

Texas Aggregate Quarry / Pit Program Fact Sheet

<https://www.txdot.gov/business/resources/materials/aggregate-quarry-pit-safety.html>

Responsibility

Texas Aggregate Quarry and Pit Safety Act (Act)
Title 4, Texas Chapter 133 – Natural Resources Code

Rules and Regulations

Title 43, Part 1, Chapter 21, Subchapter M – Texas Administrative Code

Purpose of Act

- To protect the traveling public by requiring safety devices for certain aggregate quarries and pits.
- Accompanied by civil penalties for failure to obey such law.

Qualifications

To be considered a quarry or a pit under the provisions of this Act:

- The quarry or pit must be 5 feet deep or deeper at any point within 200 feet of the closest public road traffic lane edge.
- Property (regardless of location to a public road) that is 5 feet deep or deeper at any point utilizing a portion of the site for quarrying operations.
- The quarry or pit was created by the extraction of material to be transported off-site not for personal use.
- The quarry or pit is found subject to any part of Texas Natural Resources Code, Title 4, Chapter 133, § 133.045 and Texas Administrative Code, Title 43, Chapter 21, § 21.701.

Exceptions

- A quarry or pit dug solely for the purpose of constructing a stock pond unless the pond was originally dug as a quarry or pit; a detention pond constructed for a municipality, or a municipal drainage-way **Would Not** be subject to the provisions of this Act.

Enforcement

Program is investigative and complaint driven and administered by the Texas Department of Transportation (TxDOT) Maintenance Division, contact by phone (737) 465-2173 or email todd.huddleson@txdot.gov.

Procedure of Enforcement

In the event a complaint by telephone, letter or email is filed, a review process will be initiated to determine if TxDOT has jurisdiction concerning the complaint allegations. After establishing jurisdiction, the review will include a meeting with the complainant, evidence collection, and any relevant information from credible and verifiable sources. Upon completion of the review, if the complaint is not resolved, an inspection will be conducted on site to determine if the quarry or pit is in violation of the Texas Aggregate Quarry and Pit Safety Act (Act). A conclusion of the review and inspection will be provided for the complainant to substantiate the final decision.

Inform complainant of other pertinent quarry and pit laws to address their complaint such as the Texas Commission of Environmental Quality (TCEQ), the Mine Safety and Health Administration (MSHA), the United States Army Corps of Engineers (USACE), the Rail Road Commission (RRC) (Lignite and Uranium) and the Abandoned Mine Law (Underground) (RRC).

Inspections

Investigation will determine who the Pit Operator is and who the Land Owner is. Inspections will include an inspection of property, taking photos, measuring dimensions of pit, distances of pit to adjacent property owners, to the edge of the right-of-way and to the edge of the traffic way. Inspector will determine what the purpose of the excavation is for, if excavation qualifies as a quarry or pit and if quarry or pit is in violation of the Act.

Quarry and Pit Protection Barrier Devices

A berm barrier device should be constructed near the pit and never on public road right-of-way. Berm may be constructed on the 25 - foot setback. The berm must also be set back to allow maintenance to be performed on the berm if needed and not perform any maintenance activity using any part of the right-of-way for equipment and personnel. Where the pit is within 200 feet of the travel way the berm must be at least 42 inches tall with a base width of 14 feet, including a top with a two - foot

width and have a greater than 30 degree slope on the traffic side. The berm must be constructed of consolidated material as defined in the Act (Sec 133.003 Definitions 3, 4, 6 and 27(C)).

A berm barrier will subject to a height requirement determined by roadway type and speed limit. The proposed or existing berm will be subject to review to comply with Texas Administrative Code, Title 43, Part 1, Chapter 21, Subchapter M, § 21.707

Or a guardrail barrier device may be constructed between the pit and the roadway edge in the right-of-way only if prior approval has been granted by the TxDOT. Unless approval has been granted otherwise by TxDOT, the guardrail will be constructed on private property meeting TxDOT Standard Specifications For Construction and Maintenance of Highways, Streets, And Bridges as outlined in Item # 540, Metal Beam Guard Fence.

Or a barrier device can be constructed of concrete or stone may be installed between the pit and the roadway edge in the right-of-way only if prior approval has been granted by the TxDOT. Unless approval has been granted otherwise by TxDOT, the concrete barrier or stone will be placed on private property. The concrete precast barrier must meet TxDOT Design Division Standard Specifications For Concrete Safety Barrier, CSB (1) -10.

Where the high probability of holding or impounding water exists and is not subject to the Texas Natural Resource Code, Title 4, Chapter 133, § 133.002(27)(C) and Texas Administrative Code, Title 43, Part 1, Chapter 21, Subchapter M, § 21.710, the sidewall of the pit within 200 feet of a travel lane can be sloped to an angle of 30 degrees or less from the horizontal plane as an alternative to installing a safety device.

The buffer of a quarry or pit is the setback requirement from the outer edge of the right of way to the nearest edge of excavated or quarried aggregate.

To maintain the 25 - foot setback requirement, sloping of the sidewall should begin at the edge of the quarry or pit 25 - foot setback. To prevent erosion and caving of the setback, each setback must have lateral support to the sidewall.

Distance Between Excavation and Property Line

All aggregate quarries and pits currently or previously excavating within the state of Texas are subject to Natural Resource Code, Title 4, Title 4, Chapter 133, § 133.901 and Texas Administrative Code, Title 43, Part 1, Chapter 21, Subchapter M, § 21.724.

Safety Certificates

Safety certificate application for a non-governmental entity - \$500

Safety certificate application for a State or other government agency - \$350

Safety certificate transfer - \$250

Notice of cessation of operations - \$500

Violations and Civil Penalties

A Quarry or Pit is in violation of this Act if: the excavated perimeter is within 50 feet (buffer) of adjacent property and perimeters greater than five feet in depth do not have lateral support under Natural Resource Code, Title 4, Title 4, Chapter 133, § 133.901 and Texas Administrative Code, Title 43, Part 1, Chapter 21, Subchapter M, § 21.724.

or within 25 feet (setback) of outer right-of-way line of a public roadway under Natural Resource Code, Title 4, Title 4, Chapter 133, § 133.044 and Texas Administrative Code, Title 43, Part 1, Chapter 21, Subchapter M, § 21.708(a).

or noncompliance with any other statute set forth in the Texas Aggregate Quarry and Pit Safety Act, Rules and Regulations for excavations under Texas Administrative Code, Title 43, Part 1, Chapter 21, Subchapter M, § 21.701.

1st Offense violation, quarry and pit owners who fail to comply with the Act may be fined not less than \$500 or more than \$5,000 for each violation.

2nd Offense violation, quarry and pit owners who fail to comply with the Act may be fined not less than \$1,000 or more than \$10,000 for each violation.

Quarry and Pit Safety Forms

No. 2113 Application for Cessation of Operations

No. 2114 Application for Quarry and Pit Safety Certificate

No. 2115 Application for Transfer of Quarry and Pit Safety Certificate

No. 2116 Application for Waiver of Quarry and Pit Safety Certificate