

AN ACT

relating to the regulation of the use of an injection well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 27.021, Water Code, is amended to read as follows:

Sec. 27.021. PERMIT FOR DISPOSAL OF BRINE FROM DESALINATION OPERATIONS OR OF DRINKING WATER TREATMENT RESIDUALS IN CLASS I INJECTION WELLS.

SECTION 2. Section 27.021(a), Water Code, is amended to read as follows:

(a) The commission may issue a permit to dispose of brine produced by a desalination operation or of drinking water treatment residuals in a Class I injection well if the applicant for the permit meets all the statutory and regulatory requirements for the issuance of a permit for a Class I injection well.

SECTION 3. Subchapter B, Chapter 27, Water Code, is amended by adding Section 27.023 to read as follows:

Sec. 27.023. GENERAL PERMIT AUTHORIZING USE OF CLASS I INJECTION WELL TO INJECT NONHAZARDOUS BRINE FROM DESALINATION OPERATIONS OR NONHAZARDOUS DRINKING WATER TREATMENT RESIDUALS. (a) The commission may issue a general permit authorizing the use of a Class I injection well to inject nonhazardous brine from a

1 desalination operation or to inject nonhazardous drinking water
2 treatment residuals if the commission determines that the injection
3 well and injection activities are more appropriately regulated
4 under a general permit than under an individual permit based on
5 findings that:

6 (1) the general permit has been drafted to ensure that
7 it can be readily enforced and that the commission can adequately
8 monitor compliance with the terms of the general permit; and

9 (2) the general permit will contain proper safeguards
10 to protect ground and surface fresh water from pollution.

11 (b) The commission shall publish notice of a proposed
12 general permit in one or more newspapers of statewide or regional
13 circulation and in the Texas Register. The notice must include an
14 invitation for written comments by the public to the commission
15 regarding the proposed general permit and shall be published not
16 later than the 30th day before the date the commission adopts the
17 general permit. The commission by rule may require additional
18 notice to be given.

19 (c) The commission may hold a public meeting to provide an
20 additional opportunity for public comment. The commission shall
21 give notice of the public meeting under this subsection by
22 publication in the Texas Register not later than the 30th day before
23 the date of the meeting.

24 (d) The commission shall issue a written response to
25 comments on the general permit at the same time the commission
26 issues or denies the permit. The response to comments is available
27 to the public and shall be mailed to each person who made a comment.

1 (e) A general permit may provide that an owner of a Class I
2 injection well may obtain authorization to use the well to inject
3 nonhazardous brine from a desalination operation or to inject
4 nonhazardous drinking water treatment residuals under a general
5 permit by submitting to the commission written notice of intent to
6 be covered by the general permit. The commission by rule shall
7 establish the requirements for the notice of intent, including the
8 information that an owner of an injection well subject to a general
9 permit must submit to authorize the use of the well under the
10 general permit. A general permit may authorize the use of an
11 injection well under the general permit on filing a complete and
12 accurate notice of intent, including all information required by
13 the commission's rules to be submitted, or it may specify a date or
14 period of time after the commission receives the notice of intent,
15 including the required information, on which the use of an
16 injection well is authorized unless the executive director before
17 that time notifies the owner that it is not eligible under the
18 general permit.

19 (f) Authorization for the use of an injection well under a
20 general permit does not confer a vested right. After written notice
21 to the owner of an injection well, the executive director may
22 suspend authorization for the use of the well under a general permit
23 and may require the owner to obtain authorization for the use of the
24 well under an individual permit.

25 (g) Notwithstanding the other provisions of this chapter,
26 the commission, after hearing, shall deny or suspend authorization
27 for the use of an injection well under a general permit if the

1 commission determines that the owner's compliance history is in the
2 lowest classification under Sections 5.753 and 5.754 and rules
3 adopted and procedures developed under those sections. A hearing
4 under this subsection is not subject to the requirements relating
5 to a contested case hearing under Chapter 2001, Government Code.

6 (h) A general permit may be issued for a term not to exceed
7 10 years. After notice and comment as provided by Subsections
8 (b)-(d), a general permit may be amended, revoked, or canceled by
9 the commission or renewed by the commission for an additional term
10 or terms not to exceed 10 years each. A general permit remains in
11 effect until amended, revoked, or canceled by the commission or,
12 unless renewed by the commission, until expired. If before a
13 general permit expires the commission proposes to renew that
14 general permit, that general permit remains in effect until the
15 date on which the commission takes final action on the proposed
16 renewal.

17 (i) The commission may add or delete requirements for a
18 general permit through a renewal or amendment process. The
19 commission shall provide a reasonable time to allow an owner of an
20 injection well to make the changes necessary to comply with the
21 additional requirements.

22 (j) The commission may impose a fee for the submission of a
23 notice of intent to be covered by the general permit. The fee must
24 be in the same amount as a fee collected under Section 27.014.

25 (k) The issuance, amendment, renewal, suspension,
26 revocation, or cancellation of a general permit or the
27 authorization for the use of an injection well under a general

1 permit is not subject to the requirements relating to a contested
2 case hearing under Chapter 2001, Government Code.

3 (l) The use or disposal of radioactive material under this
4 section is subject to the applicable requirements of Chapter 401,
5 Health and Safety Code.

6 (m) The commission may adopt rules as necessary to implement
7 and administer this section.

8 SECTION 4. Section 27.0511, Water Code, is amended by
9 amending Subsection (g) and adding Subsection (h) to read as
10 follows:

11 (g) Except as provided by Subsection (h), a [No] person may
12 not continue utilizing or begin utilizing industrial or municipal
13 waste as an injection fluid for enhanced recovery purposes without
14 first obtaining a permit from the commission.

15 (h) The railroad commission may authorize a person to
16 utilize nonhazardous brine from a desalination operation or
17 nonhazardous drinking water treatment residuals as an injection
18 fluid for enhanced recovery purposes without first obtaining a
19 permit from the commission. The use or disposal of radioactive
20 material under this subsection is subject to the applicable
21 requirements of Chapter 401, Health and Safety Code.

22 SECTION 5. Section 361.086, Health and Safety Code, is
23 amended by amending Subsection (a) and adding Subsection (d) to
24 read as follows:

25 (a) Except as provided by Subsection (d), a [A] separate
26 permit is required for each solid waste facility.

27 (d) A separate permit is not required for activities

1 authorized by a general permit issued under Section 27.023, Water
2 Code.

3 SECTION 6. Section 27.014, Water Code, is amended to read as
4 follows:

5 Sec. 27.014. APPLICATION FEE. With each application for a
6 disposal well permit, the commission shall collect a fee in the
7 amount provided by and under the terms of Section 5.701 [~~5.235~~].

8 SECTION 7. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 2654 was passed by the House on May 4, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2654 was passed by the Senate on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor