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April 11, 2011

BILL NO. 1481

By: Armes and Roan of the House

and

Marlatt of the Senate

An Act relating to environment and natural resources; amending 27A O.S. 2001, Section 4-1-103, which relates to the Oklahoma Emergency Response Act; modifying the dangerous substances release responsibility of the Department of Environmental Quality; modifying requirement to maintain a certain list; amending 27A O.S. 2001, Section 4-2-102, which relates to the Oklahoma Hazardous Materials Planning and Notification Act; clarifying certain duty of the Oklahoma Hazardous Materials Emergency Response Commission; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 4-1-103, is amended to read as follows:

Section 4-1-103. A. For incidents or events involving releases of dangerous substances requiring protective actions, the first responder shall be responsible for initial evaluation of the incident and implementation of protective action measures.

1 B. As soon as reasonably possible after arriving at the scene
2 of the incident, the first responder shall notify the lead official
3 to respond to ~~such an~~ the incident pursuant to subsection C of this
4 section. The first responder shall maintain ~~such~~ authority to
5 implement protective action measures until the lead official arrives
6 or until the incident is stabilized.

7 C. Each contact agency specified to respond to a dangerous
8 substance incident requiring emergency response shall designate lead
9 officials who shall be capable of responding on a twenty-four-hour
10 basis to ~~such~~ an incident.

11 D. Upon arrival at the incident scene, the lead official will
12 immediately assume responsibility for management of the incident.
13 All other responding emergency persons are to assist the lead
14 official in the discharge of ~~such official's~~ the duties of the
15 official.

16 E. If the first responder or the lead official believes the
17 incident to be of a significant nature to threaten the public
18 health, safety or the environment, the first responder or lead
19 official shall contact the Department of Environmental Quality as
20 soon as is reasonably possible. The Department of Environmental
21 Quality shall maintain a twenty-four-hour toll free statewide
22 telephone number to report emergencies.

23 F. The Department of Environmental Quality shall, as necessary:
24

- 1 1. Provide technical information or advice to the lead
- 2 official;
- 3 2. Provide for personnel for assistance in completing material
- 4 identification;
- 5 3. Provide technical assistance on or initiate procedures for
- 6 containment or suppression of the release;
- 7 4. Provide sampling, and analysis ~~and monitoring of~~
- 8 contaminated water or soil after the release has been contained or
- 9 stabilized;
- 10 5. Notify the responsible party of the release; and
- 11 6. Oversee the planning of final containment, cleanup and
- 12 recovery of dangerous materials.

13 G. The Department of Environmental Quality is authorized when
14 determined to be necessary to protect the public health, safety and
15 welfare of the environment to initiate cleanup operations of the
16 release based upon seriousness of the release, location of the
17 release, threat of the release to the public health and safety or
18 the environment, responsiveness of the responsible party, or
19 authorization of the responsible party. The responsible party shall
20 be liable for any expenses incurred in any cleanup operation.

21 H. 1. Upon the release of dangerous substances requiring
22 protective actions, the responsible party shall take immediate
23 emergency response measures as directed by the lead official
24 assuming responsibilities for management of the incident or the

1 Department of Environmental Quality if contacted by the first
2 responder or lead official pursuant to subsection E of this section.

3 2. If the responsible party fails to take immediate emergency
4 response measures as required pursuant to paragraph 1 of this
5 subsection, the contact agency, the district attorney of the county
6 where the release occurred or the Department of Environmental
7 Quality, as applicable, is authorized to apply for a temporary order
8 to compel the responsible party to take ~~such~~ immediate emergency
9 response measures.

10 I. 1. In not less than four (4) hours nor more than seven (7)
11 days, as determined by the contact agency or the Department of
12 Environmental Quality, as applicable, the responsible party shall
13 provide a written action plan for the proposed cleanup operations to
14 the contact agency and shall initiate cleanup operations.

15 2. The contact agency, the district attorney of the county
16 where the release occurred or the Department of Environmental
17 Quality, as applicable, is authorized to apply for a temporary and
18 permanent court order to compel the responsible party to provide the
19 written action plan and to abate the release and restore the release
20 site.

21 J. The Department of Environmental Quality shall maintain a
22 list of ~~persons qualified to provide the services necessary to take~~
23 ~~corrective actions to abate and restore release sites~~ licensed
24 highway remediation contractors.

1 K. The lead official may request the Department of Civil
2 Emergency Management to provide state resources in managing an
3 emergency or extreme emergency. If the lead official does not
4 request that the Department of Civil Emergency Management provide
5 state resources in managing an emergency or extreme emergency, the
6 lead official shall notify the Department of Civil Emergency
7 Management after the emergency or extreme emergency no longer poses
8 an immediate threat to the public's health or safety or the
9 environment of the release of dangerous substances.

10 L. The Department of Civil Emergency Management shall keep a
11 record of each emergency or extreme emergency which includes but is
12 not limited to the location, first responder, lead official, type of
13 emergency or extreme emergency, and actions taken to address said
14 emergency or extreme emergency.

15 M. At the request of the contact agency, the Department of
16 Civil Emergency Management shall provide assistance to the contact
17 agency, in either reviewing the emergency procedure or emergency
18 management plan used in managing the completed emergency or extreme
19 emergency within the ~~contact agency's~~ jurisdiction of the contact
20 agency.

21 SECTION 2. AMENDATORY 27A O.S. 2001, Section 4-2-102, is
22 amended to read as follows:

23 Section 4-2-102. A. For purposes of implementing the
24 provisions of Title III of the federal Superfund Amendments and

1 Reauthorization Act of 1986, the Governor shall appoint or designate
2 the members of the Oklahoma Hazardous Materials Emergency Response
3 Commission.

4 B. The Oklahoma Hazardous Materials Emergency Response
5 Commission, shall include at a minimum:

6 1. The Secretary of Safety and Security or designee;

7 2. The Commissioner of the Department of Public Safety or
8 designee;

9 3. The State Fire Marshal;

10 4. The Executive Director of the Department of Environmental
11 Quality or designee;

12 5. The Director of the Department of Civil Emergency Management
13 or designee;

14 6. One member representing the response community for a term of
15 three (3) years; and

16 7. One member representing regulated industries for a three-
17 year term, except the initial appointment shall only be for a two-
18 year term.

19 C. An appointment shall be made by the Governor within ninety
20 (90) days after the expiration of the term of any member due to
21 resignation, death, or any cause resulting in an unexpired term. If
22 no appointment is made within that ninety-day period, the Commission
23 may appoint a provisional member to serve in the interim until the
24 Governor acts.

1 D. The Commission shall have the power and duty to:

2 1. Appoint a chairman and vice-chairman;

3 2. Execute a Memorandum of Understanding subject to the
4 Administrative Procedures Act with each member agency to designate
5 responsibilities and conduct studies;

6 3. Require reports or plans from member agencies;

7 4. Advise, consult and coordinate with other agencies of the
8 state and federal government;

9 5. Ensure that the State of Oklahoma remains in compliance with
10 the requirements of Title III of the Superfund Amendments and
11 Reauthorization Act;

12 6. Coordinate administrative penalties;

13 7. Coordinate development of annual budgets for each member
14 agency's respective costs for administration and implementation of
15 its responsibilities pursuant to the Oklahoma Hazardous Materials
16 Planning and Notification Act; and

17 8. ~~Supervise and coordinate the activities of~~ Coordinate with
18 the local emergency planning committees.

19 E. On behalf of the Oklahoma Hazardous Materials Emergency
20 Response Commission, member agencies shall have the following
21 responsibilities:

22 1. The Oklahoma Department of Environmental Quality shall:

23 a. provide administrative support to the Oklahoma

24 Hazardous Materials Emergency Response Commission,

- 1 b. review the activities of the local emergency planning
2 committees, and serve as liaison between the Oklahoma
3 Hazardous Materials Emergency Response Commission, the
4 local emergency planning committees, and federal
5 agencies, except as related to training funds from the
6 federal emergency management agency,
- 7 c. administer a notification program pursuant to federal
8 requirements for emergency releases of extremely
9 hazardous substances and hazardous substances as
10 identified by the federal Environmental Protection
11 Agency. ~~Such notification~~ Notification shall include
12 immediate notice of the release and written follow-up
13 notice of response actions taken, risk analyses, and
14 advice concerning medical treatment for exposure, and
15 shall include releases from facilities subject to
16 Title III of the Superfund Amendments and
17 Reauthorization Act. ~~Such~~ The notification
18 requirements shall be in addition to those required by
19 other agencies,
- 20 d. administer and enforce the reporting requirements of
21 Title III of the Superfund Amendments and
22 Reauthorization Act pertaining to emergency planning
23 notification, material safety data sheets, chemical
24

- 1 lists, emergency and hazardous chemical inventory
- 2 forms, and toxic chemical release forms,
- 3 e. serve as the industrial liaison and the repository for
- 4 required information,
- 5 f. perform such environmental services as are necessary
- 6 to validate required reports, and
- 7 g. receive and respond to requests for information under
- 8 the Oklahoma Open Records Act;

9 2. The Oklahoma Department of Civil Emergency Management shall:

- 10 a. administer and enforce the planning requirements of
- 11 Title III of the Superfund Amendments and
- 12 Reauthorization Act of 1986,
- 13 b. receive and review emergency plans submitted by local
- 14 emergency planning committees, make recommendations on
- 15 revisions to ~~such~~ the plans for coordination purposes,
- 16 and facilitate the training for and the implementation
- 17 of ~~such~~ the plans, and
- 18 c. facilitate emergency training programs for local
- 19 emergency planning committees.

20 F. Each member agency of the Oklahoma Hazardous Materials
21 Emergency Response Commission shall have the power and duty,
22 relative to its respective Commission responsibilities, to:

- 23 1. Require reports and plans;
- 24

1 2. Prescribe rules and regulations consistent with Title III of
2 the Superfund Amendments and Reauthorization Act. Any rule or
3 regulation promulgated by any member agency pursuant to the Oklahoma
4 Hazardous Materials Planning and Notification Act shall not be more
5 stringent than any ~~such~~ federal act;

6 3. Adopt federal rules. Any rule or regulation promulgated by
7 any member agency pursuant to the provisions of the Oklahoma
8 Hazardous Materials Planning and Notification Act shall not be more
9 stringent than any such federal rules;

10 4. Cause investigations, inquiries and inspections;

11 5. Prescribe penalties;

12 6. Assess administrative penalties;

13 7. Cause prosecution;

14 8. Accept, use, disburse and administer grants, allotments,
15 gifts, devises for the purposes of facilitating emergency response
16 performance in the state;

17 9. Provide public information as requested regarding emergency
18 response implementation in the state; and

19 10. Work with other agencies where applicable, to eliminate
20 redundancy in the reporting requirements of the various state,
21 federal and local agencies enforcing hazardous materials handling,
22 storage, spills and training.

23 G. Any person violating any provision of the Oklahoma Hazardous
24 Materials Planning and Notification Act shall be deemed guilty of a

1 misdemeanor, and upon conviction thereof, shall be punishable by a
2 fine of not more than Ten Thousand Dollars (\$10,000.00), or by
3 imprisonment for not more than one (1) year, or by both such fine
4 and imprisonment.

5 H. The Oklahoma Hazardous Materials Emergency Response
6 Commission shall:

7 1. Designate emergency planning districts to facilitate
8 preparation and implementation of emergency plans; and

9 2. Appoint members of a local emergency planning committee for
10 each emergency planning district.

11 SECTION 3. This act shall become effective November 1, 2011.

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, dated 4-7-11 - DO PASS.
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