

An Act

ENROLLED HOUSE

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.

SUBJECT: Environment and natural resources

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.

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

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

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

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

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

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

G. The Department of Environmental Quality is authorized when determined to be necessary to protect the public health, safety and welfare of the environment to initiate cleanup operations of the release based upon seriousness of the release, location of the release, threat of the release to the public health and safety or the environment, responsiveness of the responsible party, or

authorization of the responsible party. The responsible party shall be liable for any expenses incurred in any cleanup operation.

H. 1. Upon the release of dangerous substances requiring protective actions, the responsible party shall take immediate emergency response measures as directed by the lead official assuming responsibilities for management of the incident or the Department of Environmental Quality if contacted by the first responder or lead official pursuant to subsection E of this section.

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

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

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

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

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

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

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

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

Section 4-2-102. A. For purposes of implementing the provisions of Title III of the federal Superfund Amendments and Reauthorization Act of 1986, the Governor shall appoint or designate the members of the Oklahoma Hazardous Materials Emergency Response Commission.

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

1. The Secretary of Safety and Security or designee;
2. The Commissioner of the Department of Public Safety or designee;
3. The State Fire Marshal;
4. The Executive Director of the Department of Environmental Quality or designee;
5. The Director of the Department of Civil Emergency Management or designee;
6. One member representing the response community for a term of three (3) years; and
7. One member representing regulated industries for a three-year term, except the initial appointment shall only be for a two-year term.

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

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

1. Appoint a chairman and vice-chairman;
2. Execute a Memorandum of Understanding subject to the Administrative Procedures Act with each member agency to designate responsibilities and conduct studies;
3. Require reports or plans from member agencies;
4. Advise, consult and coordinate with other agencies of the state and federal government;
5. Ensure that the State of Oklahoma remains in compliance with the requirements of Title III of the Superfund Amendments and Reauthorization Act;
6. Coordinate administrative penalties;
7. Coordinate development of annual budgets for each member agency's respective costs for administration and implementation of its responsibilities pursuant to the Oklahoma Hazardous Materials Planning and Notification Act; and
8. ~~Supervise and coordinate the activities of~~ Coordinate with the local emergency planning committees.

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

1. The Oklahoma Department of Environmental Quality shall:
 - a. provide administrative support to the Oklahoma Hazardous Materials Emergency Response Commission,

- b. review the activities of the local emergency planning committees, and serve as liaison between the Oklahoma Hazardous Materials Emergency Response Commission, the local emergency planning committees, and federal agencies, except as related to training funds from the federal emergency management agency,
 - c. administer a notification program pursuant to federal requirements for emergency releases of extremely hazardous substances and hazardous substances as identified by the federal Environmental Protection Agency. ~~Such notification~~ Notification shall include immediate notice of the release and written follow-up notice of response actions taken, risk analyses, and advice concerning medical treatment for exposure, and shall include releases from facilities subject to Title III of the Superfund Amendments and Reauthorization Act. ~~Such~~ The notification requirements shall be in addition to those required by other agencies,
 - d. administer and enforce the reporting requirements of Title III of the Superfund Amendments and Reauthorization Act pertaining to emergency planning notification, material safety data sheets, chemical lists, emergency and hazardous chemical inventory forms, and toxic chemical release forms,
 - e. serve as the industrial liaison and the repository for required information,
 - f. perform such environmental services as are necessary to validate required reports, and
 - g. receive and respond to requests for information under the Oklahoma Open Records Act;
2. The Oklahoma Department of Civil Emergency Management shall:
- a. administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986,
 - b. receive and review emergency plans submitted by local emergency planning committees, make recommendations on

revisions to ~~such~~ the plans for coordination purposes, and facilitate the training for and the implementation of ~~such~~ the plans, and

- c. facilitate emergency training programs for local emergency planning committees.

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

1. Require reports and plans;
2. Prescribe rules and regulations consistent with Title III of the Superfund Amendments and Reauthorization Act. Any rule or regulation promulgated by any member agency pursuant to the Oklahoma Hazardous Materials Planning and Notification Act shall not be more stringent than any ~~such~~ federal act;
3. Adopt federal rules. Any rule or regulation promulgated by any member agency pursuant to the provisions of the Oklahoma Hazardous Materials Planning and Notification Act shall not be more stringent than any such federal rules;
4. Cause investigations, inquiries and inspections;
5. Prescribe penalties;
6. Assess administrative penalties;
7. Cause prosecution;
8. Accept, use, disburse and administer grants, allotments, gifts, devises for the purposes of facilitating emergency response performance in the state;
9. Provide public information as requested regarding emergency response implementation in the state; and
10. Work with other agencies where applicable, to eliminate redundancy in the reporting requirements of the various state, federal and local agencies enforcing hazardous materials handling, storage, spills and training.

G. Any person violating any provision of the Oklahoma Hazardous Materials Planning and Notification Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

H. The Oklahoma Hazardous Materials Emergency Response Commission shall:

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

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

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

Passed the House of Representatives the 15th day of March, 2011.

Lee Denney

Presiding Officer of the House of Representatives

Passed the Senate the 26th day of April, 2011.

Samuel R. L. ...

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 27th
day of April, 20 11,
at 1:25 o'clock P.M.

By: Jerric R. Deaton

Approved by the Governor of the State of Oklahoma the 3rd day of
May, 20 11, at 1:45 o'clock P.M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
3rd day of May, 20 11,
at 3:30 o'clock P M.

By: Achelle R. Day