

BILL ANALYSIS

H.B. 1005
By: Haggerty
Environmental Regulation
Committee Report (Amended)

BACKGROUND AND PURPOSE

In H.B. 2912, the 77th Texas Legislature added Section 5.5145 to the Texas Water Code imposing a requirement that the Texas Commission on Environmental Quality (TCEQ) must issue an emergency order to suspend all operations of a rock crusher or certain types of concrete plants operating without the necessary permits. The Legislature also amended Section 7.052 of the Water Code to impose a mandatory \$10,000 per day penalty for the operation of a rock crusher or concrete plant without a permit.

TCEQ oversight in dealings with issuing emergency shut down orders has served to be a positive exercise of discretion. TCEQ should have the discretion to impose penalties, to deal with the penalty of \$10,000 per day and to find solutions for the mandatory shut down order requirements.

HB 1005 would conform provisions relating to rock crushers and concrete plants to similar statutes involving emergency orders by making the emergency shut-down order permissive rather than mandatory. This bill also makes the \$10,000 penalty the maximum amount that may be imposed by the agency on a per day basis, which again is consistent with other statutes and agency practice.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 5.5145 of the Water Code. Gives the TCEQ the discretion to issue an emergency order suspending operations of a rock crusher or a concrete plant that is operating with the necessary permit permissive.

SECTION 2. Amends Section 7.052(b) of the Water Code. Sets the penalty for operating a rock crusher or a concrete plant that is operating without the required permits at a maximum of \$10,000 per day, rather than a mandatory penalty of \$10,000 per day. Gives the TCEQ the discretion to determine whether each day that a continuing violation occurs is a separate violation for purposes of the maximum \$10,000 penalty.

SECTION 3. Effective date and saving provisions

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

EXPLANATION OF AMENDMENTS

Committee Amendment 1

Amends HB 1005 by stating that an operator of a rock crusher cannot be assessed the \$10,000 a day fine for more than ten days.

