

1 AN ACT

2 relating to the regulation of aggregate production operations by  
3 the Texas Commission on Environmental Quality; increasing a fee;  
4 increasing administrative penalties.

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

6 SECTION 1. Section 28A.053, Water Code, is amended to read  
7 as follows:

8 Sec. 28A.053. INSPECTION. (a) The commission shall  
9 inspect each active aggregate production operation in this state  
10 for compliance with applicable environmental laws and rules under  
11 the jurisdiction of the commission:

12 (1) at least once every two [~~three~~] years during the  
13 first six years in which the operation is registered; and

14 (2) after the expiration of the period described by  
15 Subdivision (1), at least once every three years.

16 (b) Except as provided by Subsection (c), the [~~The~~  
17 commission may conduct an inspection only after providing notice to  
18 the responsible party in accordance with commission policy.

19 (c) The commission may conduct unannounced periodic  
20 inspections under this section of an aggregate production operation  
21 that in the preceding three-year period has been issued a notice of  
22 violation by the commission for a violation of an environmental law  
23 or rule under the jurisdiction of the commission. The unannounced  
24 inspections may be conducted only for a period of not more than one

1 year.

2 (d) An [~~Except as provided by Subsection (d), an~~] inspection  
3 must be conducted by one or more inspectors trained in the  
4 regulatory requirements [~~under the jurisdiction of the commission~~  
5 ~~that are~~] applicable to [~~an~~] active aggregate production operations  
6 under the jurisdiction of the commission [~~operation~~]. If the  
7 inspection is conducted by more than one inspector, each inspector  
8 is not required to be trained in each of the applicable regulatory  
9 requirements, but the combined training of the inspectors must  
10 include each of the applicable regulatory requirements. The  
11 applicable regulatory requirements include requirements related  
12 to:

13 (1) individual water quality permits issued under  
14 Section 26.027;

15 (2) a general water quality permit issued under  
16 Section 26.040;

17 (3) air quality permits issued under Section 382.051,  
18 Health and Safety Code; and

19 (4) other regulatory requirements applicable to  
20 active aggregate production operations under the jurisdiction of  
21 the commission.

22 (e) [~~(d)~~] An investigation in response to a complaint  
23 satisfies the requirement of an inspection under this section if a  
24 potential noncompliance issue not related to the complaint is  
25 observed and is:

26 (1) not within an area of expertise of the  
27 investigator but is referred by the investigator to the commission

1 for further investigation; or

2 (2) within an area of expertise of the inspector and is  
3 appropriately investigated and appropriately addressed in the  
4 investigation report.

5 SECTION 2. Section 28A.101(b), Water Code, is amended to  
6 read as follows:

7 (b) The commission shall set the annual registration fee in  
8 an amount sufficient to maintain a registry of active aggregate  
9 production operations in this state and implement this chapter, not  
10 to exceed \$1,500 [~~\$1,000~~].

11 SECTION 3. Section 28A.102, Water Code, is amended to read  
12 as follows:

13 Sec. 28A.102. PENALTY. The commission may assess a penalty  
14 of not less than \$5,000 and not more than \$20,000 [~~\$10,000~~] for each  
15 year in which an aggregate production operation operates without  
16 being registered under this chapter. The total penalty under this  
17 section may not exceed \$40,000 [~~\$25,000~~] for an aggregate  
18 production operation that is operated in three or more years  
19 without being registered.

20 SECTION 4. Section 28A.102, Water Code, as amended by this  
21 Act, applies only to a penalty assessed on or after the effective  
22 date of this Act. A penalty assessed before the effective date of  
23 this Act is governed by the law in effect on the date the penalty was  
24 assessed, and the former law is continued in effect for that  
25 purpose.

26 SECTION 5. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 907 was passed by the House on May 10, 2019, by the following vote: Yeas 124, Nays 13, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 907 on May 23, 2019, by the following vote: Yeas 135, Nays 8, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 907 was passed by the Senate, with amendments, on May 20, 2019, by the following vote: Yeas 28, Nays 3.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor