A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(1) prohibit:

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

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

(2) require a permittee to promptly clean up any plastic presumed to have been discharged or released from the facility in a manner that cleans up the most plastic possible without causing harm to the ecosystem or, if the facility contests that the plastic was discharged or released from the facility, immediately contain the plastic to prevent further spread of the plastic.
(e) Any preproduction plastic matching the preproduction plastic produced by the facility found outside the property line of a facility is presumed to have been released or discharged by that facility. A facility must be given an opportunity to prove that preproduction plastic found outside the property line of the facility did not originate from the facility, provided that the facility complies with the requirements of Subsection (d)(2).

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

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

(2) best management practices with respect to:

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

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

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

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

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

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

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

(D) spill prevention and spill cleanup procedures;

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

(F) an employee training program; and

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

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

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

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

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

(1) conduct an on-site inspection to confirm that the conditions at a facility requesting the exemption meet the criteria for a no exposure certification; and
(2) inspect an off-site area at least 50 feet in all directions of all stormwater and wastewater outfalls of the facility for the presence of off-site preproduction plastic.

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

(1) conduct monitoring:

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

(B) not less than once every month;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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