

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** April 25, 2014

**Thru:** Bridget C. Bohac, Chief Clerk  
Richard A. Hyde, P.E., Executive Director

**From:** Brent Wade, Deputy Director  
Office of Waste

**Docket No.:** 2014-0426-RUL

**Subject:** Commission Approval for Proposed Rulemaking  
Chapter 55, Requests for Reconsideration and Contested Case Hearings;  
Public Comment  
Chapter 305, Consolidated Permits  
Chapter 331, Underground Injection Control  
House Bill 1079: Class III UIC Area Permits  
Rule Project No. 2013-058-331-WS

### **Background and reason(s) for the rulemaking:**

House Bill 1079 (Authors: Smith, Guillen, Kleinschmidt, and Keumpel; Sponsors: Hancock and Lucio) was passed during the 83rd Legislature, 2013. HB 1079 amended Texas Water Code, §27.0513, concerning Area Permits and Production Area Authorizations for Uranium Mining. These amendments establish the requirement for a permit range table in a Class III Underground Injection Control (UIC) area permit and specify the conditions under which an application for a production area authorization (PAA) is not subject to opportunity for a contested case hearing. *In situ* mining of uranium typically requires two types of authorizations from the TCEQ's UIC program. Class III UIC area permits authorize the use of Class III injection wells for *in situ* recovery of minerals within a large defined permit area. A PAA, issued under the authority of the Class III UIC permit, authorizes the operation of Class III wells in a smaller specific area within the permit area. The PAA establishes monitor well location requirements, monitoring requirements and groundwater restoration requirements within the specific production area.

### **Scope of the rulemaking:**

**A.) Summary of what the rulemaking will do:** The proposed rulemaking will require that all new, amended, or renewed Class III UIC permits include a permit range table provides concentration ranges for each of the groundwater quality parameters listed in the restoration table of each PAA associated with a permit. The purpose of this table is to indicate the general range of pre-mining water quality within the larger permit area. The restoration table values of a PAA must be within the respective ranges in the permit range table. The restoration table in each PAA includes a pre-mining concentration for a suite of groundwater quality parameters. If a permittee requests revision of a restoration table value after efforts to complete groundwater restoration, the requested revised value must be within the respective range of the permit range table; otherwise, the permit range

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table must be amended through a permit amendment application, which is subject to opportunity for a contested case hearing.

The rulemaking also revises the conditions that determine when an application for a PAA may be subject to an opportunity for a contested case hearing consistent with the amendments to TWC, §27.0513 in HB 1079.

**B.) Scope required by federal regulations or state statutes:** The proposed rules are necessary to address amendments to TWC, §27.0513. The proposed rules are not required by federal regulation.

**C.) Additional staff recommendations that are not required by federal rule or state statute:** None.

**Statutory authority:**

TWC, §5.103, concerning Rules

TWC, §5.105, concerning General Policy

TWC, §27.019, concerning Rules, Etc

TWC, §27.0513, concerning Area Permits and Production Area Authorizations for Uranium Mining

**Effect on the:**

**A.) Regulated community:** Companies who engage in *in situ* mining of uranium will be affected by this proposed rulemaking. It will not create a group of affected persons who were not affected previously. There is no fiscal impact.

**B.) Public:** The public will be affected in that there will be fewer opportunities to request a contested case hearing on applications for PAAs.

**C.) Agency programs:** The UIC Permits Section of the Radioactive Materials Division will be responsible for implementation of the proposed rules.

**Stakeholder meetings:**

The commission did not hold any stakeholder meetings related to this rulemaking; however, a rule public hearing will be held during the comment period on June 17, 2014, in Austin.

**Potential controversial concerns and legislative interest:**

Opponents of *in situ* uranium mining may not be in favor of reduced opportunities to request a contested case hearing on applications for PAAs.

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**Will this rulemaking affect any current policies or require development of new policies?** No.

**What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?** The proposed rulemaking is necessary to implement HB 1079; there are no alternatives to rulemaking.

**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** May 14, 2014

**Anticipated *Texas Register* publication date:** May 30, 2014

**Anticipated public hearing date (if any):** June 17, 2014

**Anticipated public comment period:** May 30 - June 30, 2014

**Anticipated adoption date:** November 5, 2014

**Agency contacts:**

David Murry, Rule Project Manager, (512) 239-6080, Radioactive Materials Division

Don Redmond, Staff Attorney, (512) 239-0612

Bruce McAnally, Texas Register Coordinator, (512) 239-2141

**Attachments**

House Bill 1079

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Anne Idsal  
Tucker Royall  
John Bentley  
Office of General Counsel  
David Murry  
Don Redmond  
Bruce McAnally