

1-1 By: Huberty (Senate Sponsor - Creighton) H.B. No. 907  
1-2 (In the Senate - Received from the House May 13, 2019;  
1-3 May 14, 2019, read first time and referred to Committee on Natural  
1-4 Resources & Economic Development; May 17, 2019, reported  
1-5 adversely, with favorable Committee Substitute by the following  
1-6 vote: Yeas 11, Nays 0; May 17, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Birdwell</u>	X		
1-10	<u>Zaffirini</u>	X		
1-11	<u>Fallon</u>	X		
1-12	<u>Flores</u>	X		
1-13	<u>Hancock</u>	X		
1-14	<u>Hinojosa</u>	X		
1-15	<u>Hughes</u>	X		
1-16	<u>Miles</u>	X		
1-17	<u>Paxton</u>	X		
1-18	<u>Powell</u>	X		
1-19	<u>Rodríguez</u>	X		

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 907 By: Powell

1-21 A BILL TO BE ENTITLED  
1-22 AN ACT

1-23 relating to the regulation of aggregate production operations by  
1-24 the Texas Commission on Environmental Quality; increasing a fee;  
1-25 increasing administrative penalties.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 28A.053, Water Code, is amended to read  
1-28 as follows:

1-29 Sec. 28A.053. INSPECTION. (a) The commission shall  
1-30 inspect each active aggregate production operation in this state  
1-31 for compliance with applicable environmental laws and rules under  
1-32 the jurisdiction of the commission:

1-33 (1) at least once every two [~~three~~] years during the  
1-34 first six years in which the operation is registered; and

1-35 (2) after the expiration of the period described by  
1-36 Subdivision (1), at least once every three years.

1-37 (b) Except as provided by Subsection (c), the [~~The~~]  
1-38 commission may conduct an inspection only after providing notice to  
1-39 the responsible party in accordance with commission policy.

1-40 (c) The commission may conduct unannounced periodic  
1-41 inspections under this section of an aggregate production operation  
1-42 that in the preceding three-year period has been issued a notice of  
1-43 violation by the commission for a violation of an environmental law  
1-44 or rule under the jurisdiction of the commission. The unannounced  
1-45 inspections may be conducted only for a period of not more than one  
1-46 year.

1-47 (d) An [~~Except as provided by Subsection (d), an~~] inspection  
1-48 must be conducted by one or more inspectors trained in the  
1-49 regulatory requirements [~~under the jurisdiction of the commission~~  
1-50 that are] applicable to [~~an~~] active aggregate production operations  
1-51 under the jurisdiction of the commission [~~operation~~]. If the  
1-52 inspection is conducted by more than one inspector, each inspector  
1-53 is not required to be trained in each of the applicable regulatory  
1-54 requirements, but the combined training of the inspectors must  
1-55 include each of the applicable regulatory requirements. The  
1-56 applicable regulatory requirements include requirements related  
1-57 to:

1-58 (1) individual water quality permits issued under  
1-59 Section 26.027;

1-60 (2) a general water quality permit issued under

2-1 Section 26.040;

2-2 (3) air quality permits issued under Section 382.051,

2-3 Health and Safety Code; and

2-4 (4) other regulatory requirements applicable to

2-5 active aggregate production operations under the jurisdiction of

2-6 the commission.

2-7 (e) [~~(d)~~] An investigation in response to a complaint

2-8 satisfies the requirement of an inspection under this section if a

2-9 potential noncompliance issue not related to the complaint is

2-10 observed and is:

2-11 (1) not within an area of expertise of the

2-12 investigator but is referred by the investigator to the commission

2-13 for further investigation; or

2-14 (2) within an area of expertise of the inspector and is

2-15 appropriately investigated and appropriately addressed in the

2-16 investigation report.

2-17 SECTION 2. Section 28A.101(b), Water Code, is amended to

2-18 read as follows:

2-19 (b) The commission shall set the annual registration fee in

2-20 an amount sufficient to maintain a registry of active aggregate

2-21 production operations in this state and implement this chapter, not

2-22 to exceed \$1,500 [~~\$1,000~~].

2-23 SECTION 3. Section 28A.102, Water Code, is amended to read

2-24 as follows:

2-25 Sec. 28A.102. PENALTY. The commission may assess a penalty

2-26 of not less than \$5,000 and not more than \$20,000 [~~\$10,000~~] for each

2-27 year in which an aggregate production operation operates without

2-28 being registered under this chapter. The total penalty under this

2-29 section may not exceed \$40,000 [~~\$25,000~~] for an aggregate

2-30 production operation that is operated in three or more years

2-31 without being registered.

2-32 SECTION 4. Section 28A.102, Water Code, as amended by this

2-33 Act, applies only to a penalty assessed on or after the effective

2-34 date of this Act. A penalty assessed before the effective date of

2-35 this Act is governed by the law in effect on the date the penalty was

2-36 assessed, and the former law is continued in effect for that

2-37 purpose.

2-38 SECTION 5. This Act takes effect September 1, 2019.

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