

1-1 By: Smith, et al. (Senate Sponsor - Hancock) H.B. No. 1079
 1-2 (In the Senate - Received from the House May 3, 2013;
 1-3 May 6, 2013, read first time and referred to Committee on Natural
 1-4 Resources; May 16, 2013, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 2;
 1-6 May 16, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19		X		

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 1079 By: Estes

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to procedural requirements for action by the Texas
 1-24 Commission on Environmental Quality on applications for production
 1-25 area authorizations.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Sections 27.0513, Water Code, is amended by
 1-28 amending Subsections (a), (c), (d), (e), and (f) and adding
 1-29 Subsection (g) to read as follows:

1-30 (a) The commission may issue a permit pursuant to Section
 1-31 27.011 that authorizes the construction and operation of two or
 1-32 more similar injection wells within a specified area for mining of
 1-33 uranium. An application for a new permit issued pursuant to Section
 1-34 27.011, a major amendment of such a permit, or a renewal of such a
 1-35 permit for mining of uranium is subject to the public notice
 1-36 requirements and opportunity for contested case hearing provided
 1-37 under Section 27.018. A new, amended, or renewed permit must
 1-38 incorporate a table of pre-mining low and high values representing
 1-39 the range of groundwater quality within the permit boundary and
 1-40 area of review, as provided by commission rule, for each water
 1-41 quality parameter used to measure groundwater restoration in a
 1-42 commission-required restoration table. The values in the permit
 1-43 range table must be established from pre-mining baseline wells and
 1-44 all available wells within the area of review, including those in
 1-45 the existing or proposed permit boundary and any existing or
 1-46 proposed production areas. Wells used for that purpose are limited
 1-47 to those that have documented completion depths and screened
 1-48 intervals that correspond to a uranium production zone aquifer
 1-49 identified within the permit boundary.

1-50 (c) The commission may issue a holder of a permit issued
 1-51 pursuant to Section 27.011 for mining of uranium an authorization
 1-52 that allows the permit holder to conduct mining and restoration
 1-53 activities in production zones within the boundary established in
 1-54 the permit. The commission by rule shall establish application
 1-55 requirements, technical requirements, including the methods for
 1-56 determining restoration table values, and procedural requirements
 1-57 for any authorization. If a restoration table value for a proposed
 1-58 or amended authorization exceeds the range listed in the permit
 1-59 range table such that it falls above the upper limit of the range,
 1-60 the value within the permit range table must be used or a major

2-1 amendment to the permit range table must be obtained, subject to an
 2-2 opportunity for a contested case hearing or the hearing
 2-3 requirements of Chapter 2001, Government Code.

2-4 (d) Notwithstanding Sections 5.551, 5.556, 27.011, and
 2-5 27.018, an application for an authorization [submitted after
 2-6 September 1, 2007,] is an uncontested matter not subject to a
 2-7 contested case hearing or the hearing requirements of Chapter 2001,
 2-8 Government Code, if:

2-9 (1) the authorization is for a production zone located
 2-10 within the boundary of a permit that incorporates a range table of
 2-11 groundwater quality restoration values used to measure groundwater
 2-12 restoration by the commission;

2-13 (2) the application includes groundwater quality
 2-14 restoration values falling at or below the upper limit of the range
 2-15 established in Subdivision (1); and

2-16 (3) the authorization is for a production zone located
 2-17 within the boundary of a permit that incorporates groundwater
 2-18 baseline characteristics of the wells for the application required
 2-19 by commission rule [unless the authorization seeks any of the
 2-20 following:

2-21 [~~(1) an amendment to a restoration table value;~~

2-22 [~~(2) the initial establishment of monitoring wells for~~
 2-23 ~~any area covered by the authorization, including the location,~~
 2-24 ~~number, depth, spacing, and design of the monitoring wells, unless~~
 2-25 ~~the executive director uses the recommendation of an independent~~
 2-26 ~~third-party expert chosen by the commission; or~~

2-27 [~~(3) an amendment to the type or amount of bond~~
 2-28 ~~required for groundwater restoration or by Section 27.073 to assure~~
 2-29 ~~that there are sufficient funds available to the state for~~
 2-30 ~~groundwater restoration or the plugging of abandoned wells in the~~
 2-31 ~~area by a third-party contractor].~~

2-32 (e) The range of restoration values in the range table used
 2-33 for Subsection (d) must be established from baseline wells and all
 2-34 available well sample data collected in the permit boundary and
 2-35 within one-quarter mile of the boundary of the production zone [The
 2-36 executive director may use an independent third-party expert if:

2-37 [~~(1) the expert meets the qualifications set by~~
 2-38 ~~commission rules for such experts;~~

2-39 [~~(2) the applicant for the authorization agrees to pay~~
 2-40 ~~the costs for the work of the expert; and~~

2-41 [~~(3) the applicant for the authorization is not~~
 2-42 ~~involved in the selection of the expert or the direction of the work~~
 2-43 ~~of the expert].~~

2-44 (f) As an alternative to Subsection (d), the first
 2-45 application for an authorization issued under Subsection (c) for a
 2-46 production zone located within the boundary of a permit issued
 2-47 under Subsection (a) is subject to the requirements of Chapter
 2-48 2001, Government Code, relating to an opportunity for a contested
 2-49 case hearing. The first authorization application must contain the
 2-50 following provisions:

2-51 (1) a baseline water quality table with a range of
 2-52 groundwater quality restoration values used to measure groundwater
 2-53 restoration by the commission that complies with the same range
 2-54 requirements as a permit described by Subsection (a);

2-55 (2) groundwater quality restoration values falling at
 2-56 or below the upper limit of the range established in Subdivision
 2-57 (1); and

2-58 (3) groundwater baseline characteristics of the wells
 2-59 for the application required by commission rule.

2-60 (g) If a first authorization has previously been issued for
 2-61 a production zone located within the boundary of a permit, that
 2-62 authorization is effective for the purposes of this subsection. A
 2-63 subsequent authorization application for a production zone that is
 2-64 located within the same permit boundary as a production zone for
 2-65 which an authorization was issued under Subsection (f) is not
 2-66 subject to an opportunity for a contested case hearing or the
 2-67 hearing requirements of Chapter 2001, Government Code, unless the
 2-68 subsequent application would authorize the following:

2-69 (1) the use of groundwater from a well that was not

3-1 previously approved in the permit for supplemental production
3-2 water;

3-3 (2) expansion of the permit boundary; or

3-4 (3) application monitoring well locations that exceed
3-5 well spacing requirements or reduce the number of wells required by
3-6 commission rule [An application seeking approval under Subsections
3-7 (d)(1)-(3) is subject to the public notice and contested hearing
3-8 requirements provided in Section 27.018].

3-9 SECTION 2. This Act takes effect immediately if it receives
3-10 a vote of two-thirds of all the members elected to each house, as
3-11 provided by Section 39, Article III, Texas Constitution. If this
3-12 Act does not receive the vote necessary for immediate effect, this
3-13 Act takes effect September 1, 2013.

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