

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §281.22, concerning Referral to Commission. The purpose of the proposed amendments is to maintain consistency with federal regulations applicable to the state Underground Injection Control (UIC) Program and to maintain state primacy for the UIC Program.

Proposed §281.22 is an amendment, per 40 Code of Federal Regulations (CFR) §144.31(d), to prohibit the issuance of an injection well permit until the agency has received a complete application.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections as proposed are in effect there are no significant fiscal implications anticipated for state or local governments as a result of enforcement and administration of the sections.

Mr. Minick has also determined that for the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be clarification of existing regulations relating to underground injection control and consistency between state and federal regulations. Compliance with the proposed state regulations will result in no costs to affected parties that would not otherwise result from compliance with the existing federal regulation proposed for incorporation. There are no additional costs anticipated for any person required to comply with the sections as proposed.



The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to incorporate federal language into current state regulations so that the Underground Injection Control (UIC) program can maintain compliance with the federal program. The rules will substantially advance this specific purpose by allowing the commission to maintain primacy, and thus state control, for the UIC program. Promulgation and enforcement of these rule amendments will not create a burden on private real property.

This rule amendment is administrative in nature and does not impose any additional or substantial burden on private real property. Underground Injection Control (UIC) facilities are already subject to this federal requirement, this amendment merely incorporates the federal requirement into the state UIC program. Also, because this rulemaking is reasonably taken to fulfill an obligation mandated by Federal Law, this rule amendment is excepted from the Private Real Property Preservation Act pursuant to §2007.3(b)(4) of Texas Government Code (the "Act").

Written comments may be submitted by mail to Bettie Bell, Office of Policy and Regulatory Development, MC205, P.O. Box 13087, Austin, Texas 78711-3087; or by fax at (512) 239-4808. All comments must be received within 30 days following the date of this publication and should reference Rule Log No. 96140-281-WS. Comments received by 5:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. For further information, please contact Kathy Vail at (512) 239-6637.

The amendments are proposed under the Texas Water Code, §§ 5.103, 5.105, and 27.019, which authorize the commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of the state, and under Texas Health and Safety Code §§361.017 and 361.024 (Vernon 1992), which further authorizes the commission to promulgate rules necessary to manage industrial solid waste and municipal solid and hazardous wastes.

The proposed amendments implement Texas Water Code §27.019.

**§281.22. Referral to Commission.**

(a) (No change.)

(b) For applications involving hazardous waste or an injection well, the commission shall not issue a permit before receiving a complete application for a permit. For underground injection wells, an application for a permit is complete when the executive director receives an application form and any supplemental information which are completed to his or her satisfaction. For underground injection wells, the completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. However, a facility may be eligible for a permit by rule or may be subject to an emergency order.

(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 23, 1996.