

BILL ANALYSIS

Senate Research Center

S.B. 1003
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Water Code requires the Texas Commission on Environmental Quality (TCEQ) to impose a mandatory \$10,000 per day monetary penalty to be assessed against rock crushers and concrete plants that perform wet batching, dry batching, or central mixing, and are found to be operating without the required permit.

S.B. 1003 gives discretion to TCEQ regarding whether to impose the penalty if the person that is permitted to operate a facility notifies TCEQ before the date of the expiration of the permit that the person intends to operate the facility past that date. S.B. 1003 grants TCEQ the ability to decide the amount of the penalty, up to \$10,000. S.B. 1003 also gives TCEQ discretion as to whether it will issue an emergency order to shut down an operator without a permit.

As proposed, S.B. 1003 amends current law relating to penalties for, and emergency orders suspending, the operation of a rock crusher or certain concrete plants without a current permit under the Texas Clean Air Act.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7.052, Water Code, by amending Subsection (b) and adding Subsection (b-3), as follows:

(b) Provides that, except as provided by Subsection (b-3), the amount of the penalty for operating a rock crusher or a concrete plant that performs wet batching, dry batching, or central mixing, that is required to obtain a permit under Section 382.0518 (Preconstruction Permit), Health and Safety Code, and that is operating without the required permit is \$10,000. Provides that each day that a continuing violation occurs is a separate violation.

(b-3) Authorizes the Texas Natural Resource Conservation Commission (TNRCC), if a person that is permitted to operate a facility as described by Subsection (b) notifies TNRCC before the date of the expiration of the permit that the person intends to operate the facility past that date, to impose a penalty of not greater than \$10,000 for each violation. Authorizes TNRCC to consider each day that the facility is operated without the required permit a separate violation for the purposes of imposing a penalty.

SECTION 2. Amends Section 5.5145, Water Code, as follows:

Sec. 5.5145. EMERGENCY ORDER CONCERNING OPERATION OF ROCK CRUSHER OR CONCRETE PLANT WITHOUT PERMIT. Authorizes TNRCC, rather

than requires TNRCC, to issue an emergency order under this subchapter suspending operations of a rock crusher or a concrete plant that performs wet batching, dry batching, or central mixing and is required to obtain a permit under Section 382.0518, Health and Safety Code, and is operating without the necessary permit.

SECTION 3. Makes application of Section 7.052, Water Code, as amended by this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2011.