

SHORT TITLE: Oil and gas; deleterious substances; modifying
statutory reference; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 716

By: Muegge

AS INTRODUCED

An Act relating to oil and gas; amending 52 O.S. 1991, Section 140, as amended by Section 256, Chapter 145, O.S.L. 1993 (52 O.S. Supp. 1995, Section 140), which relates to earthen storage ponds and deleterious substance disposal; modifying statutory language; providing statutory reference; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 52 O.S. 1991, Section 140, as amended by Section 256, Chapter 145, O.S.L. 1993 (52 O.S. Supp. 1995, Section 140), is amended to read as follows:

Section 140. A. The Oklahoma Corporation Commission shall not, by a rule or order, prohibit the storage in earthen ponds of the deleterious substances described in Section 139 of this title, but shall by rule or order prescribe standards, conditions, or limitations for the use of such ponds, and shall by rule or order prohibit the storage of such substances in earthen ponds in areas, fields, or instances found to be required to prevent pollution.

B. If, after notice and hearing, the Commission finds that:

1. An earthen pond is subject to the provisions of this section;

2. It is a facility constructed or used for permanent storage or disposal of deleterious substances;

3. It is causing or is likely to cause the discharge of deleterious substances to the environment; and

4. The operator of said facility or any other person responsible for repairing or closing of said facility in such manner as is necessary to prevent further or future pollution cannot be found or is financially unable to pay the cost of performing said work; the Commission or any person authorized by the Commission may enter upon the land upon which the facility is located and repair, close or take such other steps as may be reasonably necessary to remedy the condition.

C. If an emergency exists or if it otherwise appears to the Commission that irreparable injury will result if immediate remedial action is not taken, said entry upon the land may be made or authorized by the Commission without notice or hearing, for the purpose of taking such temporary remedial action as the Commission considers necessary to prevent or minimize the injury, pending the giving of notice and hearing.

D. For the purpose of immediately responding to emergency situations having potentially critical environmental or public safety impact, the Commission may take whatever necessary action, without notice and hearing, including the expenditure of monies from the Corporation Commission Revolving Fund, to promptly respond to the emergency. Such emergency expenditure shall be made pursuant to the provisions of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, upon such terms and conditions established by the Department of Central Services to accomplish the purposes of this section. Thereafter, the Commission shall seek reimbursement from the responsible person, firm or corporation for all expenditures made from the Corporation Commission Revolving Fund. Any monies received as reimbursement

shall be deposited to the credit of the Corporation Commission Revolving Fund.

E. When the Commission undertakes any remedial action pursuant to this section, all such remedial work shall be done by contracts let upon competitive bids; provided further that the Commission shall not expend from the Conservation Fund or any other fund in the State Treasury, in any fiscal year, for the purposes herein provided, an amount of money in excess of the total sum specifically authorized annually by the Legislature for such purposes. Any monies received by the Commission through execution on any required surety shall not be subject to such limitation on expenditure for remedial action.

F. Neither the Commission nor any independent contractor of the Commission authorized to conduct remedial action under this section shall be held liable or responsible for any damages resulting from operations reasonably necessary to:

1. Contain or remove deleterious substances discharged from a facility;
2. Repair a facility; or
3. Close a facility for abandonment.

G. Nothing in this section shall limit the authority of the Commission or relieve any person or persons otherwise legally responsible from any obligation to:

1. Properly contain and dispose of deleterious substances;
2. Repair an earthen pond; or
3. Properly close an earthen pond before abandonment. It is intended that the provisions of this section shall serve as a supplemental remedy when any person or persons obligated to do so fail or cannot be made to do so.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

45-2-2254

MJM