

CHAPTER 810

H.B. No. 2623

AN ACT

relating to the management of radioactive materials.

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

SECTION 1. Section 401.003, Health and Safety Code, is amended by amending Subdivision (18) and by adding Subdivisions (24) and (25) to read as follows:

(18) "Radioactive waste" means radioactive material, other than by-product material defined by Subdivision (3)(B), [ø] uranium ore, *naturally occurring radioactive material waste, or oil and gas NORM waste*, that:

(A) is discarded or unwanted and is not exempt by department rule adopted under Section 401.106 of this chapter; or

(B) would require processing before it could have a beneficial reuse.

(24) "*Naturally occurring radioactive material waste*" or "*NORM waste*" means solid, liquid, or gaseous material or combination of materials, excluding source material, special nuclear material, and by-product material, that:

(A) in its natural physical state spontaneously emits radiation;

(B) is discarded or unwanted; and

(C) is not exempt by department rule adopted under Section 401.106 of this chapter.

(25) "*Oil and gas NORM waste*" means solid, liquid, or gaseous material or combination of materials, excluding source material, special nuclear material, and by-product material, that:

(A) in its natural physical state spontaneously emits radiation;

(B) is discarded or unwanted;

(C) is not exempt by department rule adopted under Section 401.106 of this chapter; and

(D) constitutes, is contained in, or has contaminated oil and gas waste as that term is defined in Section 91.1011 of the Natural Resources Code.

SECTION 2. Chapter 401, Health and Safety Code, is amended by amending the heading to Subchapter K and amending Sections 401.411 and 401.415 to read as follows:

SUBCHAPTER K. LICENSING AUTHORITY OF TEXAS NATURAL
RESOURCE CONSERVATION COMMISSION AND THE
RAILROAD COMMISSION OF TEXAS

Sec. 401.411. DEFINITION. In this subchapter, "radioactive substance" includes by-product material, radioactive material, radioactive waste, source material, source of radiation, [and] special nuclear material, and *naturally occurring radioactive material waste* as those terms are defined by Section 401.003, but does not include oil and gas NORM waste as that term is defined by Section 401.003.

Sec. 401.415. OIL AND GAS NORM WASTE. (a) *Notwithstanding any other provision of this chapter, the Railroad Commission of Texas has sole authority to regulate and issue licenses, permits, and orders for the disposal of oil and gas NORM waste. The Railroad Commission of Texas may adopt any rules reasonably necessary to exercise its authority under this section.*

(b) The Railroad Commission of Texas may enforce this section or any rule, order, license, or permit adopted or issued under this section in the manner and subject to the conditions provided in Title 3 of the Natural Resources Code, including the authority to seek and obtain civil penalties and injunctive relief as provided in that title.

(c) The Railroad Commission of Texas shall consult with the department and the Texas Natural Resource Conservation Commission as appropriate regarding administration of this section. [The Texas Natural Resource Conservation Commission shall consult with the Railroad Commission of Texas before adopting any rules necessary to exercise its authority over the regulation of naturally occurring radioactive materials (NORM) that occur from the exploration and production of oil and gas. The Texas Natural Resource Conservation Commission and the Railroad Commission of Texas shall adopt a memorandum of understanding defining their respective enforcement duties, with preference given to enforcement by the Railroad Commission of Texas for the enforcement of oil-related and gas-related NORM activities.]

SECTION 3. Section 401.415, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) To ensure that the State of Texas retains its Agreement Status with the U.S. Nuclear Regulatory Commission, and to ensure that radioactive materials are managed consistently to protect the public health and safety and the environment, the Railroad Commission of Texas shall issue rules on the management of oil and gas NORM by January 1, 1995, and in so doing shall consult with the Texas Natural Resource Conservation Commission and the Department of Health regarding protection of the public health and the environment. The rules of the railroad commission shall provide protection for public health, safety, and the environment equivalent to the protection provided by rules applicable to disposal of other NORM wastes having similar properties, quantities, and distribution, although the approved methods and sites for disposing of oil and gas NORM wastes may be different from those approved for other NORM wastes.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 12, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 2623 on May 28, 1993, by a non-record vote; passed by the Senate, with amendments, on May 26, 1993: Yeas 30, Nays 0.

Approved June 18, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.