86R4589 JTS-D

By:  Burns H.B. No. 3318

A BILL TO BE ENTITLED

AN ACT

relating to a permit requirement for the land application of domestic septage.

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 OR DOMESTIC SEPTAGE; PERMIT REQUIRED.

SECTION 2.  Sections 361.121(a), (b), (c), (d), (g), (h), (i), (k), and (l), Health and Safety Code, are amended to read as follows:

(a)  In this section:

(1)  "Class B sludge" is sewage sludge that meets one of the pathogen reduction requirements of 30 T.A.C. 312.82(b).

(1-a) "Domestic septage" means liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device, or similar treatment works that receives only domestic sewage. The term does not include:

(A)  liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater; or

(B)  grease removed from a grease trap.

(2)  "Land application unit" means an area where wastes are applied onto or incorporated into the soil surface for agricultural purposes or for treatment and disposal. The term does not include manure spreading operations.

(3)  "Responsible person" means the person with ultimate responsibility for the land application of the Class B sludge or domestic septage at a land application unit. The responsible person is:

(A)  the owner of the land application unit if the sludge or septage being land applied was generated outside this state; or

(B)  the person who is land applying the sludge or septage if the sludge or septage being land applied was generated in this state.

(b)  Except as provided by Subsection (m), a responsible person may not apply Class B sludge or domestic septage on a land application unit unless the responsible person has obtained a 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, Chapter 5, Water Code, [~~as added by Chapter 1350, Acts of the 76th Legislature, Regular Session, 1999,~~] apply to an application under this section for a permit, a permit amendment, or a permit renewal. In addition, at the time published notice of intent to obtain a permit is required under Section 5.552, Water Code, an applicant for a permit, permit amendment, or permit renewal under this section must notify by registered or certified mail each owner of land located within one-quarter mile of the proposed land application unit who lives on that land of the intent to obtain the permit, amendment, or renewal. Notice to landowners must include the information required by Section 5.552(c), Water Code, and information regarding the anticipated date of the first application of the sludge or domestic septage to the proposed land application unit. An owner of land located within one-quarter mile of the proposed land application unit who lives on that land is an affected person for purposes of Section 5.115, Water Code.

(d)  In each permit, the commission shall prescribe the conditions under which it is issued, including:

(1)  the duration of the permit;

(2)  the location of the land application unit;

(3)  the maximum quantity of Class B sludge or domestic septage that may be applied or disposed of under the permit;

(4)  a requirement that the permit holder submit quarterly to the commission a computer-generated report that includes, at a minimum, information regarding:

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

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

(C)  the date of delivery of Class B sludge or septage;

(D)  the date of application of Class B sludge or septage;

(E)  the cumulative amount of metals applied to the land application unit through the application of Class B sludge or septage;

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

(G)  the suggested agronomic application rate for the Class B sludge or septage;

(5)  a requirement that the permit holder submit annually to the commission evidence that the permit holder is complying with the nutrient management plan and the practice standards described by Subsection (h)(4);

(6)  a requirement that the permit holder post a sign that is visible from a road or sidewalk that is adjacent to the premises on which the land application unit is located stating that a beneficial application site is located on the premises;

(7)  any other monitoring and reporting requirements prescribed by the commission for the permit holder; and

(8)  a requirement that the permit holder must report to the commission any noncompliance by the permit holder with the permit conditions or applicable commission rules.

(g)  The commission shall charge a fee for the issuance of a permit under this section in an amount not less than $1,000 and not more than $5,000. In determining the fee under this subsection, the commission shall consider the amount of sludge or domestic septage to be applied under the permit.

(h)  The commission by rule shall require an applicant for a permit under this section to submit with the application, at a minimum:

(1)  information regarding:

(A)  the applicant;

(B)  the source, quality, and quantity of sludge or domestic septage to be applied; and

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

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

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

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

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

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

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

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

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

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

(i)  The commission may expand the definition of Class B sludge or domestic septage only by expanding the definition to include sludge or septage that meets more stringent pathogen reduction requirements.

(k)  The commission shall create and operate a tracking system for the land application of Class B sludge or domestic septage. The commission shall require a permit holder to report deliveries and applications of Class B sludge or domestic septage using the tracking system and shall post the reported information on its website. The tracking system must allow a permit holder to report electronically:

(1)  the date of delivery of Class B sludge or domestic septage to a land application unit; and

(2)  for each application of Class B sludge or domestic septage to a land application unit:

(A)  the date of the application; and

(B)  the source, quality, and quantity of the sludge or septage applied.

(l)  A permit holder may not accept Class B sludge or domestic septage unless the sludge or septage has been transported to the land application unit in a covered container with the covering firmly secured at the front and back.

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, 2019.