

# Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** May 30, 2008

**Thru:** LaDonna Castañuela, Chief Clerk  
Glenn Shankle, Executive Director

**From:** Dan Eden, Deputy Director  
Office of Permitting, Remediation and Registration

**Docket No.:** 2007-1301-RUL

**Subject:** Commission Approval for Rulemaking Adoption  
Chapter 50, Action On Applications And Other Authorizations;  
Chapter 55, Requests For Reconsideration And Contested Case Hearings; Public Comment;  
Chapter 305, Consolidated Permits;  
Chapter 331, Underground Injection Control  
Underground Injection Control (UIC) Class I Nonhazardous Rules for Water Treatment  
Residuals  
Rule Project No. 2007-030-331-PR

## Scope of the rulemaking:

This rulemaking will allow the commission to issue a general permit for Class I wells injecting nonhazardous desalination concentrate or nonhazardous water treatment residuals from public water systems. For these special cases, this rulemaking will also revise technical standards to be equivalent with federal Class I nonhazardous regulations. In addition, this rulemaking authorizes the use of nonhazardous desalination concentrate or nonhazardous drinking water treatment residuals as an injection fluid for enhanced recovery purposes without first obtaining a permit from the TCEQ (consistent with federal regulations).

## Reasons for the rule package:

This rulemaking supports the commission's role in promoting desalination projects and is intended to facilitate permitting of Class I injection wells to be used for disposal of nonhazardous desalination concentrate or other nonhazardous water treatment residuals from public water systems and to reduce operating costs for these wells.

This rulemaking implements House Bill (HB) 2654, 80th Legislature, 2007, (sponsored by Representative Puentes) and amends technical standards to expand disposal options for the special case of nonhazardous brine from a desalination operation (desalination concentrate) and nonhazardous drinking water treatment residuals.

## Statutory Authority:

This rulemaking will be adopted under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules repealing any statement of general applicability that interprets law or policy; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; §27.019, which requires the commission to adopt rules reasonably required for the regulation of injection wells; and §27.023, which allows the commission to adopt rules as necessary to implement and administer a general permit authorizing the use of Class I injection wells to inject nonhazardous brine from desalination operations or nonhazardous drinking water treatment residuals.

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**Potentially controversial matters:**

A single statewide “general permit” covering all qualifying Class I injection wells that meet the permit’s performance standards for injection of nonhazardous desalination concentrate or nonhazardous drinking water treatment residuals would expedite the processing of authorizations for wells used for these purposes. The general permit would require safeguards to protect groundwater and surface water, and it would require standards as stringent as an individual permit. However, the public may be concerned that a general permit will not be as protective as an individual permit. In approval of the general permit, public notice in a newspaper and the *Texas Register* would be required, but public notice would not be required for each entity authorized under the general permit.

**Public comment:**

The proposal was published in the March 14, 2008 issue of the *Texas Register*. The commission held a public hearing in Austin on April 8, 2008. No comments were received during the hearing. The comment period closed on April 14, 2008. Written comments expressing general support for the project were received from San Antonio Water System (SAWS) and the Water Environment Association of Texas (WEAT). Specific comments and questions were received from SAWS and pertained to implementation of the general permit; authorization of pre-injection units; and procedures related to design-build as defined under HB 1886, 80th Legislature, 2007.

**Significant changes from proposal:**

The commission did not make any changes to the rules in response to the comments.

**Key points in adoption rulemaking schedule:**

<i>Texas Register</i> proposal publication date:	March 14, 2008
Six-month <i>Texas Register</i> filing deadline:	September 14, 2008
Anticipated <i>Texas Register</i> publication date:	July 4, 2008
Anticipated effective date:	July 10, 2008

**Agency contacts:**

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Attachments

cc: Chief Clerk, 5 copies  
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