

AN ACT

relating to the procedures for the enforcement by the General Land Office of the Oil Spill Prevention and Response Act of 1991.

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

SECTION 1. Section 40.108(c), Natural Resources Code, is amended to read as follows:

(c) The commissioner must comply with the requirements of Section 40.254 before removing or disposing of a vessel or structure described in Subsection (a), except that the commissioner may remove a vessel or structure without first providing notice and an opportunity for a hearing if the owner or operator of the vessel or structure, or a person acting on behalf of the owner or operator, is not taking reasonable steps to abate the discharge, threat, or hazard described by Subsection (a) and the vessel or structure:

(1) is involved in an actual or threatened unauthorized discharge of oil;

(2) creates an imminent and significant threat to life or property; or

(3) creates a significant navigation hazard ~~[without a hearing]~~.

SECTION 2. Section 40.254, Natural Resources Code, is amended by amending Subsections (b-1), (c-1), (c-2), and (d) and adding Subsections (c-3), (c-4), and (d-1) to read as follows:

(b-1) The preliminary report must:

1 (1) state the facts that support the commissioner's
2 conclusion;

3 (2) in the case of a derelict vessel or structure,
4 determine whether the vessel or structure is considered:

5 (A) a numbered vessel; [~~or~~]

6 (B) a vessel or structure that has no intrinsic
7 value; or

8 (C) a vessel or structure described by Section
9 40.108(c)(1), (2), or (3);

10 (3) recommend:

11 (A) that a penalty be imposed;

12 (B) that a certificate be suspended;

13 (C) that a derelict vessel or structure be
14 removed or disposed of; [~~or~~]

15 (D) that a derelict vessel or structure be
16 removed or disposed of because it is a vessel or structure described
17 by Section 40.108(c)(1), (2), or (3); or

18 (E) any combination of remedies under Paragraphs
19 (A)-(D) [~~(A)-(C)~~]; and

20 (4) if a penalty under Subdivision (3)(A) is
21 recommended, recommend the amount of the penalty.

22 (c-1) Except as provided by Subsection (c-3), the [~~The~~]
23 notice required by Subsection (c) must be given:

24 (1) by service in person or by registered or certified
25 mail, return receipt requested; or

26 (2) if personal service cannot be obtained or the
27 address of the person is unknown, by posting a copy of the notice on

1 the facility, vessel, or structure and by publishing notice on the
2 Internet website of the General Land Office and in the Texas
3 Register at least two times within 10 consecutive days.

4 (c-2) If notice is given in the manner provided by
5 Subsection (c-1), not later than the 20th day after the date on
6 which the notice is served or mailed, or not later than the 20th day
7 after the later of the date on which the notice was posted or the
8 last date the notice was published, as applicable, the person
9 charged with the violation or a person claiming ownership of the
10 facility, vessel, or structure may consent in writing to the
11 report, including the commissioner's recommendations, or make a
12 written request for a hearing.

13 (c-3) The notice required by Subsection (c) must be given by
14 posting a copy of the notice on a derelict vessel or structure or by
15 publishing notice on the Internet website of the General Land
16 Office for 10 consecutive days if the derelict vessel or structure
17 has been determined to have no intrinsic value under Subsection
18 (b-1) and:

19 (1) the vessel or structure is not a numbered vessel or
20 structure;

21 (2) there are no identifiable markings on the vessel
22 or structure for which the current owner can be reasonably
23 identified for service; or

24 (3) the address of the person charged with the
25 violation is unknown.

26 (c-4) If notice is given in the manner provided by
27 Subsection (c-3), not [~~(d) Not~~] later than the 10th [~~20th~~] day

1 after the date on which the notice was posted or the last date the
2 notice was published [~~is served~~], the person charged with the
3 violation or a person claiming ownership of the [~~a~~] vessel or
4 structure [~~for which notice is posted under Subsection (c-2)~~] may
5 consent in writing to the report, including the commissioner's
6 recommendations, or make a written request for a hearing.

7 (d) If a vessel or structure is removed without notice as
8 authorized by Section 40.108(c), the commissioner shall serve
9 written notice of the removal to the person charged with the
10 violation not later than the 10th day after the date on which the
11 removal occurs. The removal notice must:

12 (1) include the information required to be in a
13 preliminary report notice under Subsection (c); and

14 (2) be provided in the manner described by Subsection
15 (c-1), except that notice provided under the circumstances
16 described by Subsection (c-1)(2) is not required to be posted on the
17 vessel or structure.

18 (d-1) If notice is given in the manner provided by
19 Subsection (d), not later than the 20th day after the date on which
20 the notice is served or mailed, or not later than the 20th day after
21 the last date the notice was published, as applicable, the person
22 charged with the violation or a person claiming ownership of the
23 vessel or structure may consent in writing to the report, including
24 the commissioner's recommendations, or make a written request for a
25 hearing.

26 SECTION 3. Section 40.254(e), Natural Resources Code, is
27 amended by amending Subdivision (1) and adding Subdivision (3) to

1 read as follows:

2 (1) If the person charged with the violation or a
3 person claiming ownership of a facility, vessel, or structure for
4 which notice is provided under Subsection (c-1), (c-3), or (d)
5 ~~[posted under Subsection (c-2)]~~ consents to the commissioner's
6 recommendations or does not timely respond to the notice, the
7 commissioner by order shall take the recommended action or order a
8 hearing to be held on the findings and recommendations in the
9 report.

10 (3) The commissioner is not required to provide notice
11 under Subdivision (2) of this subsection if notice was provided
12 under Subsection (c-1)(2), (c-3), or (d) and the subject of the
13 notice is a vessel or structure that was removed in the manner
14 provided by Section 40.108.

15 SECTION 4. Section 40.254(f)(1), Natural Resources Code, is
16 amended to read as follows:

17 (1) If the person charged with the violation or a
18 person claiming ownership of a facility, vessel, or structure for
19 which notice is provided under Subsection (c-1), (c-3), or (d)
20 ~~[posted under Subsection (c-2)]~~ requests a hearing, the
21 commissioner shall order a hearing and shall give written notice of
22 that hearing.

23 SECTION 5. Section 40.254(g)(1), Natural Resources Code, is
24 amended to read as follows:

25 (1) Not later than the 30th day after the date on which
26 the commissioner's order is final, the person charged with the
27 violation or a person claiming ownership of the facility, [a]

1 vessel, or structure [~~for which notice is posted under Subsection~~
2 ~~(c-2)~~] shall comply with the order or file a petition for judicial
3 review.

4 SECTION 6. The changes in law made by this Act apply only to
5 an enforcement proceeding commenced by the General Land Office on
6 or after the effective date of this Act. A proceeding commenced
7 before the effective date of this Act is governed by the law in
8 effect on the date the proceeding was commenced, and the former law
9 is continued in effect for that purpose.

10 SECTION 7. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 1625 was passed by the House on April 27, 2017, by the following vote: Yeas 143, Nays 1, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1625 on May 19, 2017, by the following vote: Yeas 140, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1625 was passed by the Senate, with amendments, on May 12, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor