

BILL ANALYSIS

Senate Research Center
82R7905 KJM-D

S.B. 1471
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Land reclamation projects using tires (LRPUTs) are projects to fill, rehabilitate, improve, or restore already excavated, deteriorated, or disturbed land, using no more than 50 percent by volume of tire pieces along with inert fill materials, to restore the land to its approximate natural grade and to prepare or reclaim the land for reuse.

Currently, the Texas Commission on Environmental Quality (TCEQ) and local fire marshals are the only government agencies that may comment on or participate in the review of application for LRPUTs. The disposed material is considered inert and harmless. However, government agencies have not conducted substantive evaluations of the disposed material's impact on the immediate environment near disposal sites.

County commissioners courts, groundwater conservation districts, and other political subdivisions such as groundwater conservation districts cannot comment on a proposed LRPUT site, regardless of the potential impact on soil, water, and air. Long-term impact studies on water quality are not required by TCEQ rules regarding tire disposal sites of this kind.

S.B. 1471 requires TCEQ to obtain comments from the governing body of a municipality, a county, or other political subdivision, including groundwater conservation districts, prior to awarding a permit for a LRPUT. The bill sets a 60-day comment period for this.

S.B. 1471 directs TCEQ to revise the current rules governing shredded tire disposal sites. The rules shall prescribe minimum standards to protect soil and water, and adopt new application forms and procedures for these types of permits.

This bill also grants TCEQ the authority to revoke permits and deny applications for shredded tire disposal sites if reasons concerning public health and safety, air or water pollution, or land use are identified.

As proposed, S.B. 1471 amends current law relating to land reclamation projects using tires.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Section 361.1126, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.1126, as follows:

Sec. 361.1126. LAND RECLAMATION PROJECTS USING TIRES. (a) Defines, in this section, "land reclamation" and "scrap tire."

(b) Prohibits a person from beginning a land reclamation project using scrap tires without a permit issued by the Texas Natural Resource Conservation Commission (TNRCC) under this section.

(c) Prohibits a person from using scrap tires for a land reclamation project unless the tires are shredded, split, or quartered as provided by TNRCC rule. Authorizes TNRCC to grant an exception to this requirement if TNRCC finds that circumstances warrant the exception.

(d) Prohibits TNRCC from granting a permit for a land reclamation project using scrap tires before:

(1) TNRCC receives comments or suggestions from:

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

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

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

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

(2) the earlier of the 61st day after the date the application to request a permit for the project is submitted to TNRCC, or the day following the first date the commissioners court of each county in which the proposed project is located has conducted two regularly scheduled meetings following the date the application was submitted to TNRCC.

(e) Requires that the application to request a permit for a land reclamation project using scrap tires include at a minimum:

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

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

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

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

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

(f) Requires a person submitting an application to request a permit under this section to 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). Requires that proof of notice be provided in the form and manner described by TNRCC rule.

(g) Authorizes the executive director of TNRCC (executive director) to 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 TNRCC rules adopted under this section or any potential risks to public health or the environment.

(h) Prohibits TNRCC from granting a permit under this section if TNRCC 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) Requires TNRCC by rule to prescribe minimum standards to protect the soil and water for a land reclamation project using scrap tires, and 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) Authorizes TNRCC to amend, extend, transfer, or renew a permit issued under this section as provided by this chapter and TNRCC rule.

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

(l) Authorizes TNRCC to, 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 (Permit Denial or Amendment; Notice and Hearing).

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

(b) Provides that 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) Provides that 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. Effective date: upon passage or September 1, 2011.