

BILL ANALYSIS

Senate Research Center

S.B. 1080
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Natural Resources
10/7/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The federal Occupational Safety and Health Act of 1970 (OSHA) requires, in its general duty clause, that employers provide a safe work environment free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Industrial facilities must sometimes balance OSHA's general duty clause with environmental mandates that can be in opposition to one another in certain design or operating situations. Where such regulatory conflicts exist, facility managers and their staff must choose to comply with either an environmental permit/regulation or protect worker health and safety.

This legislation offers an affirmative defense to enforcement by the Texas Commission on Environmental Quality (TCEQ) in those situations where the OSHA general duty clause conflicts with a statute within TCEQ's jurisdiction or a TCEQ rule, order, or permit.

S.B. 1080 amends current law relating to compliance with federal occupational safety and health standards in environmental enforcement.

[**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 Subchapter F, Chapter 7, Water Code, by adding Section 7.256, as follows:

Sec. 7.256. COMPLIANCE WITH FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS. Provides that if a person can establish that an act or event that otherwise would be a violation of a statute within the Texas Natural Resource Conservation Commission's (TNRCC) jurisdiction or a rule adopted or an order or permit issued by TNRCC under such a statute was caused solely by compliance with the general duty clause of the federal Occupational Safety and Health Act of 1970 (29 U.S.C. Section 654), the act or event is not a violation of that statute, rule, order, or permit.

SECTION 2. Effective date: September 1, 2009.