

AN ACT

relating to the land application of certain sludge.

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

SECTION 1. Section 361.121, Health and Safety Code, is amended by amending Subsections (b), (c), (d), and (h) and adding Subsections (j), (k), (l), (m), (n), and (o) to read as follows:

(b) Except as provided by Subsection (m), a [A] responsible person may not apply Class B sludge 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

1 of the sludge to the proposed land application unit. An owner of
2 land located within one-quarter mile of the proposed land
3 application unit who lives on that land is an affected person for
4 purposes of Section 5.115, Water Code.

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

7 (1) the duration of the permit;

8 (2) the location of the land application unit;

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

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

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

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

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

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

21 (E) the cumulative amount of metals applied to
22 the land application unit through the application of Class B
23 sludge;

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

26 (G) the suggested agronomic application rate for
27 the Class B sludge;

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

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

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

11 (8) [~~5~~] a requirement that the permit holder must
12 report to the commission any noncompliance by the permit holder
13 with the permit conditions or applicable commission rules.

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

17 (1) [~~7~~] information regarding:

18 (A) [~~1~~] the applicant;

19 (B) [~~2~~] the source, quality, and quantity of
20 sludge to be applied; and

21 (C) [~~3~~] the hydrologic characteristics of the
22 surface water and groundwater at and within one-quarter of a mile of
23 the land application unit;

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

26 (A) is issued by an insurance company authorized
27 to do business in this state that has a rating by the A. M. Best

1 Company of A- or better;

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

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

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

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

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

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

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

22 (j) A permit holder must maintain an insurance policy
23 required by Subsection (h) in effect for the duration of the permit.

24 (k) The commission shall create and operate a tracking
25 system for the land application of Class B sludge. The commission
26 shall require a permit holder to report deliveries and applications
27 of Class B sludge using the tracking system and shall post the

1 reported information on its website. The tracking system must
2 allow a permit holder to report electronically:

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

5 (2) for each application of Class B sludge to a land
6 application unit:

7 (A) the date of the application; and

8 (B) the source, quality, and quantity of the
9 sludge applied.

10 (1) A permit holder may not accept Class B sludge unless the
11 sludge has been transported to the land application unit in a
12 covered container with the covering firmly secured at the front and
13 back.

14 (m) A person who holds a registration for the application of
15 Class B sludge for a beneficial use approved by the commission and
16 who, on or before September 1, 2002, has submitted to the commission
17 an administratively complete application for a permit under this
18 section may apply Class B sludge in accordance with the terms of the
19 registration until the commission issues a final decision to issue
20 or deny the permit for which the person has applied.

21 (n) The insurance requirements under Subsections (h)(2) and
22 (3) do not apply to an applicant that is a political subdivision.

23 (o) The commission may not issue a permit under this section
24 for a land application unit that is 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 2. (a) This Act takes effect September 1, 2003.

2 (b) The changes in law made to Sections 361.121(c) and (h),
3 Health and Safety Code, by this Act apply to an application to apply
4 Class B sludge to a land application unit that is:

5 (1) filed with the Texas Commission on Environmental
6 Quality on or after September 1, 2003; or

7 (2) filed with the Texas Commission on Environmental
8 Quality before September 1, 2003, but not found to be
9 administratively complete before that date.

David Dewhurst

President of the Senate

Jim Coady

Speaker of the House

I certify that H.B. No. 2546 was passed by the House on May 1, 2003, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Robert Hamey
Chief Clerk of the House

I certify that H.B. No. 2546 was passed by the Senate on May 23, 2003, by a viva-voce vote.

Patsy Spaw
Secretary of the Senate

APPROVED: 20 JUN '03

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:30 P.M. O'CLOCK

Jeannine Shea
Secretary of State