By:  Darby (Senate Sponsor - Flores) H.B. No. 2805

(In the Senate - Received from the House April 29, 2019; April 30, 2019, read first time and referred to Committee on Water & Rural Affairs; May 15, 2019, reported favorably by the following vote: Yeas 7, Nays 0; May 15, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Perry           X

Creighton       X

Alvarado        X

Johnson         X

Kolkhorst       X

Rodríguez       X

Taylor          X

A BILL TO BE ENTITLED

AN ACT

relating to regulations for taking marl, sand, gravel, shell, or mudshell.

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

SECTION 1.  Section 86.003, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c)  The commission shall prescribe a single application form for an individual or general permit. The form must require individual and general permit applicants to provide the same information, including information regarding:

(1)  the publication of notice in:

(A)  the daily or weekly newspaper with the greatest circulation in the county or counties affected by the issuance of the permit for three consecutive days, if daily; and

(B)  one newspaper published for the community closest to the proposed area of disturbance, if any;

(2)  proof that notice was sent by certified mail to alongshore property owners of property one river mile above and below the proposed area of disturbance described in the permit;

(3)  a sedimentation impact assessment approved by the department; and

(4)  any amendments to the permit, if the application is for the renewal of a permit.

SECTION 2.  Section 86.006, Parks and Wildlife Code, is amended by adding Subsection (d) to read as follows:

(d)  A general permit issued under this chapter has a maximum term length of one year.

SECTION 3.  Chapter 86, Parks and Wildlife Code, is amended by adding Section 86.0105 to read as follows:

Sec. 86.0105.  REMOVAL REPORT. A person holding a permit issued under this chapter shall deliver to the department a report stating how much marl, sand, gravel, shell, or mudshell was removed during the term of the permit. The commission shall adopt rules regarding the delivery and format of the report.

SECTION 4.  Section 86.021, Parks and Wildlife Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  In this subsection, "unconsolidated sedimentary material" means loose gravel, sand, or other sedimentary material that has been transported by the flow of the watercourse. The term does not include solid bedrock or earthen banks. A project results in an insignificant taking or disturbance of marl, sand, gravel, shell, or mudshell for purposes of Subsection (b)(1) if:

(1)  the project is noncommercial;

(2)  the project takes or disturbs less than 125 cubic yards of dry unconsolidated sedimentary material within a 12-month period;

(3)  the project occurs within an on-channel impoundment created by a dam originally constructed on or before December 31, 1955, and the dam crest has not been increased in height by more than six inches since initial construction; and

(4)  the taking or disturbance of unconsolidated sedimentary material does not occur outside of the impoundment in areas above dam crest elevation.

SECTION 5.  (a) Section 86.003(c), Parks and Wildlife Code, as added by this Act, applies only to a permit application for the taking of marl, sand, gravel, shell, or mudshell that is filed with the Parks and Wildlife Department on or after the effective date of this Act. A permit application for the taking of marl, sand, gravel, shell, or mudshell filed before the effective date of this Act is governed by the law in effect when the permit application was filed, and the former law is continued in effect for that purpose.

(b)  Sections 86.006(d) and 86.0105, Parks and Wildlife Code, as added by this Act, apply only to a permit for the taking of marl, sand, gravel, shell, or mudshell issued on or after the effective date of this Act. A permit for the taking of marl, sand, gravel, shell, or mudshell issued before the effective date of this Act is governed by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2019.

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