86R13993 SLB-D

By:  Campbell S.B. No. 1696

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of aggregate production operations; requiring a permit; authorizing a fee.

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

SECTION 1.  The heading to Subchapter B, Chapter 28A, Water Code, is amended to read as follows:

SUBCHAPTER B. PERMIT [~~REGISTRATION~~] AND INSPECTION

SECTION 2.  Subchapter B, Chapter 28A, Water Code, is amended by adding Sections 28A.0525, 28A.0526, and 28A.0527 to read as follows:

Sec. 28A.0525.  PERMIT REQUIRED. (a) A person may not begin or conduct extraction activities at an aggregate production operation unless the responsible party has obtained a standard permit for the aggregate production operation from the commission under this section.

(b)  The commission by rule shall:

(1)  adopt a standard permit for aggregate production operations;

(2)  prescribe an application for a standard permit under this section; and

(3)  provide for the issuance of a standard permit under this section.

(c)  A permit does not become a vested right in the permit holder.

(d)  A permit may be issued under this section for a term set by the board not to exceed six years from the date of issuance.

(e)  The commission may charge fees for the issuance of permits under this section in an amount sufficient to recover the costs of administering this chapter.

Sec. 28A.0526.  NOTICE AND HEARING. (a) Except as provided by Subsection (b), the notice and hearing provisions of Subchapter M, Chapter 5, Water Code, apply to an application under this section for a permit or a permit renewal.

(b)  A public hearing on an application for a permit or permit renewal issued under this section must be held in the municipality located closest to the proposed or existing aggregate production operation.

Sec. 28A.0527.  CERTAIN LOCATIONS RESTRICTED. (a) This section applies only to an aggregate production operation located:

(1)  in the Guadalupe River watershed according to the National Hydrography Dataset and the Watershed Boundary Dataset; and

(2)  west of the Canyon Lake Dam.

(b)  An aggregate production operation may not operate within 1500 feet of a navigable waterway.

(c)  An application for a permit to operate an aggregate production operation must include:

(1)  information satisfying criteria determined by the commission regarding:

(A)  slope gradients sufficient to minimize the potential for erosion and water quality degradation;

(B)  the potential for significant damage to important historical and cultural values or ecological systems;

(C)  the effect on:

(i)  natural resources, including aquifers and aquifer recharge zones;

(ii)  agricultural activity; and

(iii)  areas subject to frequent flooding or geological events; and

(D)  concerns relevant to the substantial endangerment of life or property;

(2)  a plan for the:

(A)  control of water drainage and accumulation that prevents erosion and damage to fish or wildlife habitat; and

(B)  reclamation and revegetation of the quarried land consistent with best management practices adopted by the commission; and

(3)  evidence of sufficient financial assurance to cover the remediation of potential negative effects on the Guadalupe River and surrounding areas, as determined by commission rule.

SECTION 3.  Section 28A.053(a), Water Code, is amended to read as follows:

(a)  The commission shall inspect each active permitted aggregate production operation in this state for compliance with applicable permit conditions and environmental laws and rules under the jurisdiction of the commission at least once every three years.

SECTION 4.  The heading to Subchapter C, Chapter 28A, Water Code, is amended to read as follows:

SUBCHAPTER C. [~~FEES AND~~] ENFORCEMENT

SECTION 5.  Section 28A.102, Water Code, is amended to read as follows:

Sec. 28A.102.  PENALTY. The commission may assess a penalty of not less than $5,000 and not more than $10,000 for each year in which an aggregate production operation operates without a permit issued [~~being registered~~] under this chapter. The total penalty under this section may not exceed $25,000 for an aggregate production operation that is operated in three or more years without a permit [~~being registered~~].

SECTION 6.  The following provisions of the Water Code are repealed:

(1)  Section 28A.051;

(2)  Section 28A.052;

(3)  Section 28A.054; and

(4)  Section 28A.101.

SECTION 7.  (a) Not later than March 1, 2020, the Texas Commission on Environmental Quality shall adopt rules to implement the changes in law made by this Act to Chapter 28A, Water Code.

(b)  Notwithstanding Section 28A.0525, Water Code, as added by this Act, a person beginning extraction activities at an aggregate production operation on or after the effective date of this Act is not required to hold a permit required by that section for the extraction activities until September 1, 2020.

SECTION 8.  The changes in law made by this Act apply only to an aggregate production operation at which extraction activities begin on or after the effective date of this Act. An aggregate production operation at which extraction activities began before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 9.  This Act takes effect September 1, 2019.