

By: Zwiener

H.B. No. 4957

A BILL TO BE ENTITLED

AN ACT

relating to the regulation by the Texas Commission on Environmental
Quality of the discharge of preproduction plastic.

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

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

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

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

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

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

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

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

(2) require the prompt and environmentally
responsible containment and cleanup of discharged or released
preproduction plastic.

(c) Rules adopted under this section must require any permit

1 issued or renewed under the Texas Pollutant Discharge Elimination
2 System program to prohibit the discharge or release of
3 preproduction plastic from the permitted location.

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

6 (1) prohibit:

7 (A) any discharge of preproduction plastic by
8 stormwater or wastewater to a body of water outside the property
9 line of a facility; and

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

12 (2) require a permittee to promptly clean up any
13 plastic presumed to have been discharged or released from the
14 facility in a manner that cleans up the most plastic possible
15 without causing harm to the ecosystem or, if the facility contests
16 that the plastic was discharged or released from the facility,
17 immediately contain the plastic to prevent further spread of the
18 plastic.

19 (e) Any preproduction plastic matching the preproduction
20 plastic produced by the facility found outside the property line of
21 a facility is presumed to have been released or discharged by that
22 facility. A facility must be given an opportunity to prove that
23 preproduction plastic found outside the property line of the
24 facility did not originate from the facility, provided that the
25 facility complies with the requirements of Subsection (d)(2).

26 (f) Except as provided by Subsection (g), the program
27 adopted under this section must require a facility to adopt and

1 implement:

2 (1) monitoring and reporting practices for the
3 discharge of preproduction plastic from point and nonpoint sources
4 at the facility; and

5 (2) best management practices with respect to:

6 (A) a written maintenance program and schedule to
7 ensure that all containment systems are functioning properly;

8 (B) measures to contain preproduction plastic
9 during storage, handling, or transfer of the plastic, including the
10 use of:

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

13 (ii) capture devices under all transfer
14 valves and devices used in loading, unloading, or otherwise
15 transferring preproduction plastic;

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

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

20 (D) updates in science and technology or advances
21 in detection and treatment technologies; and

22 (E) other good housekeeping measures as
23 determined by the commission.

24 (g) The commission may exempt a facility from the
25 requirements of Subsection (f) if the facility satisfies the
26 criteria for a no exposure certification under 40 C.F.R. Section
27 122.26. The commission shall:

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

4 (2) include criteria for submitting a no exposure
5 certification in all permit applications related to authorized
6 discharges from a facility.

7 (h) Before approving an exemption under Subsection (g), the
8 commission must:

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

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

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

17 (1) conduct monitoring:

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

22 (B) not less than once every month;

23 (C) within eight hours of each rainfall event at
24 the facility; and

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

27 (2) submit to the commission, not less than once every

1 quarter, a report of the regular monitoring results gathered by the
2 permittee or the permittee's agent under Subdivision (1); and

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

6 (A) photographs and global positioning system
7 information of the location of all discharged or released plastic;
8 and

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

11 (i) counts the number of pellets in a short
12 period of time; and

13 (ii) estimates the geographic area over
14 which the pellets spread.

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

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

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

23 (k) The commission may establish additional requirements
24 regarding the regulation of discharges and releases of
25 preproduction plastic from facilities into water or onto land in
26 the state.

27 SECTION 2. (a) Not later than January 1, 2024, the Texas

1 Commission on Environmental Quality shall adopt rules necessary to
2 implement Section 26.0481, Water Code, as added by this Act.

3 (b) Not later than January 1, 2025, a facility subject to
4 Section 26.0481, Water Code, as added by this Act, must be in
5 compliance with that section.

6 SECTION 3. This Act takes effect September 1, 2023.