

By: Guillen

H.B. No. 2942

A BILL TO BE ENTITLED

AN ACT

relating to the adoption and enforcement of reclamation standards for certain sand mining operations; authorizing a fee.

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

SECTION 1. Title 4, Natural Resources Code, is amended by adding Chapter 135 to read as follows:

CHAPTER 135. RECLAMATION STANDARDS FOR CERTAIN SAND MINING OPERATIONS

Sec. 135.0101. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Marketable material" means sand mined at the regulated premises and processed for sale.

(3) "Unmarketable material" means material excavated or mined from the regulated premises other than marketable material and includes surface soil, unmarketable sand, and overburden and interburden encountered during mining and processing operations.

Sec. 135.0102. RECLAMATION STANDARDS AND PERMIT. (a) The commission by rule shall adopt standards governing reclamation for sand mining operations, regardless of whether the operations are required to be registered under Chapter 28A, Water Code, that overlie the Carrizo Aquifer and are located within:

(1) 30 miles of the boundary of a municipality with a population of more than 500,000; or

1 (2) one mile of a building in use as a single-family or
2 multifamily residence at the time the permit application is filed
3 with the commission.

4 (b) The measurement of distance for purposes of Subsection
5 (a) shall be taken from the point on the sand mining operation that
6 is nearest to the municipal boundary or residence toward the point
7 on the municipal boundary or residence that is nearest to the sand
8 mining operation.

9 (c) A person may not begin or conduct extraction activities
10 at a sand mining operation described by Subsection (a) unless the
11 operator has obtained a reclamation permit from the commission
12 under this chapter.

13 (d) The commission shall require an applicant for a
14 reclamation permit to submit to the commission a site reclamation
15 plan for the sand mining operation that demonstrates that the
16 applicant has adequately planned to comply with the standards
17 adopted under this chapter.

18 (e) The commission may charge fees for the issuance of
19 permits under this chapter in an amount sufficient to recover the
20 costs of administering this chapter.

21 Sec. 135.0103. CONTENTS OF STANDARDS. (a) The standards
22 adopted under Section 135.0102 must:

23 (1) provide for the protection of surface water,
24 groundwater, agricultural land, wildlife habitat, and wetlands;

25 (2) require reclamation to:

26 (A) occur concurrently with sand mining
27 operations by managing the movement of marketable and unmarketable

1 material encountered during the operations; and
2 (B) use best practices adopted by the Natural
3 Resources Conservation Service of the United States Department of
4 Agriculture;
5 (3) include post-mining reclamation grade standards;
6 (4) establish slope stabilization requirements,
7 including by grading perpendicular to the gradient;
8 (5) require unmarketable material from the regulated
9 premises to be stockpiled on the premises and used as backfill for
10 site restoration;
11 (6) prohibit the inclusion of material not excavated
12 from the regulated premises in the backfill used for site
13 restoration;
14 (7) prohibit the stockpiling of unmarketable material
15 at a horizontal to vertical slope greater than a 3 to 1 ratio;
16 (8) require surface soil removed during sand mining
17 operations at the regulated premises to be used as the uppermost
18 layer of the final reclamation grade;
19 (9) require a reclaimed area to be left for successive
20 vegetation growth after final reclamation grade standards have been
21 satisfied; and
22 (10) encourage the construction of ponds to catch
23 runoff in locations that are outside critical runoff zones for
24 rivers.
25 (b) Notwithstanding Subsection (a), the commission may
26 adopt alternative standards for sand mining operations that began
27 before September 1, 2019, and are unable to comply with the

1 requirements of Subsection (a), provided that the alternative
2 standards must:

3 (1) provide for the protection of surface water,
4 groundwater, agricultural land, wildlife habitat, and wetlands;
5 and

6 (2) include standards relating to grading and slopes
7 of reclaimed areas, the composition of backfill used for site
8 restoration, topsoil management, site stabilization, and
9 revegetation.

10 Sec. 135.0104. LOCAL ENFORCEMENT OF PERMIT STANDARDS. (a)
11 A county shall adopt a program for the enforcement of the standards
12 adopted under this chapter for sand mining operations located in
13 unincorporated areas of the county that are subject to this
14 chapter.

15 (b) A municipality may adopt a program for the enforcement
16 of the standards adopted under this chapter for sand mining
17 operations located in the municipality that are subject to this
18 chapter.

19 (c) A program adopted by a county or a municipality under
20 this section must provide for the inspection of sand mining
21 operations that are subject to this chapter to assure compliance
22 with the standards adopted under this chapter.

23 (d) A county or a municipality that adopts a program under
24 this section may:

25 (1) require a sand mining operation to submit for
26 approval by the county or municipality, as appropriate, the site
27 reclamation plan submitted to the commission with the permit

1 application under Section 135.0102, before sand mining operations
2 may take place at the premises that is the subject of the
3 reclamation plan; and

4 (2) charge a fee for the review and approval of the
5 plan.

6 SECTION 2. Subchapter D, Chapter 23, Tax Code, is amended by
7 adding Section 23.526 to read as follows:

8 Sec. 23.526. TEMPORARY CESSATION OF AGRICULTURAL USE FOR
9 SAND MINING OPERATION. (a) The eligibility of land for appraisal
10 under this subchapter does not end because the land ceases to be
11 devoted principally to agricultural use to the degree of intensity
12 generally accepted in the area if:

13 (1) the owner of the land intends that the use of the
14 land in that manner and to that degree of intensity be resumed;

15 (2) the land is used for a sand mining operation for
16 which a permit is issued under Chapter 135, Natural Resources Code;
17 and

18 (3) the land is reclaimed in the manner required by
19 Chapter 135, Natural Resources Code, not later than the first
20 anniversary of the date sand mining operations began on the land.

21 (b) The owner of land to which this section applies must
22 notify the appraisal office in writing not later than the 30th day
23 after the date sand mining operations begin on the land that the
24 owner intends to ensure that the requirements of Subsection (a) are
25 met.

26 SECTION 3. (a) This section applies only to land on which a
27 sand mining operation began before the effective date of this Act.

1 (b) Notwithstanding Section 23.526(b), Tax Code, as added
2 by this Act, the eligibility of the land for appraisal under
3 Subchapter D, Chapter 23, Tax Code, does not end because the land
4 ceases to be devoted principally to agricultural use to the degree
5 of intensity generally accepted in the area if:

6 (1) the owner of the land provides the notice required
7 by Section 23.526(b), Tax Code, as added by this Act, not later than
8 the 90th day after the effective date of this Act; and

9 (2) the chief appraiser of the appraisal district in
10 which the land is located has not, as of the effective date of this
11 Act, made a determination under Section 23.55, Tax Code, that a
12 change in use of the land has occurred.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2019.