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H.B. No. 1079

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the procedural requirements for action by the Texas
3 Commission on Environmental Quality on applications for production
4 area authorizations.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 27.0513(a), (c), (d), (e), and (f),
7 Water Code, are amended to read as follows:

8 (a) The commission may issue a permit pursuant to Section
9 27.011 that authorizes the construction and operation of two or
10 more similar injection wells within a specified area for mining of
11 uranium. An application for a new permit issued pursuant to Section
12 27.011, a major amendment of such a permit, or a renewal of such a
13 permit for mining of uranium is subject to the public notice
14 requirements and opportunity for contested case hearing provided
15 under Section 27.018. A new, amended, or renewal area permit must
16 incorporate a table of pre-mining low and high values representing
17 the range of groundwater quality within the area of review, as
18 provided by commission rule, for each water quality parameter used
19 to measure groundwater restoration in a commission-required
20 restoration table. The values in the area permit range table must
21 be established from all available wells within the area of review,
22 including those in the existing or proposed area permit boundary
23 and existing or proposed production area. Wells used for this
24 purpose are limited to those that have documented completion depths

1 and screened intervals that correspond to a uranium production zone
2 aquifer identified within an area permit boundary.

3 (c) The commission may issue a holder of a permit issued
4 pursuant to Section 27.011 for mining of uranium an authorization
5 that allows the permit holder to conduct mining and restoration
6 activities in production zones within the boundary established in
7 the permit. The commission by rule shall establish application
8 requirements, technical requirements, including the methods for
9 determining restoration table values, and procedural requirements
10 for any authorization. If a restoration table value for a proposed
11 authorization exceeds the range listed in the area permit range
12 table, such that it falls above the upper limit of the range, the
13 value within the area permit range table must be used or a major
14 amendment to the area permit range table must be made, subject to a
15 contested case hearing or the hearing requirements of Chapter 2001,
16 Government Code.

17 (d) Notwithstanding Sections 5.551, 5.556, 27.011, and
18 27.018, an application for an authorization [~~submitted after~~
19 ~~September 1, 2007,~~] is an uncontested matter not subject to a
20 contested case hearing or the hearing requirements of Chapter 2001,
21 Government Code, if:

22 (1) the authorization is located within a permit that
23 incorporates a range of groundwater quality restoration values used
24 to measure groundwater restoration by the commission;

25 (2) the application includes groundwater quality
26 restoration values within the range established in Subdivision (1);

27 and

1 (3) the authorization is located within a permit that
2 incorporates groundwater monitoring characteristics of the
3 monitoring wells for the application required by commission rule
4 ~~[unless the authorization seeks any of the following:~~

5 ~~[(1) an amendment to a restoration table value;~~

6 ~~[(2) the initial establishment of monitoring wells for~~
7 ~~any area covered by the authorization, including the location,~~
8 ~~number, depth, spacing, and design of the monitoring wells, unless~~
9 ~~the executive director uses the recommendation of an independent~~
10 ~~third-party expert chosen by the commission; or~~

11 ~~[(3) an amendment to the type or amount of bond~~
12 ~~required for groundwater restoration or by Section 27.073 to assure~~
13 ~~that there are sufficient funds available to the state for~~
14 ~~groundwater restoration or the plugging of abandoned wells in the~~
15 ~~area by a third-party contractor].~~

16 (e) The range of restoration values in the range table used
17 for Subsection (d) must be established from all available well
18 sample data collected in the area of review ~~[The executive director~~
19 ~~may use an independent third-party expert if:~~

20 ~~[(1) the expert meets the qualifications set by~~
21 ~~commission rules for such experts;~~

22 ~~[(2) the applicant for the authorization agrees to pay~~
23 ~~the costs for the work of the expert, and~~

24 ~~[(3) the applicant for the authorization is not~~
25 ~~involved in the selection of the expert or the direction of the work~~
26 ~~of the expert].~~

27 (f) As an alternative to Subsection (d), the first

1 application for an authorization issued under Subsection (c)
2 located within a permit issued under Subsection (a) is subject to
3 the requirements of Chapter 2001, Government Code, relating to
4 opportunities for contested case hearings. The first application
5 must contain the provisions listed in Subsections (d)(1)-(3). If a
6 first authorization has previously been issued within a permit,
7 that authorization is effective for the purposes of this
8 subsection. A subsequent application for an authorization located
9 within the same permit boundary is not subject to a contested case
10 hearing or the hearing requirements of Chapter 2001, Government
11 Code, unless the subsequent application would authorize the
12 following:

13 (1) the use of groundwater from an aquifer outside the
14 production zone aquifer for supplemental production water that was
15 not previously approved in the permit;

16 (2) expansion of the permit boundary; or

17 (3) application monitoring well locations that exceed
18 well spacing requirements or reduce the number of wells required by
19 commission rule [An application seeking approval under Subsections
20 (d)(1)-(3) is subject to the public notice and contested hearing
21 requirements provided in Section 27.018].

22 SECTION 2. The change in law made by this Act applies only
23 to an application for an authorization or a new, amended, or renewal
24 permit that is submitted to the Texas Commission on Environmental
25 Quality on or after the effective date of this Act. An application
26 that was submitted to the commission before the effective date of
27 this Act is governed by the law in effect at the time the

1 application was submitted, and the former law is continued in
2 effect for that purpose.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2013.