ANALYSIS

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S.B. 177
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Except for the state of Texas, every top-ten oil and gas producing state includes in its conservation statutes a statutory system for field unitization. The purpose of these statutes is to provide for continued, orderly development of finite oil and gas reservoirs, and also recognize the need to support mineral interest owners in a depleting reservoir when it is advantageous to join their oil and gas interests together in order to increase the ultimate recovery of the resource. Because these underground reservoirs transcend multiple ownership interests, it is accepted that oil and gas from the reservoir, particularly as it pertains to tertiary production, would not otherwise occur on a lease basis. Because of the mobility of oil and gas in a reservoir, and because of the need for close management of enhanced recovery operations, the inclusion of all tracts in such an operation becomes of paramount importance.

With current technologies, especially tertiary, where carbon dioxide or nitrogen gases are injected (with or without water), the project design relies upon the fact that these gasses migrate throughout the entire reservoir to combine with the stranded oil reserves so as to make them mobile and recoverable. Under these circumstances, where production wells are located require the management of the reservoir as one property. In addition, because the entire reservoir is "flooded" with gas, all mineral tracts in the reservoir are involved in the tertiary operation, including those that for some reason would elect to stay out of the unit. Without a statute that allows for a majority of mineral owners to join together to redevelop a depleting field, a significant amount of the original oil in place (OOP), estimated at 17 percent or more, would never be produced, resulting in the plugging and abandonment of the field. All mineral interest owners lose if a viable tertiary recovery project is blocked by a single interest owner under the Texas voluntary-only unitization system.

A field ready for tertiary unitization is usually fully developed, the boundaries are well-defined, and there is abundant geological, engineering, and production data collected since the field was established. A single field-wide unit allows each mineral interest owner in the field to participate in the production from all wells in the unit as if the unit were one lease, minimizes the number of wells needing to be drilled, and allows development in a manner that maximizes the final recovery of otherwise "lost" reserves. The abundance of data that was collected during the development of the field on a lease basis allows the owners to derive an allocation formula that represents the contribution of each tract to the unit's production, and therefore each owner's proportionate share of the production from the unit. The Texas Railroad Commission provides the technical expertise through its hearing process (one legal hearing examiner and one technical examiner) to assure that the proposed plan of operation, including the formula for allocation of production, protect the correlative rights of all mineral interest owners.

The requirement to involve all owners under a well-written unitization statute protects the small owner, and the owners whose production may have depleted earlier, from being held hostage by the unreasonable commercial demands of a mineral owner who can—under the current voluntary-only system—effectively prevent the full unitization of a reservoir from occurring at all.

Under the current voluntary-only system in Texas, a tiny minority of mineral owners or working interest owners can "hold out" and deprive the super-majority of mineral and working interest owners from taking advantage of their property rights. This unacceptable result, in effect, prevents efficient and maximum recovery of the resource, deprives all mineral property owners

of their right to develop their resources and deprives additional revenues to all mineral property owners and the state.

The current voluntary-only unitization system in Texas is inequitable in that it allows a super-minority of mineral interest owners to negate the property rights of a super-majority of mineral owners.

S.B. 177 provides a democratic process by which all property right owners in a field are allowed to vote on the future development of the field with no less than two-thirds of both the royalty owners and the working interest owners making the final decision regarding development.

As proposed, S.B. 177 amends current law relating to unit operations for oil, gas, or oil and gas production from depleting reservoirs or carbon dioxide storage and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 (Sections 104.003 and 104.210, Natural Resources Code) and SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 3, Natural Resources Code, by adding Chapter 104, as follows:

CHAPTER 104. UNITIZATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 104.001. **SHORT TITLE.** Authorizes this chapter to be cited as the Oil and Gas Majority Rights Protection Act for Secondary and Tertiary Recovery Operations.

Sec. 104.002. **DEFINITIONS.** Defines "commission," "common source of supply," "extraneous substances," "oil and gas," "plan of unitization," "primary recovery," "royalty interest," "royalty owner," "tract," "tract participation," "unit area," "unit cost" or "unit expense," "unit operations," "unit operator," "unit participation of a royalty owner," "unit participation of a working interest owner," "unit production," "working interest," and "working interest owner."

Sec. 104.003. **POWER AND AUTHORITY OF COMMISSION.** (a) Requires the Railroad Commission of Texas (railroad commission) to adopt any necessary rule, issue, and enforce any necessary order, and perform all required acts necessary to carry out the purposes of this chapter.

(b) Requires the railroad commission to determine whether a plan of unitization, including the participation formula, is fair, reasonable, and equitable for all interests concerned and necessary to carry out the purposes of this chapter.

Sec. 104.004. **APPLICABILITY TO EXPLORATORY OR PRIMARY RECOVERY OPERATIONS.** Provides that this chapter does not affect or apply to exploratory or primary recovery operations.

Sec. 104.005. **APPLICABILITY TO VOLUNTARY COOPERATIVE AGREEMENTS IN SECONDARY RECOVERY OPERATIONS.** Provides that this chapter does not affect or apply to a voluntary cooperative agreement in secondary recovery operations as provided by Subchapter B (Cooperative Agreements in Secondary Recovery Operations), Chapter 101 (Cooperative Development) unless application is made under this chapter for unit operations.

Sec. 104.006. **APPLICABILITY TO POOLING OF INTERESTS IN PRORATION UNIT.** Provides that this chapter does not affect or apply to the pooling of separately owned interests in oil and gas within an existing or proposed proration unit in a common

reservoir as provided by Subchapter B (Requirements and Procedure for Pooling), Chapter 102 (Pooling).

Sec. 104.007. APPLICABILITY TO PUBLIC LAND. (a) Provides that this chapter does not apply to state-owned land or land in which the state has a direct or indirect interest.

(b) Provides that this chapter, except as provided by Subsection (c), does not amend, repeal, change, alter, or affect in any manner the authority or jurisdiction of the state, the commissioner of the General Land Office, or any state board or agency with respect to any land or interest in land in which the state, the commissioner of the General Land Office, or any state board or agency has jurisdiction or the unitization of such land.

(c) Authorizes land in which the state has described interest to be unitized under this chapter only under certain circumstances.

(d) Provides that if land in which the state has an interest is to be unitized as provided, the plan of unitization (plan) and unit operating agreement is subject to and is required to incorporate by reference all statutes and rules that apply to the land in which the state has an interest.

Sec. 104.008. CONFLICT WITH ANTITRUST ACTS. (a) Prohibits a plan of unitization and operation that meets certain requirements from being construed to be in violation of Chapter 15 (Monopolies, Trusts and Conspiracies in Restraint of Trade), Business and Commerce Code.

(b) Provides that if a court finds a conflict between this chapter and Chapter 15, Business and Commerce Code, this chapter is intended as a reasonable exception to that law that is necessary for the public interest of preventing waste and conserving the natural resources of this state.

(c) Provides that if a court finds a conflict between this chapter and Chapter 15, Business and Commerce Code, the legislature intends that this chapter, or any conflicting part of this chapter, be declared invalid rather than that Chapter 15, Business and Commerce Code, or any portion of that chapter, be declared invalid.

Sec. 104.009. APPEALS. Provides that a person affected by an applicable order of the railroad commission issued under this chapter is entitled to judicial review of that order in accordance with Subchapter G (Suits Challenging the Validity of Laws and Orders), Chapter 85 (Conservation of Oil and Gas). Requires the petition for review to be filed in Travis County.

SUBCHAPTER B. APPLICATION PROCEDURES; CONSIDERATION AND APPROVAL OF PLAN

Sec. 104.051. APPLICATION FOR UNITIZATION. (a) Authorizes a working interest owner or proposed unit operator to file an application with the railroad commission requesting an order under this chapter for the unit operation of a common source of supply or a part of that common source of supply.

(b) Sets forth the required contents of the application.

(c) Requires the applicant to submit a list containing certain details about each person owning or having certain interests in the proposed area and each offset operator and unleased mineral interest owner adjacent to the proposed area.

Sec. 104.052. HEARING REQUIRED. (a) Requires the railroad commission, on receipt of an application, to promptly set the matter for hearing and cause notice of the hearing to be given as provided by Section 104.053.

(b) Provides that at the hearing, an affected person is entitled to be heard, introduce evidence, and introduce and cross-examine witnesses.

Sec. 104.053. NOTICE. (a) Requires notice of the application and the time and place of the hearing on the application to be mailed, postage prepaid, not later than the 31st day before the hearing date to each person on the list provided under Section 104.051.

(b) Requires notice of the application and the time and place of hearing to be published once a week for four consecutive weeks in a newspaper meeting certain requirements. Requires the first publication to be made not later than the 31st day before the hearing date.

(c) Prohibits typographical errors in a notice that are not material to the purpose of the notice from affecting the notice's validity.

Sec. 104.054. COMMISSION FINDINGS. Requires, after notice and a hearing, the railroad commission to determine whether:

(1) certain unitized operations are reasonably necessary to conduct unit operations and the plan is reasonably necessary to fulfill certain goals;

(2) the estimated incremental recovery of oil, gas, or oil and gas from the common source of supply is reasonably anticipated to exceed the estimated incremental expense incident to conducting unit operations;

(3) the productive limits of the certain sources of supply have been reasonably defined by certain means so as to establish that the area proposed for unitization is reasonably necessary and sufficient for unit operations;

(4) if only a portion of the common source of supply is proposed for unitization, unit operations will have a material adverse effect on the remainder of the common source of supply;

(5) the unsigned owners of interests in the oil and gas under each tract of land in the proposed unit area have been given reasonable opportunity to enter into the unit on the same basis as the owners of interests in the oil and gas under the other tracts in the unit area and the applicant or proposed unit operator has made a good faith effort to voluntarily unitize all interests within the proposed unit area;

(6) the applicant has obtained approval for the plan from at least the minimum required number of working interest and royalty interest owners;

(7) the expenses of establishing the unit and unit expenses that are to be charged as unit expenses are reasonable and necessary;

(8) the expenses relating to unit operations will fulfill certain equitable standards;

(9) a working interest owner has a reasonable right to review all records pertaining to unit operations and a reasonable amount of time to audit unit expenses;

(10) the plan meets the certain statutory requirements; and

(11) the plan, including tract participation formula and percentages, is in all respects fair, reasonable, and equitable.

Sec. 104.055. UNITIZATION ORDER; EFFECT OF OPERATIONS. (a) Requires the railroad commission, if it finds that all the requirements are met, to issue an order providing for the unitized operation of the unit area in the common source of supply as set forth in the plan; and unitization of all working and royalty interests in the unit area.

(b) Sets forth requirements of the railroad commission's order.

(c) Provides that unit operations on and production from any lease in the unit area for which a unitization order has been entered are considered for all purposes the conduct of unit operations on and production from each separately owned lease and tract in the unit.

(d) Provides that if only a part of a lease is included in the unit, unit operations on or production from the unit maintains an oil and gas lease as to the part excluded from the unit only if the excluded part of the lease otherwise would have been maintained under the terms of the lease by the unit production attributable to the included tract or tracts.

Sec. 104.056. APPROVAL OF PROPOSED PLAN OF UNITIZATION BY WORKING INTEREST AND ROYALTY OWNERS. (a) Provides that an order of the railroad commission creating a unit and prescribing the plan takes effect only when the proposed plan has been approved in writing by supermajorities of the owners, defined by certain interest criteria.

(b) Sets forth certain contents of and procedures for a ballot distributed to the owners of royalty interests.

(c) Prohibits a royalty owner from being required to return a ballot earlier than the 14th day after the date the owner receives the ballot and other required information.

(d) Requires the applicant to confirm receipt of each ballot and indicate to the royalty owner returning the ballot whether the ballot has been counted as a vote for or against the proposed plan.

(e) Requires the railroad commission to dismiss the application if the railroad commission finds that the applicant has not reasonably complied.

(f) Authorizes the railroad commission to issue an order approving the plan before the requirements have been met, notwithstanding Sections 104.054 and 104.055. Requires the requirements of Subsection (a)(2) to be met not later than six months after the date the railroad commission issues the order, if the railroad commission issues an order approving the plan under that circumstance. Provides that if, after an additional notice and hearing the railroad commission determines that the requirements have been met before the expiration of the required period, the order takes effect. Requires the railroad commission to revoke the order, if after the additional notice and hearing the railroad commission determines that the requirements have not been met before the expiration of the required period and provides that the order has no effect.

Sec. 104.057. STATUS OF UNLEASED MINERAL INTERESTS. Provides that any mineral interest in the unit area that is unleased on the effective date of unitization is considered for purposes of unit participation to have certain royalty and working interests certain expenses, rights and obligations.

SUBCHAPTER C. PLAN OF UNITIZATION

Sec. 104.101. AUTHORIZED PLAN. (a) Authorizes a plan to be proposed only to establish units and cooperative facilities necessary for unit operations that are reasonably anticipated to substantially increase the ultimate recovery of oil, gas, or oil and gas to greater volumes than would be recovered by primary recovery alone.

(b) Authorizes the proposed plan and the railroad commission order approving the plan to provide for unit operation of less than the whole of a common source of supply under certain circumstances.

Sec. 104.102. SINGLE OR MULTIPLE AGREEMENTS Authorizes the plan to consist of one or more agreements that the applicant considers fair, reasonable, and equitable if the applicant submits each agreement to the railroad commission as required.

Sec. 104.103. PARTICIPATION; ALLOCATION OF UNIT PRODUCTION. (a) Requires the proposed plan to provide for the apportionment and allocation of the unit production among the tracts in the unit area in order to reasonably permit a person entitled to share in, or benefit by, the production from a unit tract to receive a fair share of the unit production or other benefits.

(b) Requires that a tract's fair share of the unit production be measured by certain criteria.

Sec. 104.104. VOTING BY WORKING INTEREST OWNERS. Requires the proposed plan to establish a voting procedure for decisions by the working interest owners. Provides that the voting procedure need not be the same for each type of decision. Requires each voting procedure, however, to provide that each working interest owner has a voting interest equal to that owner's unit participation.

Sec. 104.105. OPERATING AGREEMENT. Requires the proposed plan to include a proposed operating agreement establishing certain procedures.

Sec. 104.106. EFFECTIVE DATE AND TERMINATION DATE OF PLAN UNITIZATION. (a) Requires the proposed plan to provide the date on which the plan takes effect, the manner in and the circumstances under which unit operations terminate, the settlement of accounts on termination, and notice by the unit operator to the public within 30 days after the unit's effective date. Requires the unit operator, after the railroad commission by order adopts the plan and declares the unit effective, to give public notice by filing for record, in the real property records of the county or counties in which the unit area or any part of the unit area is located, a certificate containing certain details.

(b) Requires the plan to require the unit operator to file for record in each relevant county a certificate stating the date unit operations terminated, not later than the 60th day after the unit's termination date.

Sec. 104.107. FINANCING UNIT OPERATIONS. (a) Requires the plan to provide the manner in which certain costs will be met and accounting will be done, Requires unit costs chargeable to a tract or interest to be paid by each working interest owner on a unit participation basis.

(b) Sets forth certain other financial requirements to be included in the plan.

Sec. 104.108. ATTACHMENT OF OR LIEN ON PROCEEDS OF PRODUCTION TO COVER DEBTS OF NONPAYING WORKING INTEREST OWNERS. (a) Requires the plan to provide for the attachment of or a lien on proceeds of production due to any working interest owner who is not paying the owner's share of the costs of unit operation as compensation to the paying owner or owners. Prohibits the compensation amount from exceeding 300 percent of the nonpaying working interest owner's share of unit costs, which is considered to include all penalties and interest.

(b) Requires the plan to provide that all of the unit production allocated to nonpaying working interest owner who does not pay the share of the unit expenses charged and authorizes any additional compensation amounts applied to that nonpaying owner to be appropriated by the unit operator and marketed and sold for the payment of unit expenses and additional compensation amounts. Requires any sale proceeds remaining after payment of unit expenses and

additional compensation amounts to be remitted to the nonpaying working interest owner.

(c) Defines what is considered a royalty interest and what is considered a working interest.

Sec. 104.109. SALE BY NONSIGNING WORKING INTEREST OWNER. Requires the plan to provide that a nonsigning working interest owner may elect to offer through the unit operator to sell and assign all of the owner's working interest in the unit area to the unit operator and to other working interest owners who desire to acquire a portion of the interest.

Sec. 104.110. INVESTMENT ADJUSTMENTS AND PROPERTY TAKEN OVER. Requires the plan to provide the procedure and basis for adjustment among the working interest owners in the unit area of their respective investment in certain items taken over and used in unit operations. Prohibits investment adjustments and credits for property of value taken over to be used as a factor in setting participation percentages and allocations of unit production.

Sec. 104.111. ADDITIONAL PLAN PROVISIONS. Authorizes the plan to include any additional provisions approved by the railroad commission consistent with required findings.

SUBCHAPTER D. AMENDMENT OF PLAN OR ORDER OF UNITIZATION; EXPANSION OF UNIT AREA

Sec. 104.151. AMENDMENT OF PLAN OR ORDER OF UNITIZATION. (a) Authorizes the railroad commission order approving unitization to be amended in the same manner and subject to the same conditions as required for an original order providing for unitized operations.

(b) Provides that approval of an amendment by royalty owners is not required if the amendment affects only the rights and interests of working interest owners.

(c) Prohibits an amendment to an order, without the aggregate approval of at least the minimum percentage of working interest and royalty interest ownership required for approval of unitization and compliance with Section 104.007, from changing certain production and expense percentages.

(d) Prohibits an amendment to an order from changing the unit operations from enhanced recovery operations to carbon dioxide storage operations, without the aggregate approval of certain percentages of the ownership.

(e) Provides that this section does not apply to certain orders.

(f) Defines what is considered a common source of supply.

Sec. 104.152. EXPANSION OF UNIT AREA. (a) Authorizes an existing unit area to be expanded to include additional nonunitized tracts under the terms contained in the plan for the existing unit if the working interest and royalty owners in each additional tract and in the existing unit area approve the expansion by the same percentages and in the same manner as required, by Section 104.056 and Section 104.007(c) if applicable, for the creation of a unit, in accordance with this section and subject to Section 104.153. Provides that the requirements for creating a unit under this chapter apply to the expansion of the unit area under this section.

(b) Requires unit production from the expanded unit to be calculated and allocated in certain ways.

Sec. 104.153. ENLARGEMENT INCLUDING ALL OF PREVIOUSLY ESTABLISHED UNIT. (a) Prohibits the railroad commission from combining two or more units created under this chapter unless certain supermajorities of the owners in each unit to be combined have agreed to the combination.

(b) Sets forth certain required unit production allocation procedures for the railroad commission's order combining units.

SUBCHAPTER E. UNIT OPERATIONS

Sec. 104.201. STATUS OF PRODUCTION PROCEEDS; STANDARD OF CARE; DISTRIBUTION. (a) Prohibits unit production, proceeds from the sale of production, or other receipts from being treated or taxed as income or profit of the unit. Establishes that all unit production and proceeds are income of the owners to whom or to whose credit the production or proceeds are payable under the plan.

(b) Provides that the unit operator does not become an agent or fiduciary of a working interest owner to whom production or proceeds are payable solely by reason of receiving or disbursing production or proceeds. Sets forth certain responsibilities and standards applying to the unit operator's disposing of production.

(c) Requires the unit operator to make available, to certain owners, the owner's share of production in kind or for sale. Authorizes the unit operator, at the request of an owner who elects to have the owner's production marketed by the unit operator, to market the production of the owner. Sets forth certain requirements for the unit operator marketing the production of such an owner. Prohibits this subsection from being construed as requiring that any profit, compensation, or other benefit received by the unit operator that is realized on a transaction occurring beyond the point of first sale at the unit or in the vicinity of the unit be shared with or distributed to any owner electing to have the owner's production marketed by the unit operator.

Sec. 104.202. LIABILITY OF WORKING INTEREST OWNER. (a) Provides that the liability of a working interest owner for payment of unit expense is several and not joint or collective.

(b) Provides that, except as provided by this section and Section 104.108, a working interest owner in a tract is not liable, directly or indirectly, for more than the amount charged to that owner's interest in the tract.

(c) Provides that, unless otherwise specifically agreed to by the parties as part of a plan approved by the railroad commission, any environmental condition or liability existing before the effective date of the railroad commission order approving the unit remains the sole responsibility of the party or parties responsible for that environmental condition or liability before the effective date of the railroad commission order approving the unit.

Sec. 104.203. LIEN FOR COSTS. (a) Provides that, subject to any reasonable limitations in the plan, a unit operator has a lien on certain items and interests to secure the payment of the amount of the unit expense and other additional provided compensation charges.

(b) Provides that the lien established does not attach to the certain royalty interests.

Sec. 104.204. EFFECT OF UNIT OPERATIONS ON EXPRESSED OR IMPLIED COVENANTS AND CONDITIONS. (a) Requires that, to the extent a lease, division order, or contract covering lands in the unit area relates to the common source of supply or the part of the common source of supply included in the unit area, all terms of the lease, division order, or contract, express or implied, be construed by giving due regard to

the plan approved by the railroad commission. Provides that operations conducted in accordance with a plan approved by the railroad commission are presumed to comply with those terms unless there is an irreconcilable conflict between the lease, division order, or contract and the approved plan. Provides that if there is such an irreconcilable conflict, the plan controls, but requires that the lease, division order, or contract terms be regarded as modified only to the extent necessary to conform to the plan.

(b) Prohibits a plan, notwithstanding any other provision of this chapter, without a separate voluntary agreement supported by consideration, from affecting a royalty interest in certain ways or altering a provision of a lease or contract providing for indemnification or similar compensation in the event the actions of one person cause another person to become liable for certain environmental damages.

(c) Requires lease or surface use provisions that conflict with the use of the surface for unit operations in such a manner as to prevent or render uneconomical the implementation of the plan as approved by the railroad commission to be amended by the unit order only to the extent necessary to implement the plan in an economical and efficient manner.

(d) Prohibits Section 104.201 from being construed as diminishing a working interest owner's duty to market production on behalf of a royalty owner.

Sec. 104.205. DISTRIBUTION OF UNIT PRODUCTION. Requires that unit production, except as authorized by this chapter or in a plan approved by the railroad commission, be distributed among, or the proceeds paid to, the owners entitled to share in the production from each tract in the same manner that those owners would have shared in the production or proceeds from the tract if the unit had not been established.

Sec. 104.206. MODIFICATION OF PROPERTY RIGHTS OR TITLES. Provides that a railroad commission order, except to the extent that the parties affected by the plan otherwise agree, does not alienate, convey, cross-convey, transfer or change title or ownership, legal or equitable, of a person in a parcel of land or the oil and gas rights in that parcel.

Sec. 104.207. ROYALTY OBLIGATIONS; BURDENS; UNLEASED INTERESTS. (a) Establishes that each working interest owner who is the owner of an interest in an oil and gas lease is responsible for the payment of all royalty, overriding royalty, or other lease burdens affecting the owner's leasehold estate unless the plan provides otherwise.

(b) Requires one-sixth of the production or proceeds attributable to any unleased interest located in the unit area, free of all unit expense and free of any lien, to be allocated to that interest. Requires five-sixths of any unleased interest in the production or proceeds to bear its pro rata share of all unit expense and provides that this interest is subject to any provided lien.

Sec. 104.208. UNIT OWNERSHIP OF PRODUCTION, PROCEEDS, AND ACQUIRED PROPERTY. (a) Provides that the part of the unit production allocated to any tract and the proceeds from the sale of that production are the property and income of the owners to whom or to whose credit the production and proceeds are allocated or payable under the order and the plan for unit operations.

(b) Provides that any property acquired in the conduct of unit operations and charged as an item of unit expense is owned by the working interest owners in the unit area as provided in the plan.

Sec. 104.209. UNIT OPERATIONS FOR PERMANENT GEOLOGIC STORAGE OF CARBON DIOXIDE IN COMMON SOURCE OF SUPPLY FOR WHICH THERE IS POTENTIAL FOR FURTHER ECONOMIC RECOVERY OF OIL, GAS OR OIL AND GAS. Requires the railroad commission, on application, by order to authorize an operator of an enhanced recovery project to document geologic storage of anthropogenic carbon

dioxide, including anthropogenic carbon dioxide stored in conjunction with the injection of naturally sourced carbon dioxide, while continuing to perform enhanced recovery operations for oil, gas, or oil and gas.

Sec. 104.210. UNIT OPERATIONS FOR PERMANENT GEOLOGIC STORAGE OF CARBON DIOXIDE IN COMMON SOURCE OF SUPPLY FOR WHICH THERE IS NO POTENTIAL FOR FURTHER ECONOMIC RECOVERY OF OIL, GAS, OR OIL AND GAS. (a) Requires the railroad commission to adopt rules as necessary to regulate unit operations for the geologic storage of carbon dioxide for the purpose of enhancing the public welfare and protecting the natural resources of this state.

(b) Authorizes unit operations for the geologic storage of carbon dioxide to be conducted in a common source of supply previously included in a plan approved by the railroad commission or the enhanced recovery of oil, gas, or oil and gas if the railroad commission amends the order approving the plan in the manner provided to authorize operations for carbon dioxide storage. Authorizes the railroad commission to amend the order only under certain circumstances.

(c) Authorizes unit operations for the geologic storage of carbon dioxide to be conducted in a common source of supply that has not previously been unitized if the railroad commission adopts a storage unitization order authorizing the operations. Authorizes the railroad commission to adopt the order only on application and after notice and hearing as required, except that notice must also be mailed in the provided manner to each surface owner in the unit area. Sets forth certain required contents of the application.

(d) Requires royalty and surface interests to be free of costs of the storage operations. Establishes that unleased mineral interests are considered to have the specified royalty interests and working interests.

(e) Prohibits the railroad commission from approving a proposed unitization plan for carbon dioxide storage unless the requirements of Subsection (c)(3)(8) (relating to requiring an application to contain a certain statement) have been satisfied.

(f) Requires the rules adopted the railroad commission to:

(1) provide for mailing notice of the application and the time and place of the hearing on the application in the manner provided; by Section 104.053;

(2) require a fair and equitable division of interest between certain interest owners in the proposed unit area;

(3) require that the unit operations cover the entire common source of supply taking into consideration the necessity, if any, for buffer acreage for monitoring the carbon dioxide storage site and any attendant storage facilities unique to the storage operations; and

(4) incorporate the provisions of this chapter relating to enhanced oil, gas, or oil and gas recovery to the extent the railroad commission considers those provisions applicable to the regulation of unit operations for the geologic storage of carbon dioxide in a common source of supply under the jurisdiction of this state.

(g) Prohibits unit operations for the geologic storage of carbon dioxide in the common source of supply from beginning until the railroad commission determines that the unit operations will comply with state and federal law.

SECTION 2. Requires the railroad commission, except as provided by Section 3 of this Act, to adopt rules as necessary to implement Chapter 104, Natural Resources Code, as added by this Act, not later than January 1, 2018.

SECTION 3. Authorizes the railroad commission, not later than April 1, 2018, to adopt rules as necessary to permit the railroad commission to assess a fee or fees in an amount sufficient to recover any costs incurred by the railroad commission in implementing Chapter 104, Natural Resources Code, as added by this Act, that are in addition to the cost incurred by the railroad commission in performing its other functions. Provides that this section does not authorize the railroad commission to assess a fee for performing any function that is not specific to that chapter's implementation.

SECTION 4. Effective date: upon passage or September 1, 2017.