

CHAPTER 1040

H.B. No. 2634

AN ACT

relating to restrictions on concentrated animal feeding operations to protect waters of the state.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.048 to read as follows:

Sec. 26.048. PROHIBITION OF DISCHARGE TO A PLAYA FROM A CONCENTRATED ANIMAL FEEDING OPERATION. (a) Except as provided by Subsections (b) and (c) of this section, the commission may adopt rules under this section to prohibit:

(1) the discharge of agricultural waste from a concentrated animal feeding operation into a playa; or

(2) the use of a playa as a wastewater retention facility for agricultural waste.

(b) A concentrated animal feeding operation authorized to discharge agricultural waste into a playa or to use a playa as a wastewater retention facility for agricultural waste under this chapter before the adoption of rules under this section may continue that discharge into the playa or use of the playa for the retention of agricultural waste after the adoption of those rules. The operator of a concentrated animal feeding operation that uses a playa as a wastewater retention facility annually shall collect a water sample from each well providing water for the facility and shall have the sample analyzed for chlorides and nitrates. The operator shall provide copies of the analysis to the commission. If the results of an analysis when compared with analysis of water collected at an earlier date from the same well indicate a significant increase in the levels of chlorides or nitrates, the commission shall require that an investigation be made to determine the source of the contamination. If it is determined that contamination is occurring as a result of use of the playa as a retention

facility for the waste from the concentrated feeding operation, the commission shall require action to correct the problem.

(c) The authorization for a concentrated animal feeding operation to use a playa for agricultural waste discharge or retention under Subsection (b) of this section is not affected by the expansion of a concentrated animal feeding operation, a permit amendment, permit renewal, transfer of ownership or operation of a concentrated animal feeding operation, or by a suspension for not more than five years of operations at a concentrated animal feeding operation.

(d) Subsections (b) and (c) of this section do not restrict the application of commission rules that regulate concentrated animal feeding operations for the purpose of protecting water quality and that are not in conflict with those subsections.

(e) As used in this section:

(1) "Concentrated animal feeding operation" means a concentrated, confined livestock or poultry facility that is operated for meat, milk, or egg production or for growing, stabling, or housing livestock or poultry in pens or houses, in which livestock or poultry are fed at the place of confinement and crop or forage growth or feed is not produced in the confinement area.

(2) "Playa" means a flat-floored, clayey bottom of an undrained basin that is located in an arid or semi-arid part of the state, is naturally dry most of the year, and collects runoff from rain but is subject to rapid evaporation.

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 4, 1993, by a non-record vote; passed by the Senate on May 22, 1993: Yeas 31, Nays 0.

Filed without signature June 19, 1993.

Effective Sept. 1, 1993.