

SUBJECT: Registration and inspection of certain aggregate production operations

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 9 ayes — Ritter, Callegari, Corte, Creighton, Frost, T. King, Lucio,  
D. Miller, Smithee

0 nays

2 absent — Laubenberg, Martinez Fischer

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: For — Michael Stewart, Texas Aggregates and Concrete Association;  
(*Registered, but did not testify*: Darrin Hall, City of Houston; Shannon  
Lucas, Texas Mining and Reclamation Association)

Against — None

BACKGROUND: The Texas Commission on Environmental Quality (TCEQ) is responsible for enforcing rules and regulations for the removal of aggregate materials, such as rock, sand, gravel, dirt, and soil from the earth. TCEQ's regulatory authority includes water quality requirements for storm water discharge or other water used in the mining process, air quality requirements for emissions from rock crushers or other activities at a quarry site, and cleanup and reporting requirements for spills of petroleum products or solid waste.

DIGEST: SB 1414 would amend Water Code, Subtitle D, Title 2, to add a chapter relating to the registration and inspection of certain aggregate production operations that remove aggregate materials, including rock, sand, gravel, dirt, and soil from the earth.

**Registration of aggregate production operations.** SB 1414 would require an aggregate production operation to register with the TCEQ no later than 10 business days before the date extraction activities would begin and to renew the registration annually as extraction activities

continued. These requirements no longer would be applicable after extraction activities had ceased and the operator had notified the TCEQ.

Active operations would have until September 1, 2010, for their initial registration.

**Survey of active operations in Texas.** TCEQ would be required to conduct an annual physical survey of the state to identify all active aggregate production operations and ensure that each active aggregate production operation was registered. TCEQ could contract with or seek assistance from a governmental entity or other person to conduct the survey.

**Inspection of operations.** TCEQ would be required to inspect each active aggregate production operation in the state for compliance with applicable environmental laws and rules under the jurisdiction of TCEQ at least once every three years. TCEQ could conduct an inspection only after providing notice to the responsible party.

An inspection would have to be conducted by one or more inspectors with combined training in individual water quality permits, general water quality permits, air quality permits, and other applicable regulatory requirements.

An investigation in response to a complaint would satisfy the requirement of an inspection if a potential noncompliance issue not related to the complaint was observed and was referred to TCEQ for further investigation, or was appropriately investigated and addressed in the investigation report.

When an operation submitted a notice of intent to conduct an audit for compliance with all applicable rules with its initial registration, the TCEQ would not begin the three-year period to conduct an inspection until September 1, 2013.

**Enforcement report.** The TCEQ would be required to provide a specific section in the annual enforcement report to the Legislature with information including:

- the results of the survey to locate unregistered active aggregate production operations;

- the number and general location of the registered aggregate production operations;
- the number of inspectors trained in multiple areas related to the inspection of aggregate production operations; and
- the number of inspections conducted and their results.

**Fees and enforcement.** A person authorized to operate an aggregate production operation would be required to pay an annual registration fee set by the TCEQ in an amount sufficient to maintain a registry of active aggregate production operations in this state and implement this chapter. The fee could not exceed \$1,000. The registration fees would be deposited in the water resource management account and could be used only to implement this chapter.

**Penalties.** The TCEQ could assess a penalty of \$5,000 to \$10,000 for each year an aggregate production operation operated without being registered. The total penalty could not exceed \$25,000.

**Effective date.** SB 1414 would take effect September 1, 2009.

**NOTES:**

According to the fiscal note, the TCEQ estimates a need for an additional four FTEs to implement the inspection requirements of this bill. It is assumed that the TCEQ would set the registration fee at a level sufficient to cover its costs.