

AN ACT

relating to procedural requirements for action by the Texas Commission on Environmental Quality on applications for production area authorizations.

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

SECTION 1. Section 27.0513, Water Code, is amended by amending Subsections (a), (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

(a) The commission may issue a permit pursuant to Section 27.011 that authorizes the construction and operation of two or more similar injection wells within a specified area for mining of uranium. An application for a new permit issued pursuant to Section 27.011, a major amendment of such a permit, or a renewal of such a permit for mining of uranium is subject to the public notice requirements and opportunity for contested case hearing provided under Section 27.018. A new, amended, or renewed permit must incorporate a table of pre-mining low and high values representing the range of groundwater quality within the permit boundary and area of review, as provided by commission rule, for each water quality parameter used to measure groundwater restoration in a commission-required restoration table. The values in the permit range table must be established from pre-mining baseline wells and all available wells within the area of review, including those in the existing or proposed permit boundary and any existing or

1 proposed production areas. Wells used for that purpose are limited
2 to those that have documented completion depths and screened
3 intervals that correspond to a uranium production zone aquifer
4 identified within the permit boundary.

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

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

24 (1) the authorization is for a production zone located
25 within the boundary of a permit that incorporates a range table of
26 groundwater quality restoration values used to measure groundwater
27 restoration by the commission;

1 (2) the application includes groundwater quality
2 restoration values falling at or below the upper limit of the range
3 established in Subdivision (1); and

4 (3) the authorization is for a production zone located
5 within the boundary of a permit that incorporates groundwater
6 baseline characteristics of the wells for the application required
7 by commission rule [~~unless the authorization seeks any of the~~
8 ~~following:~~

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

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

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

20 (e) The range of restoration values in the range table used
21 for Subsection (d) must be established from baseline wells and all
22 available well sample data collected in the permit boundary and
23 within one-quarter mile of the boundary of the production zone [~~The~~
24 ~~executive director may use an independent third-party expert if:~~

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

27 ~~[(2) the applicant for the authorization agrees to pay~~

1 ~~the costs for the work of the expert, and~~

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

5 (f) As an alternative to Subsection (d), the first
6 application for an authorization issued under Subsection (c) for a
7 production zone located within the boundary of a permit issued
8 under Subsection (a) is subject to the requirements of Chapter
9 2001, Government Code, relating to an opportunity for a contested
10 case hearing. The first authorization application must contain the
11 following provisions:

12 (1) a baseline water quality table with a range of
13 groundwater quality restoration values used to measure groundwater
14 restoration by the commission that complies with the same range
15 requirements as a permit described by Subsection (a);

16 (2) groundwater quality restoration values falling at
17 or below the upper limit of the range established in Subdivision
18 (1); and

19 (3) groundwater baseline characteristics of the wells
20 for the application required by commission rule.

21 (g) If a first authorization has previously been issued for
22 a production zone located within the boundary of a permit, that
23 authorization is effective for the purposes of this subsection. A
24 subsequent authorization application for a production zone that is
25 located within the same permit boundary as a production zone for
26 which an authorization was issued under Subsection (f) is not
27 subject to an opportunity for a contested case hearing or the

1 hearing requirements of Chapter 2001, Government Code, unless the
2 subsequent application would authorize the following:

3 (1) the use of groundwater from a well that was not
4 previously approved in the permit for supplemental production
5 water;

6 (2) expansion of the permit boundary; or

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

12 SECTION 2. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 1079 was passed by the House on May 2, 2013, by the following vote: Yeas 135, Nays 10, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1079 on May 23, 2013, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1079 was passed by the Senate, with amendments, on May 20, 2013, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor