Effective Date: July 5, 2012

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Permanent Rule Change

Rule Project No. 2011-045-342-OW
House Bill 571: Regulation of Certain Aggregate Production Operations

Chapter 342
Regulation of Certain Aggregate Production Operations

1. Purpose. This change transmittal provides the page(s) that reflect changes and additions to the Texas Commission on Environmental Quality (commission) Volume of Permanent Rules.


Sections 342.1 and 342.25 were adopted with changes to the proposed text as published in the January 27, 2012, issue of the Texas Register (37 TexReg 304). Section 342.26 was adopted without change to the proposed text and was not republished.

3. Effect of Change. This rulemaking action will establish a new chapter, 30 TAC Chapter 342, Regulation of Certain Aggregate Production Operations to implement HB 571.

The Water Quality Division (WQD) will develop registration forms. The registration forms will be available on September 1, 2012, in order that the regulated community may submit the required registration forms on or before the October 30, 2012, deadline. WQD will also develop a means of tracking registration forms. Registrations must be renewed annually by all active aggregate production operations.

The Office of Compliance and Enforcement (OCE) will develop a strategy to conduct annual surveys, to begin in September 2012, to capture an accurate and timely universe prior to investigating these facilities. Facilities that have not registered or have registered but not submitted a Notice of Audit for Compliance will be inspected beginning September 1, 2012. Beginning September 1, 2015, OCE Regional Offices will initiate inspections of those registered facilities that submitted a Notice of Audit for Compliance, each facility will be investigated once every three years. The Enforcement Division will update the penalty policy to reflect the new statutorily authorized penalties.
The Chief Financial Officer's Division will be required to annually reassess fees for applicants based on previous year's revenue from the registrations and costs to implement the legislation. Revenue from this fee is deposited to the Water Resource Management Account 153, described in the Texas Water Code, §28A.101. Since the statute requires TCEQ to set the fees in an amount not to exceed the amount necessary to cover costs of administering the program, the TCEQ must adjust the fee rate on an ongoing basis as appropriate to comply with this statutory requirement. Fees will be established annually to secure sufficient revenue to support the current appropriations and other fund obligations, while allowing for the fee to be adjusted based on relevant factors such as anticipated future costs, appropriations, and fund obligations.