

CHAPTER 210. HIGHWAY SPILL REMEDIATION

[Authority: 27A O.S. § 2-2-101, 2-2-201, 2-2-104, 2-7-105, 2-7-106 and 2-7-403]

[Source: Codified 6-15-07]

252:210-1-1. Purpose, authority and applicability

(a) **Purpose.** The purpose of this Chapter is to implement and enforce the Oklahoma Highway Remediation and Cleanup Services Act. The rules in this Chapter are to provide for regulation of highway spill remediation and cleanup services and regulation of highway spill remediation and cleanup service operators as necessary for protection of the waters of the State, the public health and the environment.

(b) **Authority.** 252:210 is authorized by 27A O.S. §§ 2-7-401 through 405.

(c) **Applicability.** The rules in this Chapter apply to:

- (1) Any business that provides services to contain, remove and/or remediate spills of hazardous materials on highways in Oklahoma; and
- (2) Any person who owns or operates those businesses or is employed by them to perform such containment and/or remediation services.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Collision" means any physical impact of a truck, truck-tractor, trailer or any combination thereof with the land or road surface or any other vehicle, structure or object.

"DEQ" means the Oklahoma Department of Environmental Quality.

"Hazardous material" means any substance that, if spilled, is or has the potential to be harmful to humans or the environment such that it is appropriate to impose special requirements upon those who remediate a spill of the substance. Such substances include, but are not limited to, explosives, flammable and/or combustible liquids, acids, caustics, poisons, containerized gases, toxic chemicals, hazardous materials as defined in 49 CFR 171.8 and hazardous wastes as defined in 40 CFR Part 260.

"Highway" means highway as defined by 47 O.S. § 1-122.

"Law enforcement officer" means the lead official as defined by the Oklahoma Emergency Response Act.

"Remediation" includes containment, removal, and cleanup of a hazardous material spill, and the handling and disposition of cargo to the extent the cargo is contaminated with hazardous material as a result of the spill.

"Spill" means release of a hazardous material, caused by a collision on or adjacent to a highway in Oklahoma, in a quantity that could be harmful to humans or the environment.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-3. General provisions

(a) **License required.** Spills shall be remediated only by businesses licensed pursuant to this Chapter. The person who spilled the hazardous material may employ any licensed highway spill remediation service unless the on-scene law enforcement officer has determined that there are hazardous conditions that pose an imminent threat to health or the environment. In these cases where time is critical, the law enforcement officer may contact any licensed highway spill remediation service or any non-licensed provider of a service needed to resolve the emergency.

(b) **Employee training.** Any person who participates in the remediation of spills must:

- (1) Be employed by a business licensed pursuant to this Chapter;
- (2) Be currently certified as a hazardous materials technician pursuant to 29 CFR 1910.120; and
- (3) Upon request by DEQ personnel or local law enforcement personnel at the scene of a spill, provide proof of their current hazardous materials technician certification.

- (c) **Vehicle requirements.** All vehicles used in the remediation of spills shall visibly display the highway spill cleanup license number on both sides of the vehicle in numbers at least four inches (4") high.
- (d) **Tow trucks.** All tow trucks used in the remediation of spills shall be registered and licensed by the Oklahoma Department of Public Safety.
- (e) **Disposal.** All waste material collected or generated in the remediation of spills must be managed and disposed of in accordance with all applicable laws.
- (f) **Specified dates.** If any date specified in this Chapter falls on a weekend or holiday, the date of the following working day shall be the effective date.
- (g) **License period.** Licenses shall be effective from the day of licensure and expire on December 31 of the same year, unless modified by an Administrative Proceeding. Licenses issued prior to January 1, 2007, will expire December 31, 2007.
- (h) **Application time frame.** Applications will become void if the applicant fails to meet all licensure requirements within one hundred eighty (180) days of being notified of any deficiencies. All fees paid are non-refundable when an application is voided.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-4. Prerequisites for new licenses and renewal

To be eligible for initial licensure or renewal:

- (1) The owner of the business must be eighteen (18) years of age or older;
- (2) The owner of the business must be a resident of the State of Oklahoma or the business must be an Oklahoma corporation;
- (3) The principal business facilities must be located in the State of Oklahoma;
- (4) The owner and/or business must owe no outstanding fees or fines to the Department of Environmental Quality or any income taxes to the State of Oklahoma; and
- (5) The owner and/or business must be in compliance with these rules and all DEQ final orders.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-5. Licensure requirements

(a) **Initial license.** An applicant may become licensed to remediate spills by:

- (1) Submitting to the DEQ a completed and signed DEQ Form 210-001 "Highway Spill Cleanup License Application";
- (2) Remitting payment to DEQ for the required initial licensure fee; and
- (3) Submitting documentation to DEQ that the applicant has a general liability insurance policy that includes pollution coverage in the amount of at least \$1,000,000. The documentation shall include a copy of the certificate of insurance.

(b) **Renewal license.** An applicant may renew an unexpired license to remediate spills by doing the following no later than the 15th of the month preceding the expiration date of the current license (December 31st):

- (1) Submitting to the DEQ a completed and signed DEQ Form 210-001 "Highway Spill Cleanup License Application";
- (2) Remitting payment to DEQ for the required renewal licensure fee; and
- (3) Submitting documentation to DEQ that the applicant has a general liability insurance policy that includes pollution coverage in the amount of at least \$1,000,000. The documentation shall include a copy of the certificate of insurance.

(c) **Late renewals.** The applicant shall pay the late fee in addition to the renewal fee for renewal applications postmarked or delivered to the DEQ after December 15th.

(d) **Failure to renew.** Once a license expires, the applicant may not continue to remediate spills until the license is actually renewed. Any license that has not been renewed within twelve (12) months of expiring may not be renewed. Such applicants must apply for a new license and pay the new license fee in full.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-6. Licensee's duties; record keeping

(a) **Remediation records.** The licensee shall maintain and make available to DEQ upon request, a record of all remediations performed pursuant to this Chapter. Each record shall include, at a minimum, the following:

- (1) Name and contact information for the person or entity responsible for the materials spilled;
- (2) Date of the spill;
- (3) Legal description, highway mile marker, physical address, or latitude and longitude of the spill;
- (4) Description and quantity of material spilled;
- (5) Method of remediation;
- (6) Results of all analyses; and
- (7) Location and date of disposal or disposition.

(b) **Employee training records.** The licensee shall maintain and make available to DEQ upon request all hazardous materials technician certification training records for all employees who participate in remediation services for the licensee.

(c) **Records retention.** All records required to be maintained by the licensee pursuant to this Section shall be retained for a minimum of three (3) years.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-7. License suspension and revocation

(a) **Reasons for suspension or revocation.** After notice and opportunity for hearing, the DEQ may suspend or revoke a license for:

- (1) Procedural violations such as allowing the insurance to expire, allowing untrained employees to participate in remediation of a spill or other related procedural issues;
- (2) Gross inefficiency or incompetence in providing spill containment or remediation services or in complying otherwise with the requirements of this Chapter and other applicable law;
- (3) Any violation of this Chapter or any final DEQ order; or
- (4) Dishonesty, fraud or misrepresentation to DEQ.

(b) **Suspension.** Any entity or person whose license is suspended by the DEQ:

- (1) May not provide remediation services until their license has been reinstated or they have received a new license.
- (2) May apply for reinstatement of their license at any time during the twelve (12) months following the date of their suspension by:
 - (A) Correcting any deficiency(ies);
 - (B) Paying any outstanding fees or fines owed to DEQ;
 - (C) Remitting payment to DEQ for the reinstatement fee;
 - (D) Meeting the renewal requirements of Section 1-9(b) of this Chapter, including remitting payment for the renewal fee if the license expired during the suspension period; and
 - (E) Being in compliance with all final DEQ rules and orders.

(c) **Revocation.** Any entity or person whose license has been revoked by the DEQ must wait one (1) year from the date of revocation before filing an application for a new license.

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]

252:210-1-8. Fees

Unless otherwise provided by statute, license fees shall be as follows:

- (1) New license fee - \$10,000.00
- (2) Annual renewal fee - \$1,000.00
- (3) Late fee - \$100.00
- (4) Reinstatement fee - \$100.00

[Source: Added at 24 Ok Reg 582, eff 1-4-07 (emergency); Added at 24 Ok Reg 1513, eff 6-15-07]