

# Texas Natural Resource Conservation Commission

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** April 19, 2002

**Thru:** LaDonna Castañuela  
Chief Clerk

**From:** Randolph Wood, Deputy Director  
Office of Environmental Policy, Analysis, and Assessment

**Subject:** Consideration of a Petition for Proposed Rulemaking

**Caption:** **Docket No. 2002-0476-RUL.** Consideration of a petition for rulemaking filed by Concerned Citizens Against Pollution (C-CAP), Winston Stein, President, requesting that the commission amend 30 Texas Administrative Code (TAC) Section 331.14, Prohibition of Class I Salt Cavern Solid Waste Disposal Wells and Associated Caverns in Geologic Structures or Formations Other Than Salt Stocks of Salt Domes, and Section 331.42, Area of Review. C-CAP seeks rule language prohibiting construction of an injection well for disposal of solidified commercial industrial waste in a salt dome if the proposed or existing well bore is within a three-mile lateral radius of a commercial or residential drinking water well.

The executive director recommends denial of the petition. (Don Redmond, Wade Wheatley, Ray Austin) (Rule Log No. 2002-050-PET-WT)

## Who Submitted the Petition:

On March 28, 2002, the executive director received a petition from Concerned Citizens Against Pollution (C-CAP), Winston Stein, President.

## What the Petitioner Requested:

C-CAP requested that the commission amend its underground injection control (UIC) rules to prohibit construction of an injection well for disposal of solidified commercial industrial waste in a salt dome if the proposed or existing well bore is within a three-mile lateral radius of a commercial or residential drinking water well (i.e., three-mile buffer zone). Specifically, the petitioner requested that 30 TAC §331.14 be amended to incorporate the aforementioned prohibition and that §331.42 be amended to require, as part of the area of review, the identification of commercial and residential drinking water wells within a three-mile, lateral radius from the proposed or existing well bore. The area of review is the area surrounding an injection well or a group of injection wells, for which the permit application must detail the information required in 30 TAC Chapter 331, Subchapter G, Consideration Prior to Permit Issuance.

The petitioner stated that, even though safeguards are engineered, the possibility of an accidental breach or compromise of the conduit from the surface to the injection zone still exists. The petitioner

Re: Docket No. 2002-0476-RUL

also stated that, if the aforementioned prohibition is not adopted, the death of thousands of citizens could result.

**Recommended Action and Justification:**

The executive director recommends that the petition be denied for the following reasons. The executive director has determined that the commission's rules for salt dome disposal of nonhazardous waste ensure that any applicant will be required to demonstrate that a site is geologically suitable, that any proposed salt cavern disposal well will meet stringent construction standards, and that the design and operation of any project permitted by the commission will preclude the escape of hazardous constituents from the salt cavern injection zone. In addition, the petitioner provided no statutory or scientific basis for the three-mile buffer zone. Furthermore, it should be noted that the existing salt dome rules have already been determined to be "sufficient to regulate the activity" by the commission and the United States Environmental Protection Agency.

**Applicable Law:**

Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule and 30 TAC, §20.15, which provides such procedures specific to the TNRCC.

Texas Water Code, §5.103, which provides the commission 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 when adopting, repealing, or amending any agency statement of general applicability that interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; and §27.019, which requires the commission to adopt rules reasonably required for the regulation of injection wells.

Texas Health and Safety Code, §336.114, which requires the commission to prohibit by rule the storage, processing, or disposal of hazardous waste in a solution-mined salt dome cavern or a sulphur mine.

**Affected Public:**

The proposed amendments would affect current and future applicants for salt cavern injection well permits for disposal of solidified commercial industrial waste, and the general public, especially those who live in the eastern half of the state where salt domes are located.

**Affected Agency Programs:**

The agency program affected by these rules is the UIC program, which currently has an application for several UIC Class I salt cavern waste disposal wells in technical review.

Commissioners

Page 3

April 19, 2002

Re: Docket No. 2002-0476-RUL

**Agency Contacts:**

Ray Austin, Regulation Development Section, 239-6814

Ben Knape, Industrial and Hazardous Waste Permits Section, 239-6633

Kathryn Herzog, Industrial and Hazardous Waste Permits Section, 239-6890

Fred Duffy, Industrial and Hazardous Waste Permits Section, 239-6891

Don Redmond, Environmental Law Division, 239-0612

Lola Brown, Texas Register/Administrative Support Team, 239-0348

Attachment: Petition for rulemaking filed by Concerned Citizens Against Pollution (C-CAP), Winston Stein, President.

cc: 7 copies to the Chief Clerk for distribution