

1-1 By: Hinojosa S.B. No. 1471
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 27, 2011, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 27, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to land reclamation projects using tires.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subchapter C, Chapter 361, Health and Safety
1-11 Code, is amended by adding Section 361.1126 to read as follows:

1-12 Sec. 361.1126. LAND RECLAMATION PROJECTS USING TIRES.

1-13 (a) In this section:

1-14 (1) "Land reclamation" means the process of restoring
1-15 an area of excavated, deteriorated, or disturbed land to its
1-16 approximate natural grade and to prepare or reclaim the land for
1-17 reuse.

1-18 (2) "Scrap tire" has the meaning assigned by Section
1-19 361.112.

1-20 (b) A person may not begin a land reclamation project using
1-21 scrap tires without a permit issued by the commission under this
1-22 section.

1-23 (c) A person may not use scrap tires for a land reclamation
1-24 project unless the tires are shredded, split, or quartered as
1-25 provided by commission rule. The commission may grant an exception
1-26 to this requirement if the commission finds that circumstances
1-27 warrant the exception.

1-28 (d) The commission may not grant a permit for a land
1-29 reclamation project using scrap tires before:

1-30 (1) the commission receives comments or suggestions
1-31 from:

1-32 (A) the governing body of any municipality in the
1-33 corporate limits or extraterritorial jurisdiction of which the
1-34 proposed project is located;

1-35 (B) the commissioners court of each county in
1-36 which the proposed project is located;

1-37 (C) each groundwater conservation district, if
1-38 any, in which the proposed project is located; and

1-39 (D) each regional planning commission, council
1-40 of governments, or similar regional planning agency created under
1-41 Chapter 391, Local Government Code, if any, for the region in which
1-42 the proposed project is located; or

1-43 (2) the earlier of:

1-44 (A) the 61st day after the date the application
1-45 to request a permit for the project is submitted to the commission;
1-46 or

1-47 (B) the day following the first date the
1-48 commissioners court of each county in which the proposed project is
1-49 located has conducted two regularly scheduled meetings following
1-50 the date the application was submitted to the commission.

1-51 (e) The application to request a permit for a land
1-52 reclamation project using scrap tires must include at a minimum:

1-53 (1) a legal description of the area to be reclaimed;

1-54 (2) a map clearly identifying the area to be reclaimed
1-55 and the topography of the area;

1-56 (3) an affidavit from the property owner certifying
1-57 that the reclamation project complies with this section and the
1-58 rules adopted under this section;

1-59 (4) a demonstration of the seasonal high groundwater
1-60 level in the area in which the proposed project is located; and

1-61 (5) an analysis and evaluation of the environmental
1-62 impacts on the soil and groundwater in the area of the proposed
1-63 project that compares the impact of using scrap tires for the
1-64 proposed reclamation project to the impact of at least one

reasonable alternative method of land reclamation for the proposed project.

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

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

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

(i) The commission by rule shall:

(1) prescribe minimum standards to protect the soil and water for a land reclamation project using scrap tires; and

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

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

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

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

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

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

(c) To the extent that a land reclamation project using scrap tires has placed tires below ground before the effective date of this Act, the project is subject to the law in effect on the date the tires were placed below ground, and that law is continued in effect for that purpose.

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

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