

A BILL TO BE ENTITLED

AN ACT

relating to the regulations of quarries; providing a civil penalty.

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

SECTION 1. The heading to Subtitle C, Title 5, Health and Safety Code, is amended to read as follows:

SUBTITLE C. AIR AND ENVIRONMENTAL QUALITY

SECTION 2. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 390 to read as follows:

CHAPTER 390. QUARRY PERMIT

Sec. 390.001. DEFINITIONS. In this chapter:

(1) "Aggregates" includes any commonly recognized construction material originating from a quarry or pit by the disturbance of the surface, including dirt, soil, rock asphalt, clay, granite, gravel, gypsum, marble, sand, shale, stone, caliche, limestone, dolomite, rock, riprap, or other nonmineral substance.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Operator" means any person, partnership, firm, entity, or corporation proposing the creation of a quarry or engaged in and responsible for the physical operation and control of a quarry.

(4) "Pit" means an open excavation not less than five feet below the adjacent and natural ground level from which aggregates have been or are being extracted.

1 (5) "Quarry" means the site where aggregates are being
2 or have been removed or extracted from the earth to form the pit,
3 including the entire excavation, stripped areas, haulage ramps, the
4 land immediately adjacent thereto upon which the plant processing
5 the raw materials is located, exclusive of any land owned or leased
6 by the operator not being currently used in the production of
7 aggregates.

8 Sec. 390.002. APPLICABILITY. This chapter applies only to
9 a quarry that begins operation on or after September 1, 2005.

10 Sec. 390.003. QUARRY PERMIT REQUIRED. Before an operator
11 may create or begin operating a quarry, the operator shall apply for
12 a quarry permit from the commission.

13 Sec. 390.004. APPLICATION PROCEDURE. (a) An application
14 for a quarry permit must include:

15 (1) a site plan that contains:

16 (A) a site map detailing the proposed permit
17 area;

18 (B) the location and identity of all affected and
19 unaffected areas;

20 (C) a description of the location of the quarry,
21 including the nearest stream and the distance and direction from
22 the nearest state and county road and the nearest intersection;

23 (D) the ingress and egress routes for materials
24 to be transported on public roadways;

25 (E) a description of the stages in which the
26 quarry will be mined;

27 (F) a report from an independent hydrologist on

1 the groundwater or surface water in the affected area, including
2 any recommendations by the hydrologist to prevent negative effects
3 on the groundwater and surface water; and

4 (G) a description of how the operator will
5 address the recommendations made in the hydrologist's report;

6 (2) if blasting will be conducted in the quarry, a
7 blasting plan that contains:

8 (A) a description of the blast warning and
9 site-access control equipment and procedures;

10 (B) a description of the types and locations of
11 blast monitoring equipment and procedures to be used; and

12 (C) a description of the procedures and plans for
13 the recording and retention of blasting records for each blast that
14 is to be conducted;

15 (3) for any land that will be disturbed by the
16 operator, a reclamation plan that:

17 (A) describes how the affected land will be
18 returned to a condition consistent with its intended end use;

19 (B) is consistent with all lease and contractual
20 terms stipulated between the lessee and lessor of the affected
21 land; and

22 (C) includes:

23 (i) a timetable for the completion of major
24 steps in the reclamation plan;

25 (ii) a plan for grading that is consistent
26 with the intended end use;

27 (iii) a plan for vegetation, if applicable,

1 that is consistent with the intended end use; and

2 (iv) proof that the operator has obtained
3 the bond required under Section 390.009; and

4 (4) an approved air quality permit issued under
5 Chapter 382, if a crushing facility is constructed.

6 (b) A quarry permit application fee of \$1,000 must accompany
7 the application.

8 (c) If the commission denies an application, the commission
9 shall notify the applicant in writing of the commission's decision,
10 specifying any defects in the application. An applicant denied a
11 permit under this subsection may submit a modified application.

12 (d) A decision by the commission on an application for a
13 quarry permit may not be contested.

14 Sec. 390.005. NOTICE TO CERTAIN OFFICIALS. On receipt of an
15 application for a quarry permit, the commission shall send notice
16 of the application to the state senator, representative, county
17 judge, and county commissioner who represent the area in which the
18 quarry will be located.

19 Sec. 390.006. HYDROLOGIST REPORT. The operator of a quarry
20 shall have the hydrologist report described in Section
21 390.004(a)(1)(F) periodically updated to ensure that no damage is
22 being done to any surrounding water source.

23 Sec. 390.007. TRAFFIC SAFETY. (a) The operator of a
24 quarry shall adhere to all Texas Department of Transportation rules
25 relating to the safe movement of normal highway traffic, including
26 those rules governing the construction and maintenance of private,
27 public, and commercial access driveways.

1 (b) The operator shall have all access driveway permits held
2 by the operator periodically updated to ensure proper public
3 safety.

4 Sec. 390.008. BLASTING RECORD. (a) If blasting is
5 conducted in a quarry, the operator of the quarry shall maintain a
6 blasting record that includes the following information:

7 (1) the exact location, time, and date of the
8 detonation;

9 (2) the direction and distance to the nearest
10 dwelling, school, church, or commercial or institutional building
11 that is neither owned nor leased by the operator;

12 (3) the weather conditions during the blast;

13 (4) the seismograph or vibration monitor reading,
14 including the exact location of the seismograph or vibration
15 monitor and its distance from the blast; and

16 (5) the name of the person taking the seismograph or
17 vibration monitor reading.

18 (b) The operator shall maintain the blasting records of a
19 detonation, including the seismograph or vibration monitor
20 readings, for a period of two years after the date of the
21 detonation.

22 (c) The operator shall maintain the blasting records at the
23 quarry site.

24 (d) The operator shall make the blasting records available
25 for inspection by the commission.

26 Sec. 390.009. BOND REQUIRED; RECLAMATION. (a) The
27 operator of a quarry shall post bond in the amount of \$1,000 for

1 each acre of land that will be affected by operations of the quarry
2 on a two-year forward basis.

3 (b) After the affected land is reclaimed, the operator shall
4 notify the commission of the completion of the reclamation, after
5 which the bond on that parcel of land may be released.

6 (c) Except as provided by Subsection (d), the operator shall
7 complete the reclamation of affected lands no later than three
8 years after the date of cessation of quarry operations.

9 (d) The operator may request and the commission may
10 authorize additional time to complete a reclamation under
11 Subsection (c).

12 Sec. 390.010. CIVIL PENALTY; INJUNCTION. (a) An operator
13 who violates this chapter is liable to the state for a civil penalty
14 in the amount of \$1,000 for each violation. Each day a violation
15 continues is a separate violation.

16 (b) At the request of the commission, the attorney general
17 shall bring suit for injunctive relief to restrain a continuing
18 violation of this chapter or to recover a civil penalty as provided
19 by Subsection (a) or for both injunctive relief and recovery of a
20 civil penalty.

21 Sec. 390.011. RULES. The commission may adopt rules to
22 implement this chapter.

23 SECTION 3. This Act takes effect September 1, 2005.