

House Bill 1079
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Sections 27.0513(a), (c), (d), (e), and (f), Water Code, are amended 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 renewal area permit must incorporate a table of pre-mining low and high values representing the range of groundwater quality within the 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 area permit range table must be established from all available wells within the area of review, including those in the existing or proposed area permit boundary and existing or proposed production area. Wells used for this purpose are limited to those that have documented completion depths and screened intervals that correspond to a uranium production zone aquifer identified within an area permit boundary.

(c) The commission may issue a holder of a permit issued pursuant to Section 27.011 for mining of uranium an authorization that allows the permit holder to conduct mining and restoration activities in production zones within the boundary established in the permit. The commission by rule shall establish application requirements, technical requirements, including the methods for determining

SENATE VERSION (CS)

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

(c) The commission may issue a holder of a permit issued pursuant to Section 27.011 for mining of uranium an authorization that allows the permit holder to conduct mining and restoration activities in production zones within the boundary established in the permit. The commission by rule shall establish application requirements, technical requirements, including the methods for determining

CONFERENCE

House Bill 1079
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

restoration table values, and procedural requirements for any authorization. If a restoration table value for a proposed authorization exceeds the range listed in the area permit range table, such that it falls above the upper limit of the range, the value within the area permit range table must be used or a major amendment to the area permit range table must be made, subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code.

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

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

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

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

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

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

~~[(3) an amendment to the type or amount of bond required for~~

SENATE VERSION (CS)

restoration table values, and procedural requirements for any authorization. If a restoration table value for a proposed or amended authorization exceeds the range listed in the permit range table such that it falls above the upper limit of the range, the value within the permit range table must be used or a major amendment to the permit range table must be obtained, subject to an opportunity for a contested case hearing or the hearing requirements of Chapter 2001, Government Code.

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

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

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

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

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

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

~~[(3) an amendment to the type or amount of bond required for~~

CONFERENCE

House Bill 1079
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

~~groundwater restoration or by Section 27.073 to assure that there are sufficient funds available to the state for groundwater restoration or the plugging of abandoned wells in the area by a third party contractor].~~

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

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

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

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

(f) As an alternative to Subsection (d), the first application for an authorization issued under Subsection (c) located within a permit issued under Subsection (a) is subject to the requirements of Chapter 2001, Government Code, relating to opportunities for contested case hearings. The first application must contain the provisions listed in Subsections (d)(1)-(3).

SENATE VERSION (CS)

~~groundwater restoration or by Section 27.073 to assure that there are sufficient funds available to the state for groundwater restoration or the plugging of abandoned wells in the area by a third party contractor].~~

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

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

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

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

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

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

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

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

CONFERENCE

House Bill 1079
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

If a first authorization has previously been issued within a permit, that authorization is effective for the purposes of this subsection. A subsequent application for an authorization located within the same permit boundary is not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the subsequent application would authorize the following:

- (1) the use of groundwater from an aquifer outside the production zone aquifer for supplemental production water that was not previously approved in the permit;
- (2) expansion of the permit boundary; or
- (3) application monitoring well locations that exceed well spacing requirements or reduce the number of wells required by commission rule [An application seeking approval under Subsections (d)(1)-(3) is subject to the public notice and contested hearing requirements provided in Section 27.018].

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

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If

SENATE VERSION (CS)

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

- (1) the use of groundwater from a well that was not previously approved in the permit for supplemental production water;
- (2) expansion of the permit boundary; or
- (3) application monitoring well locations that exceed well spacing requirements or reduce the number of wells required by commission rule [An application seeking approval under Subsections (d)(1)-(3) is subject to the public notice and contested hearing requirements provided in Section 27.018].

No equivalent provision.

SECTION 2. Same as House version.

CONFERENCE

House Bill 1079
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SENATE VERSION (CS)

CONFERENCE