

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 482

By: Marlatt

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6 AS INTRODUCED

7 An Act relating to hazardous waste disposal; amending  
8 27A O.S. 2011, Section 2-7-116, which relates to  
9 hazardous waste disposal permitting; authorizing  
temporary staging of hazardous waste in certain  
manner; and declaring an emergency.

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

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

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

22 B. Liability insurance shall be provided by the applicant and  
23 shall apply to sudden and nonsudden bodily injury or property damage  
24 on, below or above the surface, as required by the rules of the

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

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

18 D. The Department shall require additional insurance and  
19 security by the permittee upon an application for expansion of the  
20 facility. Such increase in insurance and security shall be in a  
21 sufficient amount to provide adequate coverage for damages resulting  
22 from such expansion during operation of the facility and after  
23 closing.

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

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

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

16 H. Hazardous waste undergoing analysis to determine if it is  
17 acceptable for disposal that is temporarily staged within the  
18 confines of a permitted hazardous waste unit in a manner that will  
19 prevent the waste, or any constituent thereof, from entering the  
20 environment during such temporary staging shall not constitute  
21 disposal of the hazardous waste.

22 I. 1. In any case where the owner or operator of a hazardous  
23 waste facility is in bankruptcy, reorganization, or arrangement  
24 pursuant to the Federal Bankruptcy Code or if jurisdiction in any

1 state court or any federal court cannot be obtained over an owner or  
2 operator likely to be solvent at the time of judgment, any claim  
3 arising from conduct for which evidence of financial responsibility  
4 is required pursuant to the Oklahoma Hazardous Waste Management Act  
5 may be asserted directly against the guarantor providing such  
6 evidence of financial responsibility. In the case of any action  
7 taken pursuant to this section, such guarantor shall be entitled to  
8 claim all rights and defenses which would have been available to the  
9 owner or operator if any action had been brought against the owner  
10 or operator by the claimant and which would have been available to  
11 the guarantor if any action had been brought against the guarantor  
12 by the owner or operator.

13 2. The total liability of any guarantor shall be limited to the  
14 aggregate amount which the guarantor has provided as evidence of  
15 financial responsibility for the owner or operator pursuant to the  
16 Oklahoma Hazardous Waste Management Act. Nothing in this subsection  
17 shall be construed to limit any other state or federal statutory,  
18 contractual or common law liability of a guarantor to its owner or  
19 operator including, but not limited to, the liability of such  
20 guarantor for bad faith either in negotiating or failing to  
21 negotiate the settlement of any claim. Nothing in this subsection  
22 shall be construed to diminish the liability of any person under the  
23 Federal Comprehensive Environmental Response, Compensation and  
24 Liability Act of 1980 or other applicable law.

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

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