

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 694
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Natural Resources & Economic Development
5/3/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In order to meet environmental and public safety requirements, aggregate production operations (APOs) must register with the Texas Commission on Environmental Quality (TCEQ) and be inspected once every three years. As the industry has expanded to more populated areas near schools and neighborhoods, residents have expressed concern that more scrutiny is necessary. S.B. 694 would increase the frequency of inspections from every three years to every two years and require TCEQ inspectors to be properly trained on the regulatory requirements of the aggregate industry. The bill would also increase the cap for annual fees without mandating any new fees. In addition, S.B. 694 would give TCEQ more discretion to fine bad actors that operate without being registered. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 694 amends current law relating to the regulation of aggregate production operations by the Texas Commission on Environmental Quality; increases a fee; and increases administrative penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 28A.053, Water Code, as follows:

Sec. 28A.053. INSPECTION (a) Requires the Texas Commission on Environmental Quality (TCEQ) to inspect each active aggregate production operation in this state for compliance with applicable environmental laws and rules under the jurisdiction of TCEQ:

(1) at least once every two years, rather than once every three years, during the first six years in which the operation is registered; and

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

(b) Creates an exception under Subsection (c) to the authorization for TCEQ to conduct an inspection only after providing notice to the responsible party in accordance with TCEQ policy.

(c) Authorizes TCEQ to conduct unannounced periodic inspections under this section of an aggregate production operation that in the preceding three-year period has been issued a notice of violation by TCEQ for a violation of an environmental law or rule under the jurisdiction of TCEQ. Authorizes the unannounced inspections to be conducted only for a period of not more than one year.

(d) Requires an inspection to be conducted by one or more inspectors trained in regulatory requirements applicable to active aggregate production operations

under the jurisdiction of TCEQ, rather than requiring an inspection, except as provided by Subsection (d), to be conducted by one or more inspectors trained in the regulatory requirements under the jurisdiction of TCEQ that are applicable to an aggregate production operation.

(e) Creates this subsection from existing text and makes no further changes to this subsection.

SECTION 2. Amends Section 28A.101(b), Water Code, to require TCEQ to set the annual registration fee in an amount sufficient to maintain a registry of active aggregate production operations in this state and implement this chapter (Registration and Inspection of Certain Aggregate Production Operation), not to exceed \$1,500, rather than \$1,000.

SECTION 3. Amends Section 28A.102, Water Code, as follows:

Sec. 28A.102. PENALTY. Authorizes TCEQ to assess a penalty of not less than \$5,000 and not more than \$20,000, rather than not more than \$10,000, for each year in which an aggregate production operation operates without being registered under this chapter. Prohibits the total penalty under this section from exceeding \$40,000, rather than exceeding \$25,000, for an aggregate production operation that is operated in three or more years without being registered.

SECTION 4. Makes application of Section 28A.102, Water Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2019.