

By: Chisum

H.B. No. 3405

A BILL TO BE ENTITLED

AN ACT

relating to land reclamation projects using tires.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.1126 to read as follows:

Sec. 361.1126. LAND RECLAMATION PROJECTS USING TIRES. (a)

In this section:

(1) "Land reclamation" means the process of restoring an area of excavated, deteriorated, or disturbed land to its approximate natural grade and to prepare or reclaim the land for reuse.

(2) "Scrap tire" has the meaning assigned by Section 361.112.

(b) A person may not begin a land reclamation project using scrap tires without a permit issued by the commission under this section.

(c) A person may not use scrap tires for a land reclamation project unless the tires are shredded, split, or quartered as provided by commission rule. The commission may grant an exception to this requirement if the commission finds that circumstances warrant the exception.

(d) The commission may not grant a permit for a land reclamation project using scrap tires before:

(1) the commission receives comments or suggestions

1 from:

2 (A) the governing body of any municipality in the
3 corporate limits or extraterritorial jurisdiction of which the
4 proposed project is located;

5 (B) the commissioners court of each county in
6 which the proposed project is located;

7 (C) each groundwater conservation district, if
8 any, in which the proposed project is located; and

9 (D) each regional planning commission, council
10 of governments, or similar regional planning agency created under
11 Chapter 391, Local Government Code, if any, for the region in which
12 the proposed project is located; or

13 (2) the earlier of:

14 (A) the 61st day after the date the application
15 to request a permit for the project is submitted to the commission;
16 or

17 (B) the day following the first date the
18 commissioners court of each county in which the proposed project is
19 located has conducted two regularly scheduled meetings following
20 the date the application was submitted to the commission.

21 (e) The application to request a permit for a land
22 reclamation project using scrap tires must include at a minimum:

23 (1) a legal description of the area to be reclaimed;

24 (2) a map clearly identifying the area to be reclaimed
25 and the topography of the area;

26 (3) an affidavit from the property owner certifying
27 that the reclamation project complies with this section and the

1 rules adopted under this section;

2 (4) a demonstration of the seasonal high groundwater
3 level in the area in which the proposed project is located; and

4 (5) an analysis and evaluation of the environmental
5 impacts on the soil and groundwater in the area of the proposed
6 project that compare the impact of using scrap tires for the
7 proposed reclamation project to the impact of at least one
8 reasonable alternative method of land reclamation for the proposed
9 project.

10 (f) A person submitting an application to request a permit
11 under this section must mail a copy of the application to the
12 commissioners court of each county in which the proposed project is
13 located and provide notice to the other entities listed in
14 Subsection (d). Proof of notice must be provided in the form and
15 manner described by commission rule.

16 (g) The executive director may request that a person
17 submitting an application to request a permit under this section
18 provide additional information if the executive director
19 determines that the application does not address all applicable
20 requirements of this section or commission rules adopted under this
21 section or any potential risks to public health or the environment.

22 (h) The commission may not grant a permit under this section
23 if the commission receives notice before issuing the permit that
24 the proposed project violates a local regulation, ordinance, order,
25 or other law in the area in which the proposed project is located.

26 (i) The commission by rule shall:

27 (1) prescribe minimum standards to protect the soil

1 and water for a land reclamation project using scrap tires; and

2 (2) adopt application forms and procedures for the
3 permitting process under this section, including the adoption of a
4 procedure that allows the electronic submission of applications.

5 (j) The commission may amend, extend, transfer, or renew a
6 permit issued under this section as provided by this chapter and
7 commission rule.

8 (k) The notice and hearing procedures provided by this
9 subchapter apply to a permit issued, amended, extended, or renewed
10 under this section.

11 (l) The commission may, for good cause, deny, revoke,
12 suspend, annul, or amend a permit under this section for reasons
13 concerning public health and safety, air or water pollution, land
14 use, or a violation of this section as provided by Section 361.089.

15 SECTION 2. (a) Before September 1, 2012, the Texas
16 Commission on Environmental Quality shall adopt any rules required
17 to implement Section 361.1126, Health and Safety Code, as added by
18 this Act.

19 (b) On or after the effective date of this Act, any person
20 responsible for an ongoing or pending land reclamation project
21 using scrap tires that has not yet placed the tires below ground may
22 not place the tires below ground until the person has obtained a
23 permit under Section 361.1126, Health and Safety Code, as added by
24 this Act.

25 (c) To the extent that a land reclamation project using
26 scrap tires has placed tires below ground before the effective date
27 of this Act, the project is subject to the law in effect on the date

1 the tires were placed below ground, and that law is continued in
2 effect for that purpose.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2011.