

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 ENGROSSED SENATE
5 BILL NO. 482

By: Marlatt of the Senate

and

Hickman of the House

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9 An Act relating to hazardous waste disposal; amending
10 27A O.S. 2011, Section 2-7-116, which relates to
11 hazardous waste disposal permitting; authorizing
12 temporary staging of hazardous waste in certain
13 manner; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-7-116, is
16 amended to read as follows:

17 Section 2-7-116. A. Except for emergency permits issued in
18 accordance with Section ~~2-7-113~~ or 2-7-113.1 of this title, no
19 permit shall be issued except upon proper application, proof of
20 sufficient liability insurance and financial responsibility, formal
21 public meeting, if requested, and such other requirements as
22 provided by the Oklahoma Hazardous Waste Management Act and the
23 Environmental Quality Code.

1 B. Liability insurance shall be provided by the applicant and
2 shall apply to sudden and nonsudden bodily injury or property damage
3 on, below or above the surface, as required by the rules of the
4 Board. Additional insurance shall be required as deemed necessary
5 by the Department to protect the property rights of owners or
6 leaseholders of underground resources such as oil, gas, water or
7 other mineral substances. Such insurance shall be maintained for
8 the period of operation of the facility and shall provide coverage
9 for damages resulting from operation of the facility during
10 operation and after closing. In lieu of liability insurance
11 required by this or any other section of the Oklahoma Hazardous
12 Waste Management Act, an equivalent amount of cash, securities or
13 alternate financial assurance of a type and in an amount acceptable
14 to the Department, may be substituted; provided, that such deposit
15 shall be maintained for a period of five (5) years after the date of
16 last operation of the facility.

17 C. Prior to the issuance of any permit, the applicant shall
18 post a bond or acceptable alternate financial assurance guaranteeing
19 proper closure and guaranteeing the performance of the maintenance
20 and monitoring functions set out in Section 2-7-124 of this title.

21 D. The Department shall require additional insurance and
22 security by the permittee upon an application for expansion of the
23 facility. Such increase in insurance and security shall be in a
24 sufficient amount to provide adequate coverage for damages resulting

1 from such expansion during operation of the facility and after
2 closing.

3 E. Prior to the issuance of any permit, the applicant shall,
4 upon request of the Department, produce evidence of the applicant's
5 financial status indicating that the applicant is financially able
6 to operate and maintain a hazardous waste facility as required by
7 the Oklahoma Hazardous Waste Management Act. If the applicant is
8 not financially able to operate and maintain a hazardous waste
9 facility, as required by the Oklahoma Hazardous Waste Management
10 Act, a permit shall be denied.

11 F. The operation of a hazardous waste facility shall be under
12 the supervision of a person meeting qualifications set by the Board
13 appropriate to the type of facility.

14 G. The Department is authorized and shall require the
15 construction of monitoring wells, pond liners, fencing, signs or
16 other equipment deemed necessary by the Department to ensure the
17 suitable operation of the facility.

18 H. Hazardous waste undergoing analysis to determine if it is
19 acceptable for disposal that is temporarily staged within the
20 confines of a permitted hazardous waste unit in a manner that will
21 prevent the waste, or any constituent thereof, from entering the
22 environment during such temporary staging shall not constitute
23 disposal of the hazardous waste.
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1 I. 1. In any case where the owner or operator of a hazardous
2 waste facility is in bankruptcy, reorganization, or arrangement
3 pursuant to the Federal Bankruptcy Code or if jurisdiction in any
4 state court or any federal court cannot be obtained over an owner or
5 operator likely to be solvent at the time of judgment, any claim
6 arising from conduct for which evidence of financial responsibility
7 is required pursuant to the Oklahoma Hazardous Waste Management Act
8 may be asserted directly against the guarantor providing such
9 evidence of financial responsibility. In the case of any action
10 taken pursuant to this section, such guarantor shall be entitled to
11 claim all rights and defenses which would have been available to the
12 owner or operator if any action had been brought against the owner
13 or operator by the claimant and which would have been available to
14 the guarantor if any action had been brought against the guarantor
15 by the owner or operator.

16 2. The total liability of any guarantor shall be limited to the
17 aggregate amount which the guarantor has provided as evidence of
18 financial responsibility for the owner or operator pursuant to the
19 Oklahoma Hazardous Waste Management Act. Nothing in this subsection
20 shall be construed to limit any other state or federal statutory,
21 contractual or common law liability of a guarantor to its owner or
22 operator including, but not limited to, the liability of such
23 guarantor for bad faith either in negotiating or failing to
24 negotiate the settlement of any claim. Nothing in this subsection

1 shall be construed to diminish the liability of any person under the
2 Federal Comprehensive Environmental Response, Compensation and
3 Liability Act of 1980 or other applicable law.

4 SECTION 2. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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9 COMMITTEE REPORT BY: COMMITTEE ON ENVIRONMENTAL LAW, dated
10 04/01/2015 - DO PASS.
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