

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.

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

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

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

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

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

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

19 (2) west of the Canyon Lake Dam.

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

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

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

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

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

3 (C) the effect on:

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

6 (ii) agricultural activity; and

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

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

11 (2) a plan for the:

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

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

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

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

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

27 SECTION 4. The heading to Subchapter C, Chapter 28A, Water

1 Code, is amended to read as follows:

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

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

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

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

- 14 (1) Section 28A.051;
15 (2) Section 28A.052;
16 (3) Section 28A.054; and
17 (4) Section 28A.101.

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

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

26 SECTION 8. The changes in law made by this Act apply only to
27 an aggregate production operation at which extraction activities

1 begin on or after the effective date of this Act. An aggregate
2 production operation at which extraction activities began before
3 the effective date of this Act is governed by the law in effect
4 immediately before the effective date of this Act, and the former
5 law is continued in effect for that purpose.

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