

By: King of Zavala

H.B. No. 2996

A BILL TO BE ENTITLED

AN ACT

relating to regulation by the Texas Commission on Environmental
Quality of the land application of Class B sludge.

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

SECTION 1. The heading to Section 361.121, Health and
Safety Code, is amended to read as follows:

Sec. 361.121. LAND APPLICATION OF CERTAIN SLUDGE;
REGISTRATION [~~PERMIT~~] REQUIRED.

SECTION 2. Section 361.121(a)(1), Health and Safety Code,
is amended to read as follows:

(1) "Class B sludge" is sewage sludge, including
sludge combined and processed with grease trap waste, grit trap
waste, or septage within the boundaries of a wastewater treatment
facility, that meets one of the pathogen reduction requirements of
30 T.A.C. 312.82(b).

SECTION 3. Sections 361.121(b), (c), (d), (e), (f), (g),
(h), (j), (k), (l), (n), and (o), Health and Safety Code, are
amended to read as follows:

(b) A [~~Except as provided by Subsection (m), a~~] responsible
person may not apply Class B sludge on a land application unit
unless the responsible person has obtained a registration
certificate [~~permit~~] for that land application unit issued by the
commission under this section [~~on or after September 1, 2003~~].

(c) The notice and hearing provisions of Subchapter M,

1 Chapter 5, Water Code, do not [~~as added by Chapter 1350, Acts of the~~
2 ~~76th Legislature, Regular Session, 1999,~~] apply to an application
3 under this section for registration or for an [~~a permit, a permit~~]
4 amendment[~~7~~] or [~~a permit~~] renewal of registration. [~~In addition,~~
5 ~~at the time published notice of intent to obtain a permit is~~
6 ~~required under Section 5.552, Water Code, an applicant for a~~
7 ~~permit, permit amendment, or permit renewal under this section must~~
8 ~~notify by registered or certified mail each owner of land located~~
9 ~~within one-quarter mile of the proposed land application unit who~~
10 ~~lives on that land of the intent to obtain the permit, amendment, or~~
11 ~~renewal. Notice to landowners must include the information~~
12 ~~required by Section 5.552(c), Water Code, and information regarding~~
13 ~~the anticipated date of the first application of the sludge to the~~
14 ~~proposed land application unit. An owner of land located within~~
15 ~~one-quarter mile of the proposed land application unit who lives on~~
16 ~~that land is an affected person for purposes of Section 5.115, Water~~
17 ~~Code.~~]

18 (d) In each registration certificate [~~permit~~], the
19 commission shall prescribe the conditions under which it is issued,
20 including:

- 21 (1) the duration of the registration [~~permit~~];
- 22 (2) the location of the land application unit;
- 23 (3) the maximum quantity of Class B sludge that may be
24 applied or disposed of under the registration [~~permit~~];
- 25 (4) a requirement that the registration certificate
26 [~~permit~~] holder submit quarterly to the commission a
27 computer-generated report that includes, at a minimum, information

1 regarding:

2 (A) the source, quality, and quantity of sludge
3 applied to the land application unit;

4 (B) the location of the land application unit,
5 either in terms of longitude and latitude or by physical address,
6 including the county;

7 (C) the date of delivery of Class B sludge;

8 (D) the date of application of Class B sludge;

9 (E) the cumulative amount of metals applied to
10 the land application unit through the application of Class B
11 sludge;

12 (F) crops grown at the land application unit
13 site; and

14 (G) the suggested agronomic application rate for
15 the Class B sludge;

16 (5) a requirement that the registration certificate
17 [~~permit~~] holder submit annually to the commission evidence that the
18 [~~permit~~] holder is complying with the nutrient management plan and
19 the practice standards described by Subsection (h)(4);

20 (6) a requirement that the registration certificate
21 [~~permit~~] holder post a sign that is visible from a road or sidewalk
22 that is adjacent to the premises on which the land application unit
23 is located stating that a beneficial application site is located on
24 the premises;

25 (7) any other monitoring and reporting requirements
26 prescribed by the commission for the registration certificate
27 [~~permit~~] holder; and

1 (8) a requirement that the registration certificate
2 ~~[permit]~~ holder must report to the commission any noncompliance by
3 the ~~[permit]~~ holder with the registration ~~[permit]~~ conditions or
4 applicable commission rules.

5 (e) A registration ~~[permit]~~ does not become a vested right
6 in the registration certificate ~~[permit]~~ holder.

7 (f) A registration certificate ~~[permit]~~ may be issued under
8 this section for a term set by the board not to exceed six years from
9 the date of issuance.

10 (g) The commission shall charge a fee for the issuance of a
11 registration certificate ~~[permit]~~ under this section in an amount
12 not less than \$1,000 and not more than \$5,000. In determining the
13 fee under this subsection, the commission shall consider the amount
14 of sludge to be applied under the registration ~~[permit]~~.

15 (h) The commission by rule shall require an applicant for
16 registration ~~[a permit]~~ under this section to submit with the
17 application, at a minimum:

18 (1) information regarding:

19 (A) the applicant;

20 (B) the source, quality, and quantity of sludge
21 to be applied; and

22 (C) the hydrologic characteristics of the
23 surface water and groundwater at and within one-quarter of a mile of
24 the land application unit;

25 (2) proof evidencing that the applicant has a
26 commercial liability insurance policy that:

27 (A) is issued by an insurance company authorized

1 to do business in this state that has a rating by the A. M. Best
2 Company of A- or better;

3 (B) designates the commission as an additional
4 insured; and

5 (C) is in an amount of not less than \$3 million;

6 (3) proof evidencing that the applicant has an
7 environmental impairment insurance policy or similar insurance
8 policy that:

9 (A) is issued by an insurance company authorized
10 to do business in this state that has a rating by the A. M. Best
11 Company of A- or better;

12 (B) designates the commission as an additional
13 insured; and

14 (C) is in an amount of not less than \$3 million;
15 and

16 (4) proof that the applicant has minimized the risk of
17 water quality impairment caused by nitrogen applied to the land
18 application unit through the application of Class B sludge by
19 having had a nutrient management plan prepared by a certified
20 nutrient management specialist in accordance with the practice
21 standards of the Natural Resources Conservation Service of the
22 United States Department of Agriculture.

23 (j) A registration certificate [~~permit~~] holder must
24 maintain an insurance policy required by Subsection (h) in effect
25 for the duration of the registration [~~permit~~].

26 (k) The commission shall create and operate a tracking
27 system for the land application of Class B sludge. The commission

1 shall require a registration certificate [~~permit~~] holder to report
2 deliveries and applications of Class B sludge using the tracking
3 system and shall post the reported information on its website. The
4 tracking system must allow a registration certificate [~~permit~~]
5 holder to report electronically:

6 (1) the date of delivery of Class B sludge to a land
7 application unit; and

8 (2) for each application of Class B sludge to a land
9 application unit:

10 (A) the date of the application; and

11 (B) the source, quality, and quantity of the
12 sludge applied.

13 (1) A registration certificate [~~permit~~] holder may not
14 accept Class B sludge unless the sludge has been transported to the
15 land application unit in a covered container with the covering
16 firmly secured at the front and back.

17 (n) The insurance requirements under Subsections (h)(2) and
18 (3) do not apply to an applicant that is:

19 (1) a political subdivision; or

20 (2) a small business, as defined by Section 2006.001,
21 Government Code, that owns the land application unit.

22 (o) The commission may not issue a registration certificate
23 [~~permit~~] under this section for a land application unit that is
24 located both:

25 (1) in a county that borders the Gulf of Mexico; and

26 (2) 500 feet or less from any water well or surface
27 water.

1 SECTION 4. Section 361.121(m), Health and Safety Code, is
2 repealed.

3 SECTION 5. (a) The changes in law made by this Act apply
4 only to an application to apply Class B sludge to a land application
5 unit that is:

6 (1) filed with the Texas Commission on Environmental
7 Quality on or after the effective date of this Act; or

8 (2) filed with the Texas Commission on Environmental
9 Quality before the effective date of this Act but not found to be
10 administratively complete before that date.

11 (b) A person who holds a permit for the application of Class
12 B sludge approved by the Texas Commission on Environmental Quality
13 before the effective date of this Act may apply Class B sludge in
14 accordance with the terms of the permit.

15 SECTION 6. This Act takes effect September 1, 2013.