

By: Zaffirini

S.B. No. 2097

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation by the Texas Commission on Environmental
3 Quality of the discharge of preproduction plastic from point and
4 nonpoint sources to ensure zero discharge or release of plastic
5 into water or onto land in the state and to ensure the prompt
6 cleanup of any discharged or released plastic.

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

8 SECTION 1. Subchapter B, Chapter 26, Water Code, is amended
9 by adding Section 26.0481 to read as follows:

10 Sec. 26.0481. REGULATION OF DISCHARGE OF PREPRODUCTION
11 PLASTIC. (a) In this section:

12 (1) "Facility" means a facility where preproduction
13 plastic is manufactured, handled, or transported.

14 (2) "Preproduction plastic" means plastic resin
15 pellets, flakes, fibers, and powders, and powdered coloring for
16 plastics.

17 (3) "Zero discharge or release" means zero
18 preproduction plastics discharged or released to a body of water or
19 to land outside the property line of a facility.

20 (b) The commission by rule shall adopt and implement a
21 program to:

22 (1) ensure zero discharge or release from point and
23 nonpoint sources at facilities; and

24 (2) require the prompt and environmentally

1 responsible containment and cleanup of discharged or released
2 preproduction plastic.

3 (c) Rules adopted under this section must require:

4 (1) a new facility to apply for an individual
5 stormwater permit;

6 (2) an existing facility with a multi-sector general
7 permit applying for permit renewal to apply for an individual
8 stormwater permit; and

9 (3) any permit issued or renewed under the Texas
10 Pollutant Discharge Elimination System program to prohibit the
11 discharge or release of preproduction plastic from the permitted
12 location.

13 (d) A permit issued or renewed for a facility under the
14 Texas Pollutant Discharge Elimination System program must:

15 (1) prohibit:

16 (A) any discharge of preproduction plastic by
17 stormwater or wastewater to a body of water outside the property
18 line of a facility; and

19 (B) any release of preproduction plastic to land
20 outside the property line of a facility; and

21 (2) require a permittee to promptly clean up any
22 plastic presumed to have been discharged or released from the
23 facility in a manner that cleans up the most plastic possible
24 without causing harm to the ecosystem or, if the facility contests
25 that the plastic was discharged or released from the facility,
26 immediately contain the plastic to prevent further spread of the
27 plastic.

1 (e) Any preproduction plastic matching the preproduction
2 plastic produced by the facility found outside the property line of
3 a facility is presumed to have been released or discharged by that
4 facility. A facility must be given an opportunity to prove that
5 preproduction plastic found outside the property line of the
6 facility did not originate from the facility, provided that the
7 facility complies with the requirements of Subsection (d)(2).

8 (f) Except as provided by Subsection (g), the program
9 adopted under this section must require a facility to adopt and
10 implement:

11 (1) monitoring and reporting practices for the
12 discharge of preproduction plastic from point and nonpoint sources
13 at the facility; and

14 (2) best management practices with respect to:

15 (A) the installation of preproduction plastic
16 containment systems at all storm drain discharge locations at a
17 facility that are down-gradient of an area where preproduction
18 plastic is handled at the facility;

19 (B) a written maintenance program and schedule to
20 ensure that all containment systems are functioning properly;

21 (C) measures to contain preproduction plastic
22 during storage, handling, or transfer of the plastic, including the
23 use of:

24 (i) sealed containers that will not rupture
25 under typical loading and unloading activities;

26 (ii) capture devices under all transfer
27 valves and devices used in loading, unloading, or otherwise

1 transferring preproduction plastic;

2 (iii) vacuums or vacuum-type systems for
3 the quick cleanup of fugitive preproduction plastic; and

4 (iv) a source control and inspection
5 program for all transportation of plastics off site;

6 (D) spill prevention and spill cleanup
7 procedures;

8 (E) updates in science and technology or advances
9 in detection and treatment technologies;

10 (F) an employee training program; and

11 (G) other good housekeeping measures as
12 determined by the commission.

13 (g) The commission may exempt a facility from the
14 requirements of Subsection (f) if the facility satisfies the
15 criteria for a no exposure certification under 40 C.F.R. Section
16 122.26. The commission shall:

17 (1) require a facility exempted under this subsection
18 to submit a no exposure certification to the commission not less
19 than once every five years; and

20 (2) include criteria for submitting a no exposure
21 certification in all permit applications related to authorized
22 discharges from a facility.

23 (h) Before approving an exemption under Subsection (g), the
24 commission must:

25 (1) conduct an on-site inspection to confirm that the
26 conditions at a facility requesting the exemption meet the criteria
27 for a no exposure certification; and

1 (2) inspect an off-site area at least 50 feet in all
2 directions of all stormwater and wastewater outfalls of the
3 facility for the presence of off-site preproduction plastic.

4 (i) The monitoring and reporting requirements under
5 Subsection (f)(1) must require a facility to:

6 (1) conduct monitoring:

7 (A) outside the property line of the facility and
8 in any receiving waters for wastewater or stormwater discharges of
9 preproduction plastic, including an area of at least 50 feet in all
10 directions from all release or discharge points;

11 (B) not less than once every month;

12 (C) within eight hours of each rainfall event at
13 the facility; and

14 (D) at other times and places when plastic is
15 most likely to be released or discharged;

16 (2) submit to the commission, not less than once every
17 quarter, a report of the regular monitoring results gathered by the
18 permittee or the permittee's agent under Subdivision (1); and

19 (3) submit to the commission, not less than two
20 working days after a violation of Subsection (d)(1), a report of the
21 violation, including:

22 (A) photographs and global positioning system
23 information of the location of all discharged or released plastic;
24 and

25 (B) an estimate of the amount and location of
26 plastic discharged or released based on a method that:

27 (i) counts the number of pellets in a short

1 period of time; and

2 (ii) estimates the geographic area over
3 which the pellets spread.

4 (j) A containment system required under Subsection
5 (f)(2)(A) must use a device or series of devices that:

6 (1) are properly designed and maintained to capture
7 preproduction plastic that floats or sinks in stormwater; and

8 (2) have a designed treatment capacity of not less
9 than the peak flow rate resulting from a 100-year, 24-hour storm and
10 taking into consideration any wash water that is regularly added by
11 the facility operator to the system.

12 (k) The commission may establish additional requirements
13 regarding the regulation of discharges and releases of
14 preproduction plastic from facilities into water or onto land in
15 the state.

16 SECTION 2. (a) Not later than January 1, 2022, the Texas
17 Commission on Environmental Quality shall adopt rules necessary to
18 implement Section 26.0481, Water Code, as added by this Act.

19 (b) Not later than January 1, 2023, a facility subject to
20 Section 26.0481, Water Code, as added by this Act, must be in
21 compliance with that section.

22 SECTION 3. This Act takes effect September 1, 2021.