By Ron Lewis

HB. No. 2273

A BILL TO BE ENTITLED

AN ACT

relating to the certification of certain activities relating to discharges into water.

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

SECTION 1. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.050 to read as follows:

Sec. 26.050. FEDERAL WATER POLLUTION CONTROL ACT: CERTIFICATION. (a) Subject to Section 26.051, the commission may exercise the powers reserved to the state under the Federal Water Pollution Control Act (33 U.S.C. Section 1341), as amended.

(b) The commission may certify that a discharge complies with applicable law under Section 401 of the Federal Water Pollution Control Act (33 U.S.C. Section 1341(a)), as amended.

SECTION 2. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.051 to read as follows:

Sec. 26.051. FEDERAL WATER POLLUTION CONTROL ACT: WAIVER OF CERTIFICATION. (a) This section applies only to an applicant for state certification under the Federal Water Pollution Control Act (33 U.S.C. Section 1341(a)), as amended, who:

(1) is the United States Army Corps of Engineers; and

(2) has specified each disposal site under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. Section 1344), as amended.

(b) The commission shall waive certification under Section

401 of the Federal Water Pollution Control Act (33 U.S.C. Section 1341(a)), as amended, unless:

(1) an environmental impact statement is required under the federal National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.), as amended; or

(2) waiver of certification would not allow the commissioner to obtain or maintain federal authorization to administer a federally delegated or approved program.

(c) If certification is not waived under Subsection (b), the commission shall review whether certification may be granted under 33 U.S.C. Section 1341(a), as amended. The commission shall:

(1) complete review not later than the 60th day after the date on which it receives the request for certification from the applicant;

(2) limit review to whether the activity for which the applicant has requested a license or permit involves a likely violation of numerical criteria of the state's surface water quality standards adopted by commission rule; and

(3) expedite review if the activity is for wetlands with a total area of less than five acres.

(d) In conducting a review under Subsection (c), the commission shall consider the following factors regarding the activity for which the applicant seeks a license or permit:

(1) whether the activity will adversely affect this state's coastal zone;

(2) any procedures established by the United States Army Corps of Engineers relating to mitigation ratios or project

sequencing guidelines; and

(3) any decisions made by the United States Corps of Engineers regarding the appropriate scope and extent of mitigation for damage to habitat and aquatic life uses.

(e) The commission shall complete an expedited review under Subsection (c)(3) not later than the 30th day after the date on which it receives the request for certification from the applicant. The commission by rule may provide guidelines for conducting an expedited review.

SECTION 3. This Act takes effect September 1, 1999.

SECTION 4. 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.

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relating to the certification of certain activities relating to discharges INTO ~~of~~ water.

MAR - 4 1999 Filed with the Chief Clerk

MAR - 8 1999 Read first time and referred to Committee on Natural Resources

_____ Reported ___favorably (as amended)
(as substituted)

_____ Sent to Committee on (Calendars)
(Local & Consent Calendars)

_____ Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

_____ Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Engrossed

_____ Sent to Senate

_____
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

_____ Received from the House

_____ Read and referred to Committee on _____

_____ Reported favorably _____

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

_____ Ordered not printed

_____ Laid before the Senate

_____ Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

_____ Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

_____ Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

_____ Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

_____ Returned to the House

_____
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,

_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)