

BILL ANALYSIS

C.S.S.B. 785
By: Fraser
Environmental Regulation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

At the end of the 78th Legislature, Regular Session, 2003, the governor created the Advisory Committee on Rock Crushers and Quarries which was charged with studying the permitting process for rock crushers and quarries. The Advisory Committee produced a report in January 2005 accompanied by dissenting report signed by a majority of the committee members. Current law seeks only to protect air quality in the permitting process by limiting emissions through measures specified in the permit. Similarly, protection of water quality is addressed in a limited fashion through the issuance of a stormwater discharge permit.

C.S.S.B. 785 requires a quarry permit to be obtained before quarry operations begin. The quarry permit includes a site plan, assessing the environmental soundness of the proposed operation, including a report from an independent hydrologist; a blasting plan, including a requirement that all blasting be monitored with a seismograph or vibration monitor; and a requirement that quarry operators properly construct and maintain all access driveways, acceleration/deceleration lanes, and turn lanes when needed so that the site entrances are safe for the traveling public.

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

C.S.S.B. 785 amends the Health and Safety Code, by adding a chapter relating to quarry permits. The bill defines "aggregates," "air quality permit," "TCEQ," "operator," "pit," and "quarry." The bill provides that this chapter applies only to a quarry for which an application for a permit was received by the Texas Commission on Environmental Quality (TCEQ) on or before July 1, 2003, for which the permit was not issued before September 1, 2005 and that is located over an aquifer designated as a sole source aquifer under the Federal Safe Water Drinking Act. The bill prohibits a person from operating a rock crusher that is located less than one mile from a building used as a residence, school, or place of worship at the time the application for a permit was filed with the TCEQ. The bill prohibits the TCEQ from authorizing a person to operate a rock crusher under a permit by rule.

The bill prohibits an operator of a quarry (operator) from creating or beginning to operate a quarry unless the operator has obtained a quarry permit under this chapter from the TCEQ and an air quality permit for any rock crusher to be operated in the quarry.

The bill sets forth provisions relating to quarry permit applications. The bill provides that a permit issued to create or begin operating a quarry expires on the fifth anniversary of the date that the permit was issued if quarry operations have not begun at the permit area before that date. The bill requires a quarry operator to obtain a permit amendment in certain circumstances.

The bill requires the TCEQ, on receipt of an application for a quarry permit, to send notice of the application to each state senator and state representative who represents the area in which the quarry will be located, the county judge and county commissioners of each county in which the quarry will be located, and each groundwater conservation district in which the quarry will be located.

The bill requires the operator of a quarry to adhere to all Texas Department of Transportation rules relating to safe movement of normal highway traffic. The bill requires a quarry operator to work with the Texas Department of Transportation to ensure the construction of any road or driveway improvement necessary for the safe operation of vehicles at quarry entrances and exits.

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The bill requires the operator, if blasting is conducted in a quarry, to keep a blasting record that includes certain information.

The bill sets forth the monetary and civil penalties for violation of the chapter of the Health and Safety Code added by this Act.

The bill amends the Transportation Code to provide that an offense involving the violation of provisions relating to transportation of loose materials is a misdemeanor punishable by a fine of not less than \$25 or more than \$500. The bill requires the load to be covered and the covering firmly secured at the front and back, or completely enclosed by the load-carrying compartment, if the vehicle is a commercial motor vehicle transporting aggregates from a quarry or pit. The bill defines "commercial motor vehicle."

The bill amends the Water Code to provide that the TCEQ has general jurisdiction over the responsibilities assigned to the TCEQ by the chapter of the Health and Safety Code added by this Act. The bill requires the TCEQ to issue an emergency order suspending operations of a quarry or other facility that is producing aggregates, is required to obtain a permit, and is operating without the necessary permit. The bill provides that the amount of the penalty for operating a quarry or other facility that produces aggregates, that is required to obtain a permit and that is operating without the required permit is \$10,000. The bill provides that each day that a continuing violation occurs is a separate violation.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute provides that the Chapter added by the Act only applies to a rock crusher for which a permit application was received by the TCEQ on or before July 1, 2003 and for which a permit was not issued before September 1, 2005 and that is located over an aquifer designated as a sole source aquifer under the Federal Safe Water Drinking Act. The substitute prohibits a person from operating a rock crusher that is located less than one mile from a building used as a residence, school, or place of worship at the time the application for a permit was filed with the TCEQ. The substitute prohibits the TCEQ from authorizing a person to operate a rock crusher under a permit by rule. The substitute amends the definitions of "pit," and "quarry."

The substitute requires the TCEQ, on receipt of an application for a quarry permit, to send notice of the application to each groundwater conservation district in which the quarry will be located.

The substitute requires a quarry operator to work with the Texas Department of Transportation to ensure the construction of any road or driveway improvement necessary for the safe operation of vehicles at quarry entrances and exits.