

BILL ANALYSIS

Senate Research Center

H.B. 1079
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1079 makes revisions to the regulatory process for uranium mining activities at the Texas Commission on Environmental Quality (TCEQ) while keeping in place the important environmental protections provided by statute and TCEQ rules.

Uranium mining companies have to obtain multiple regulatory approvals from TCEQ, including area permits and production area authorizations (PAAs) to operate and mine in Texas. Area permits cover a larger area in which uranium mining could possibly occur while PAAs address smaller areas located within the areas covered by the area permits.

Section 27.0513 (Area Permits and Production Areas for Uranium Mining) of the Water Code requires both area permits and PAAs to be subject to contested case hearings. Under the provisions of H.B. 1079, applications for area permits and PAAs continue to be subject to the public notice and comment process at TCEQ and area permits remain subject to contested case hearings. To reduce duplication of process PAAs would not be subject to contested case hearings.

H.B. 1079 amends current law relating to the procedural requirements for action by the Texas Commission on Environmental Quality on applications for production area authorizations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality (TCEQ) in SECTION 1 (Section 27.0513, Water Code) of this bill.

Rulemaking authority previously granted to TCEQ is modified in SECTION 1 (Section 27.0513, Water Code) of this bill.

Rulemaking authority previously granted to TCEQ is rescinded in SECTION 1 (Section 27.0513, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 27.0513(a), (c), (d), (e), and (f), Water Code, as follows:

(a) Provides that a new, amended, or renewal area permit must incorporate a table of pre-mining low and high values representing the range of groundwater quality within the area of review, as provided by Texas Commission on Environmental Quality (TCEQ) rule, for each water quality parameter used to measure groundwater restoration in a TCEQ-required restoration table. Requires that the values in the area permit range table be established from all available wells within the area of review, including those in the existing or proposed area permit boundary and existing or proposed production area. Provides that wells used for this purpose are limited to those that have documented completion depths and screened intervals that correspond to a uranium production zone aquifer identified within an area permit boundary.

(c) Requires TCEQ by rule to establish application requirements, technical requirements, including the methods for determining restoration table values, and procedural

requirements for any authorization. Requires that the value within the area permit range table, if a restoration table value for a proposed authorization exceeds the range listed in the area permit range table, such that it falls above the upper limit of the range, be used or that a major amendment to the area permit range table be made, subject to a contested case hearing or the hearing requirements of Chapter 2001 (Administrative Procedure), Government Code.

(d) Provides that, notwithstanding Sections 5.551 (Permitting Procedures; Applicability), 5.556 (Request for Reconsideration or Contested Case Hearing), 27.011 (Permit From Commission), and 27.018 (Hearing on Permit Application), an application for an authorization is an uncontested matter not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, if:

- (1) the authorization is located within a permit that incorporates a range of groundwater quality restoration values used to measure groundwater restoration by TCEQ;
- (2) the application includes groundwater quality restoration values within the range established in Subdivision (1); and
- (3) the authorization is located within a permit that incorporates groundwater monitoring characteristics of the monitoring wells for the application required by TCEQ rule.

Deletes existing text providing that, notwithstanding Sections 5.551, 5.556, 27.011, and 27.018, an application for authorization submitted after September 1, 2007, is an uncontested matter not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the authorization seeks an amendment to a restoration table value; the initial establishment of monitoring wells for any area covered by the authorization, including the location, number, depth, spacing, and design of the monitoring wells, unless the executive director of TCEQ (executive director) uses the recommendation of an independent third-party expert chosen by TCEQ; or an amendment to the type or amount of bond required for groundwater restoration or by Section 27.073 (Financial Responsibility) to assure that there are sufficient funds available to the state for groundwater restoration or the plugging of abandoned wells in the area by a third-party contractor.

(e) Requires that the range of restoration values in the range table used for Subsection (d) must be established from all available well sample data collected in the area of review. Deletes existing text authorizing the executive director to use an independent third-party expert if the expert meets the qualifications set by TCEQ rules for such experts; the applicant for the authorization agrees to pay the costs for the work of the expert; and the applicant for the authorization is not involved in the selection of the expert or the direction of the work of the expert.

(f) Provides that, as an alternative to Subsection (d), the first application for an authorization issued under Subsection (c) located within a permit issued under Subsection (a) is subject to the requirements of Chapter 2001, Government Code, relating to opportunities for contested case hearings. Requires that the first application contain the provisions listed in Subsections (d)(1)-(3). Provides that, if a first authorization has previously been issued within a permit, that authorization is effective for the purposes of this subsection. Provides that a subsequent application for an authorization located within the same permit boundary is not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the subsequent application would authorize the following:

- (1) the use of groundwater from an aquifer outside the production zone aquifer for supplemental production water that was not previously approved in the permit;
- (2) expansion of the permit boundary; or

(3) application monitoring well locations that exceed well spacing requirements or reduce the number of wells required by TCEQ rule.

Deletes existing text providing that an application seeking approval under Subsections (d)(1)-(3) is subject to the public notice and contested hearing requirements provided in Section 27.018.

SECTION 2. Makes application of the change in law made by this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2013.