

AN ACT

relating to the prevention of surface water or groundwater pollution from certain evaporation pits.

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

SECTION 1. Subchapter D, Chapter 26, Water Code, is amended by adding Section 26.132 to read as follows:

Sec. 26.132. EVAPORATION PITS REQUIREMENTS. (a) In this section, "evaporation pit" means a pit into which water, including rainwater or storm water runoff, is or has been placed and retained for the purpose of collecting, after the water's evaporation, brine water or residual minerals, salts, or other substances present in the water, and for the purpose of storing brine water and minerals.

(b) This section applies only to evaporation pits:

(1) operated for the commercial production of brine water, minerals, salts, or other substances that naturally occur in groundwater; and

(2) that are not regulated by the Railroad Commission of Texas.

(c) The owner or operator of an evaporation pit shall ensure that the pit is lined as provided by this subsection and rules adopted under this subsection. An evaporation pit must have a liner designed by an engineer who holds a license issued under Chapter 1001, Occupations Code, to minimize surface water and groundwater pollution risks. The liner must meet standards at least as

1 stringent as those adopted by the commission for a Type I landfill
2 managing Class I industrial solid waste.

3 (d) An owner or operator may not place or permit the
4 placement of groundwater or on-site storm water runoff into an
5 evaporation pit if the pit does not comply with this section or with
6 rules adopted or orders issued under this section.

7 (e) The owner or operator of an evaporation pit shall ensure
8 that:

9 (1) storm water runoff is diverted away from or
10 otherwise prevented from entering the evaporation pit; and

11 (2) all berms and other structures used to manage
12 storm water are properly constructed and maintained in a manner to
13 prevent the threat of water pollution from the evaporation pit.

14 (f) The owner or operator of an evaporation pit may not by
15 act or omission cause:

16 (1) water pollution from the evaporation pit; or

17 (2) a discharge from the evaporation pit into or
18 adjacent to water in the state.

19 (g) The owner or operator of an evaporation pit shall ensure
20 that the pit is located so that a failure of the pit or a discharge
21 from the pit does not result in an adverse effect on water in the
22 state.

23 (h) The owner or operator of an evaporation pit shall
24 provide the commission with proof that the owner or operator has
25 financial assurance adequate to ensure satisfactory closure of the
26 pit.

27 (i) The owner or operator of an evaporation pit shall

1 provide the commission with proof that the owner or operator of the
2 pit has a third party pollution liability insurance policy that:

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

6 (2) covers bodily injury and property damage to third
7 parties caused by accidental sudden or nonsudden occurrences
8 arising from operations at the pit; and

9 (3) is in an amount of not less than \$3 million.

10 (j) The commission shall adopt rules as necessary to protect
11 surface water and groundwater quality from the risks presented by
12 commercial evaporation pits and as necessary to administer and
13 enforce this section, including rules:

14 (1) governing the location, design, construction,
15 capacity, operations, maintenance, and closure of evaporation
16 pits;

17 (2) ensuring that the owner or operator of an
18 evaporation pit has adequate financial assurance; and

19 (3) requiring an owner or operator of an evaporation
20 pit to obtain a permit from the commission for the operation of the
21 pit.

22 (k) The commission shall impose against the owners of
23 evaporation pits fees in amounts necessary to recover the costs of
24 administering this section.

25 SECTION 2. (a) Section 26.132, Water Code, as added by
26 this Act, applies to the owner or operator of an evaporation pit
27 only after the effective date of rules adopted by the Texas

1 Commission on Environmental Quality under that section.

2 (b) Section 26.132, Water Code, as added by this Act,
3 applies to an evaporation pit in operation on or after the effective
4 date of the rules adopted by the Texas Commission on Environmental
5 Quality under that section regardless of the date the pit entered
6 operation.

7 (c) The Texas Commission on Environmental Quality shall
8 adopt rules under Section 26.132, Water Code, as added by this Act,
9 as soon as practicable after the effective date of this Act.

10 SECTION 3. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1037 passed the Senate on April 26, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 18, 2007, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1037 passed the House, with amendment, on May 16, 2007, by the following vote: Yeas 145, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor