

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1005  
By: Haggerty (Fraser)  
Natural Resources  
5/19/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

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.

C.S.H.B. 1005 conforms 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.

C.S.H.B. 1005 also prohibits TCEQ from issuing a permit, permit amendment, or other authorization for a rock crushing facility that will be associated with blasting operations, that are or will be located over an aquifer comprised in whole or in part of water bearing limestone or dolomite that is the primary source of drinking water for a municipality if the facility will be located in a county adjacent to a county with a population of 500,000 or more and in which is located a portion of a water body into which a discharge is prohibited by TCEQ. This bill also requires TCEQ to prohibit a currently permitted rock crushing facility from being associated with blasting operations that are or will be located on a tract over an aquifer comprised in whole or in part of water bearing limestone or dolomite that is the primary source of drinking water for a municipality if the facility is located in a county adjacent to a county with a population of 500,000 or more and in which is located a portion of a water body into which a discharge is prohibited by TCEQ, and if the blasting operations have not taken place on the tract for ten or more years prior to April 10, 2003.

### **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 5.5145, Water Code, as follows:

Sec. 5.5145. EMERGENCY ORDER CONCERNING OPERATION OF ROCK CRUSHER OR CONCRETE PLANT WITHOUT PERMIT. (a) Authorizes, rather than requires, the Texas Commission on Environmental Quality (TCEQ) 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 (Preconstruction Permit), Health and Safety Code, and is operating without the necessary permit.

(b) Prohibits TCEQ from issuing a permit, permit amendment, or other authorization for a rock crushing facility that will be associated with blasting operations, that are or will be located over an aquifer comprised in whole or in part of water bearing limestone or dolomite that is the primary source of drinking

water for a municipality if the facility will be located in a county adjacent to a county with a population of 500,000 or more and in which is located a portion of a water body into which a discharge is prohibited by TCEQ under 30 Texas Administrative Code, Chapter 311.

(c) Requires TCEQ to prohibit a currently permitted rock crushing facility from being associated with blasting operations that are or will be located on a tract over an aquifer comprised in whole or in part of water bearing limestone or dolomite that is the primary source of drinking water for a municipality if the facility is located in a county adjacent to a county with a population of 500,000 or more and in which is located a portion of a water body into which a discharge is prohibited by TCEQ under 30 Texas Administrative Code, Chapter 311, and if the blasting operations have not taken place on the tract for ten or more years prior to April 10, 2003.

SECTION 2. Amends Section 7.052(b), Water Code, to prohibit, rather than provides that, 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, Health and Safety Code, and that is operating without the required permit from exceeding, rather than is, \$10,000. Provides that each day, for a maximum of 10 days, that a continuing violation may be considered, rather than is, a separate violation.

SECTION 3. (a) Effective date: upon passage or September 1, 2003.

(b) Makes the application of the changes in law made by Sections 5.5145 and 7.052(b), Water Code, as amended by this Act, prospective.

(c) Makes application of the changes in law made by Sections 5.5145(b) and 5.5145(c), Water Code, as amended by this Act, prospective.