

LEGAL AUTHORITY

27A O.S. § 2-5-105 designates the Department of Environmental Quality (DEQ) as the administrative agency for the Oklahoma Clean Air Act (CAA). DEQ's Air Quality Division (AQD) handles the statutory authorities and responsibilities concerning air quality under OAC 252:4-1-3(c). The AQD has the authority to carry out all duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma CAA and fulfilling the requirements of the federal CAA under 27A O.S. §§ 1-3-101(B)(8), 2-3-101(E)(1), and 2-5-105. Upon recommendation of the Air Quality Advisory Council, the Environmental Quality Board has the authority under Oklahoma statutory law 27A O.S. § 2-5-106 to adopt air quality regulations for DEQ. DEQ has the authority under Oklahoma law to:

- Enforce those regulations and orders of DEQ [27A O.S. §§ 2-5-105(4) and 2-5-110];
- Maintain and update an inventory of air emissions from stationary sources [27A O.S. § 2-5-105(19)];
- Establish a permitting program [27A O.S. § 2-5-105(2)]; and
- Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma CAA and the fulfillment of the requirements of the federal CAA [27A O.S. § 2-5-105(20)].

Specifically, the Environmental Quality Board and DEQ have the existing authority to:

- Adopt emissions standards and regulations to implement the Oklahoma CAA and fulfill requirements of the federal CAA [27A O.S. §§ 2-2-104, 2-5-105, 2-5-106, 2-5-107, and 2-5-114];
- Enforce the relevant laws, regulations, standards, orders and compliance schedules authorized by the Oklahoma CAA [27A O.S. §§ 2-5-105(4) and 2-5-110], and seek injunctive relief when necessary [27A O.S. §§ 2-5-105(14) and 2-5-117(A)];
- Abate pollutant emissions on evidence that the source is presenting an immediate, imminent and substantial endangerment to human health [27A O.S. § 2-5-105(15)];
- Prevent construction, modification, or operation of a source in violation of the requirement to have a permit, or in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma CAA [27A O.S. § 2-5-117(A)(2)];
- Obtain information necessary to determine compliance [27A O.S. §§ 2-5-105(17), (18)];
- Require recordkeeping, make inspections, and conduct tests [27A O.S. § 2-5-105(17)];
- Require the installation, maintenance and use of monitors and require emissions reports of owners or operators [27A O.S. § 2-5-112(B)(5)]; and
- Make emissions data available to the public [51 O.S. 1 through 24A.27, except §§ 24A.10a, 24A.11, 24A.12, 24A.15, 24A.16, 24A.16a, 24A.19, 24A.22, 24A.23, and 24A.24].

LEGAL AUTHORITY

Text of Referenced Rules & Statutes

Oklahoma Statutes:

Title 27A. Environment and Natural Resources

Chapter 1 - Oklahoma Environmental Quality Act

Article III - Jurisdiction of Environmental Agencies

Section 1-3-101 - Responsibilities and Jurisdiction of State Environmental Agencies

27A O.S. § 1-3-101:

A. The provisions of this section specify the jurisdictional areas of responsibility for each state environmental agency and state agencies with limited environmental responsibility. The jurisdictional areas of environmental responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state environmental agency; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional environmental responsibilities specified by this section is hereby superseded. The provisions of this subsection shall not nullify any financial obligation arising from services rendered pursuant to any interagency agreement or executive order entered into prior to July 1, 1993, nor nullify any obligations or agreements with private persons or parties entered into with any state environmental agency before July 1, 1993.

B. Department of Environmental Quality. The Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration, manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;
2. All nonpoint source discharges and pollution except as provided in subsections D, E and F of this section;
3. Technical lead agency for point source, nonpoint source and storm water pollution control programs funded under Section 106 of the federal Clean Water Act, for areas within the Department's jurisdiction as provided in this subsection;
4. Surface water and groundwater quality and protection and water quality certifications;
5. Waterworks and wastewater works operator certification;
6. Public and private water supplies;

7. Underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, except for:

a. Class II injection wells,

b. Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Corporation Commission,

c. those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act regulated by the Commission, and

d. any aspect of any CO₂ sequestration facility, including any associated CO₂ injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act;

8. Notwithstanding any other provision in this section or other environmental jurisdiction statute, sole and exclusive jurisdiction for air quality under the federal Clean Air Act and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma Statute;

Added by Laws 1992, HB 2227, c. 398, § 6, eff. July 1, 1993; Amended by Laws 1993, HB 1002, c. 145, § 11, emerg. eff. July 1, 1993; Renumbered from 27A O.S § 6 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 6, emerg. eff. July 1, 1993; Amended by Laws 1994, HB 1916, c. 140, § 24, eff. September 1, 1994; Amended by Laws 1997, SB 365, c. 217, § 1, emerg. eff. July 1, 1997); Amended by Laws 1999, SB 549, c. 413, § 4, eff. November 1, 1999); Amended by Laws 2000, SB 1223, c. 364, § 1, emerg. eff. June 6, 2000; Amended by Laws 2002, HB 2302, c. 397, § 1, eff. November 1, 2002; Amended by Laws 2004, SB 1204, c. 100, § 2, emerg. eff. July 1, 2004; Amended by Laws 2004, HB 2616, c. 430, § 11, emerg. eff. June 4, 2004; Amended by Laws 2009, SB 610, c. 429, § 8, emerg. eff. June 1, 2009; Amended by Laws 2012, HB 2365 c. 110, § 1, eff. November 1, 2012.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article II - Environmental Quality Board and Councils
Article Part 1. - Environmental Quality Board
Section 2-2-104 - Incorporation by Reference

27A O.S. § 2-2-104:

Insofar as permitted by law and upon recommendation from the appropriate Council, rules promulgated by the Environmental Quality Board may incorporate a federal statute or regulation by reference. Any Board rule which incorporates a federal provision by reference incorporates

the language of the federal provision as it existed at the time of the incorporation by reference. Any subsequent modification, repeal or invalidation of the federal provision shall not be deemed to affect the incorporating Board rule.

Added by Laws 1994, SB 832, c. 353, § 3, emerg. eff. July 1, 1994.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article III - Department of Environmental Quality and Executive Director
Article Part 1. Department of Environmental Quality
Section 2-3-101 - Creation of Department of Environmental Quality

27A O.S. § 2-3-101:

A. There is hereby created the Department of Environmental Quality.

B. Within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, through its duly designated employees or representatives, shall have the power and duty to:

1. Perform such duties as required by law; and

2. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials, pollution, Superfund, water quality, hazardous waste, radioactive waste, air quality, drinking water supplies, wastewater treatment and any other program authorized by law or executive order.

C. Any employee of the Department in a technical, supervisory or administrative position relating to the review, issuance or enforcement of permits pursuant to this Code who is an owner, stockholder, employee or officer of, or who receives compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department of Environmental Quality shall disclose such interest to the Executive Director. Such disclosure shall be submitted for Board review and shall be made a part of the Board minutes available to the public. This subsection shall not apply to financial interests occurring by reason of an employee's participation in the Oklahoma State Employees Deferred Compensation Plan or publicly traded mutual funds.

D. The Executive Director, Deputy Director, and all other positions and employees of the Department at the Division Director level or higher shall be in the unclassified service.

E. The following programs are hereby established within the Department of Environmental Quality:

1. An air quality program which shall be responsible for air quality;

Added by Laws 1992, HB 2227, c. 398, § 9, eff. January 1, 1993; Amended by Laws 1993, HB 1002, c. 145, § 16, emerg. eff. July 1, 1993; Renumbered from 27A O.S. § 9 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 5, emerg. eff. July 1, 1993; Amended by Laws 1995, HB 1027, c. 246, § 1, eff. November 1, 1995; Amended by Laws 2002, HB 1980, c. 139, § 1, emerg. eff. April 29, 2002.

Title 27A. Environment and Natural Resources

Chapter 2 - Oklahoma Environmental Quality Code

Article V - Oklahoma Clean Air Act

Section 2-5-105 - Department Designated Administrative Agency for Oklahoma Clean Air Act for State - Powers

27A O.S. § 2-5-105:

The Department of Environmental Quality is hereby designated the administrative agency for the Oklahoma Clean Air Act for the state. The Department is empowered to:

1. Establish, in accordance with its provisions, those programs specified elsewhere in the Oklahoma Clean Air Act;
2. Establish, in accordance with the Oklahoma Clean Air Act, a permitting program for the state which will contain the flexible source operation provisions required by Section 502(b)(10) of the Federal Clean Air Act Amendments of 1990;
3. Prepare and develop a general plan for proper air quality management in the state in accordance with the Oklahoma Clean Air Act;
4. Enforce rules of the Board and orders of the Department and the Council;
5. Advise, consult and cooperate with other agencies of the state, towns, cities and counties, industries, other states and the federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the state;
6. Encourage and conduct studies, seminars, workshops, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement;
7. Collect and disseminate information relating to air pollution, its prevention and control;
8. Encourage voluntary cooperation by persons, towns, cities and counties, or other affected groups in restoring and preserving a reasonable degree of purity of air within the state;

9. Represent the State of Oklahoma in any and all matters pertaining to plans, procedures or negotiations for the interstate compacts in relation to the control of air pollution;
10. Provide such technical, scientific or other services, including laboratory and other facilities, as may be required for the purpose of carrying out the provisions of the Oklahoma Clean Air Act, from funds available for such purposes;
11. Employ and compensate, within funds available therefor, such consultants and technical assistants and such other employees on a full- or part-time basis as may be necessary to carry out the provisions of the Oklahoma Clean Air Act and prescribe their powers and duties;
12. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of the Oklahoma Clean Air Act;
13. Budget and receive duly appropriated monies and all other monies available for expenditures to carry out the provisions and purposes of the Oklahoma Clean Air Act;
14. Bring appropriate court action to enforce the Oklahoma Clean Air Act and final orders of the Department, and to obtain injunctive or other proper relief in the district court of the county where any alleged violation occurs or where such relief is determined necessary. The Department, in furtherance of its statutory powers, shall have the independent authority to file an action pursuant to the Oklahoma Clean Air Act in district court. Such action shall be brought in the name of the Department of Environmental Quality;
15. Take such action as may be necessary to abate the alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons;
16. Periodically enter and inspect at reasonable times or during regular business hours, any source, facility or premises permitted or regulated by the Department, for the purpose of obtaining samples or determining compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder or permit condition prescribed pursuant thereto, or to examine any records kept or required to be kept pursuant to the Oklahoma Clean Air Act. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant;
17. Require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets necessary to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto. The Department shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to the Oklahoma Clean Air Act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential information may be easily

removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. Nothing in this section shall preclude an in-camera examination of confidential information by an Administrative Law Judge during the course of a contested hearing;

18. Maintain and update at least annually an inventory of air emissions from stationary sources;

19. Accept any authority delegated from the federal government necessary to carry out any portion of the Oklahoma Clean Air Act; and

20. Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and fulfilling the requirements of the Federal Clean Air Act.

Added by Laws 1992, HB 2251, c. 215, § 4, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 42, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1805.1 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 104, c. 47, § 1 (repealed by Laws 1994, HB 2299, c. 2, § 34, emerg. eff. March 2, 1994); Amended by Laws 1998, SB 986, c. 314, § 6, emerg. eff. July 1, 1998; Amended by Laws 2002, HB 2302, c. 397, § 2, eff. November 1, 2002.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article V - Oklahoma Clean Air Act
Section 2-5-106 - Authorizations of Board

27A O.S. § 2-5-106:

The Board is hereby authorized, after public rulemaking hearing and approval by the Council, to:

1. Promulgate, amend or repeal rules for the prevention, control and abatement of air pollution and for establishment of health and safety tolerance standards for discharge of air contaminants to the atmosphere; and
2. Promulgate such additional rules including but not limited to permit fees, as it deems necessary to protect the health, safety and welfare of the public and fulfill the intent and purpose of these provisions.

Added by Laws 1992, HB 2251, c. 215, § 5, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 43, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1806.1 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article V - Oklahoma Clean Air Act
Section 2-5-107 – Powers and Duties

27A O.S. § 2-5-107:

The powers and duties of the Council shall be as follows:

1. The Council shall recommend to the Board rules or amendments thereto for the prevention, control and prohibition of air pollution and for the establishment of health and safety tolerances for discharge of air contaminants in the state as may be consistent with the general intent and purposes of the Oklahoma Clean Air Act. The recommendations may include, but need not be limited to, rules required to implement the following:
 - a. a comprehensive state air permitting program,
 - b. an accidental release prevention program,
 - c. a program for the regulation and control of toxic and hazardous air contaminants,
 - d. a program for the regulation and control of acid deposition,
 - e. a small business program, and
 - f. a system of assessing and collecting fees;
2. The Council shall recommend rules of practice and procedure applicable to proceedings before the Council;
3. Before recommending any permanent rules, or any amendment or repeal thereof to the Board, the Council shall hold a public rulemaking hearing. The Council shall have full authority to conduct such hearings, and may appoint a hearing officer;
4. A rule, or any amendment thereof, recommended by the Council may differ in its terms and provisions as between particular conditions, particular sources, and particular areas of the state. In considering rules, the Council shall give due recognition to the evidence presented that the quantity or characteristic of air contaminants or the duration of their presence in the atmosphere, which may cause a need for air control in one area of the state, may not cause need for air control in another area of the state. The Council shall take into consideration, in this connection, all factors found by it to be proper and just, including but not limited to existing physical conditions, economic impact, topography, population, prevailing wind directions and velocities, and the fact that a rule and the degrees of conformance therewith which may be proper as to an essentially

residential area of the state may not be proper either as to a highly developed industrial area of the state or as to a relatively unpopulated area of the state;

5. Recommendations to the Board shall be in writing and concurred upon by at least five members of the Council;

6. The Council shall have the authority and the discretion to provide a public forum for the discussion of issues it considers relevant to the air quality of the state, and to:

a. pass nonbinding resolutions expressing the sense of the Council,

b. make recommendations to the Department concerning the need and the desirability of conducting public meetings, workshops and seminars, and

c. hold public hearings to receive public comment in fulfillment of federal requirements regarding the State Implementation Plan and make recommendations to the Department concerning the plan; and

7. The Council shall have the authority to conduct individual proceedings, to issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony and receive such pertinent and relevant proof as it may deem to be necessary, proper or desirable in order that it may effectively discharge its duties and responsibilities under the Oklahoma Clean Air Act. The Council is also empowered to appoint an Administrative Law Judge to conduct individual proceedings and prepare such findings of fact, conclusions of law and proposed orders as they may require. Upon issuance of a proposed order, the Council shall request that the Executive Director issue a final order in accordance with their findings or take such action as indicated and notify the respondent thereof in writing.

Added by Laws 1992, HB 2251, c. 215, § 7, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 44, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1808.1 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 832, c. 353, § 7, emerg. eff. July 1, 1994.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article V - Oklahoma Clean Air Act
Section 2-5-110 – Written Order to Violator of Oklahoma Clean Air Act

27A O.S. § 2-5-110:

A. In addition to any other remedy provided for by law, the Department may issue a written order to any person whom the Department has reason to believe has violated, or is presently in violation of, the Oklahoma Clean Air Act or any rule promulgated by the Board, any order of the

Department or Council, or any condition of any permit issued by the Department pursuant to the Oklahoma Clean Air Act, and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation. The Department shall by conference, conciliation and persuasion provide the person a reasonable opportunity to eliminate such violations, but may, however, reduce the fifteen-day notice period as in the opinion of the Department may be necessary to render the order reasonably effectual.

B. Such order may require compliance immediately or within a specified time period or both. The order, notwithstanding any restriction contained in subsection A of this section, may also assess an administrative penalty for past violations occurring no more than five (5) years prior to the date the order is filed with the Department, and for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations, and may impose such requirements, procedures or conditions as may be necessary to correct the violations. The Department may also order any environmental contamination having the potential to adversely affect the public health, when caused by the violations, to be corrected by the person or persons responsible.

D. Any penalty assessed in the order shall not exceed Ten Thousand Dollars (\$10,000.00) per day for each violation. In assessing such penalties, the Department shall consider the seriousness of the violation or violations, any good faith efforts to comply, and other factors determined by rule to be relevant. A final order following an enforcement hearing may assess an administrative penalty of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

E. Any order issued pursuant to this section shall become a final order, unless no later than fifteen (15) days after the order is served the person or persons named therein request in writing an enforcement hearing. Said order shall contain language to that effect. Upon such request, the Department shall promptly schedule the enforcement hearing before an Administrative Law Judge for the Department and notify the respondent .

F. At all proceedings with respect to any alleged violation of the Oklahoma Clean Air Act, or any rule promulgated thereunder, the burden of proof shall be upon the Department.

G. Nothing in this section shall be construed to limit the authority of the Department to enter into an agreed settlement or consent order with any respondent.

Added by Laws 1992, HB 2251, c. 215, § 10, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 47, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1811 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 13, emerg. eff. July 1, 1993; Amended by Laws 1999, HB 1781, c. 131, § 1, eff. November 1, 1999; Amended by Laws 2001, SB 199, c. 109, § 1, emerg. eff. April 18, 2001.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article V - Oklahoma Clean Air Act
Section 2-5-112 - Implementation of Comprehensive Permitting Program

27A O.S. § 2-5-112:

A. Upon the effective date of permitting rules promulgated pursuant to the Oklahoma Clean Air Act, it shall be unlawful for any person to construct any new source, or to modify or operate any new or existing source of emission of air contaminants except in compliance with a permit issued by the Department of Environmental Quality, unless the source has been exempted or deferred or is in compliance with an applicable deadline for submission of an application for such permit.

B. The Department shall have the authority and the responsibility, in accordance with rules of the Environmental Quality Board, to implement a comprehensive permitting program for the state consistent with the requirements of the Oklahoma Clean Air Act. Such authority shall include but shall not be limited to the authority to:

1. Expeditiously issue, reissue, modify and reopen for cause, permits for new and existing sources for the emission of air contaminants, and to grant a reasonable measure of priority to the processing of applications for new construction or modifications. The Department may also revoke, suspend, deny, refuse to issue or to reissue a permit upon a determination that any permittee or applicant is in violation of any substantive provisions of the Oklahoma Clean Air Act, or any rule promulgated thereunder or any permit issued pursuant thereto;
2. Refrain from issuing a permit when issuance has been objected to by the Environmental Protection Agency in accordance with Title V of the Federal Clean Air Act;
3. Revise any permit for cause or automatically reopen it to incorporate newly applicable rules or requirements if the remaining permit term is greater than three (3) years; or incorporate insignificant changes into a permit without requiring a revision;
4. Establish and enforce reasonable permit conditions which may include, but not be limited to:
 - a. emission limitations for regulated air contaminants,
 - b. operating procedures when related to emissions,
 - c. performance standards,
 - d. provisions relating to entry and inspections, and
 - e. compliance plans and schedules;

5. Require, if necessary, at the expense of the permittee or applicant:

- a. installation and utilization of continuous monitoring devices,
- b. sampling, testing and monitoring of emissions as needed to determine compliance,
- c. submission of reports and test results, and
- d. ambient air modeling and monitoring;

Added by Laws 1992, HB 2251, c. 215, § 12, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 49, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1813 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 997, c. 373, § 16, emerg. eff. July 1, 1994; Amended by Laws 1995, SB 247, c. 285, § 2, emerg. eff. July 1, 1996; Amended by Laws 1999, SB 417, c. 284, § 1, emerg. eff. May 27, 1999; Amended by Laws 1999, HB 1781, c. 131, § 2, eff. November 1, 1999 (repealed by Laws 2000, HB 2711, c. 6, § 33, emerg. eff. March 20, 2000); Amended by Laws 2000, HB 2711, c. 6, § 7, emerg. eff. March 20, 2000; Amended by Laws 2004, HB 1876, c. 83, § 1, emerg. eff. April 13, 2004; Amended by Laws 2004, HB 2198, c. 381, § 4, emerg. eff. June 3, 2004.

Title 27A. Environment and Natural Resources

Chapter 2 - Oklahoma Environmental Quality Code

Article V - Oklahoma Clean Air Act

Section 2-5-114 – Establishment of Program for Implementation and Enforcement of Federal Emission Standards

27A O.S. § 2-5-114:

A. The Department shall have the authority to establish a program for the implementation and enforcement of the federal emission standards and other requirements under Section 112 of the Federal Clean Air Act for hazardous air pollutants and for the prevention and mitigation of accidental releases of regulated substances under Section 112(r) of the Federal Clean Air Act.

1. Except as otherwise provided by paragraph 2 of this subsection, to assure that such program shall be consistent with, and not more stringent than, federal requirements:

a. any rule recommended by the Council and promulgated by the Board regarding hazardous air pollutants and regulated substances shall only be by adoption by reference of final federal rules, and

b. shall include the federal early reduction program under Section 112(i) (5) of the Federal Clean Air Act.

2. The Board may promulgate, pursuant to recommendation by the Council, rules which establish emission limitations for hazardous air pollutants which are more stringent than the applicable federal standards, upon a determination by the Council that more stringent standards are necessary to protect the public health or the environment.

B. The Department shall also have the authority to establish a separate and distinct program only for the control of the emission of those toxic air contaminants not otherwise regulated by a final emission standard under Section 112(d) of the Federal Clean Air Act.

1. Such program shall consist of permanent rules establishing:

a. appropriate emission limitations, work practice standards, maximum acceptable ambient concentrations or control technology standards necessary for the protection of the public health or the environment, and

b. emissions monitoring or process monitoring requirements necessary to assure compliance with the requirements of this section.

2. Paragraph 1 of this subsection shall not be construed as requiring readoption of existing rules regarding toxic air contaminants.

C. Regulation of any hazardous air pollutant pursuant to a final emission standard promulgated under Section 112(d) of the Federal Clean Air Act, shall preclude its regulation as a toxic air contaminant under subsection B of this section.

D. Emissions from any oil or gas exploration or production well with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil or gas exploration or production well with its associated equipment, such emissions shall not be aggregated for any purpose under this section.

E. The Department shall not list oil and gas production wells with their associated equipment as an area source category, except that the Department may establish an area source category for oil and gas production wells located in any metropolitan statistical area or consolidated metropolitan statistical area with a population in excess of one million (1,000,000) if the Department determines that emissions of hazardous air pollutants from such wells present more than a negligible risk of adverse effects to public health.

F. Nothing in this section shall be construed to limit authority established elsewhere in the Oklahoma Clean Air Act.

Added by Laws 1992, HB 2251, c. 215, § 14, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 51, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1815 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993.

Title 27A. Environment and Natural Resources
Chapter 2 - Oklahoma Environmental Quality Code
Article V - Oklahoma Clean Air Act
Section 2-5-117 – Authority to Commence Civil Actions

27A O.S. § 2-5-117:

A. The Department shall have the authority to commence a civil action for a permanent or temporary injunction or other appropriate relief, or to require abatement of any emission or correction of any contamination, or to seek and recover a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) per day for each violation, or all of the above, in any of the following instances:

1. Whenever any person has violated or is in violation of any applicable provision of the Oklahoma Clean Air Act, or any rule promulgated thereunder;
2. Whenever any person has commenced construction, modification or operation of any source, or operates any source in violation of the requirement to have a permit, or violates or is in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma Clean Air Act; or
3. Whenever any person has violated any order of the Department or the Council or any requirement to pay any fee, fine or penalty owed to the state pursuant to the Oklahoma Clean Air Act.

B. The district attorney or attorneys having jurisdiction shall have primary authority and responsibility for prosecution of any civil or criminal violations under the Oklahoma Clean Air Act and for the collection of any delinquent fees, penalties or fines assessed pursuant to the Oklahoma Clean Air Act and shall be entitled to recover reasonable costs of collection, including attorney fees, and an appropriate fee of up to fifty percent (50%) for collecting delinquent fees, penalties or fines.

Added by Laws 1992, HB 2251, c. 215, § 17, emerg. eff. May 15, 1992. Amended by Laws 1993, HB 1002, c. 145, § 54, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1818 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.1 – Short Title

51 O.S. § 24A.1:

Section 24A.1 et seq. of this title shall be known and may be cited as the "Oklahoma Open Records Act"

Added by Laws 1985, SB 276, c. 355, § 1, eff. November 1, 1985; Amended by Laws 1988, HB 1803, c. 68, § 1, eff. November 1, 1988; Amended by Laws 1988, HB 1846, c. 187, § 1, emerg. eff. June 6, 1988; Amended by Laws 1996, HB 2692, c. 247, § 41, emerg. eff. July 1, 1996; Amended by Laws 1997, HB 1436, c. 2, § 10, emerg. eff. February 26, 1997.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.2 – Political Power – Public Policy and Purpose of Act

51 O.S. § 24A.2:

As the Oklahoma Constitution recognizes and guarantees, all political power is inherent in the people. Thus, it is the public policy of the State of Oklahoma that the people are vested with the inherent right to know and be fully informed about their government. The Oklahoma Open Records Act shall not create, directly or indirectly, any rights of privacy or any remedies for violation of any rights of privacy; nor shall the Oklahoma Open Records Act, except as specifically set forth in the Oklahoma Open Records Act, establish any procedures for protecting any person from release of information contained in public records. The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. The privacy interests of individuals are adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as may be required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act.

Added by Laws 1985, SB 276, c. 355, § 2, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 2, emerg. eff. June 6, 1988.

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Section 24A.3 – Definitions

51 O.S. § 24A.3:

As used in this act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean:

a. computer software,

b. nongovernment personal effects,

c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,

d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,

e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,

f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,

g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act, or

h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,

(1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes,

(2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety, or

(3) audio or video recordings of the Department of Public Safety;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

Added by Laws 1985, SB 276, c. 355, § 3, eff. November 1, 1985; Amended by Laws 1987, HB 1444, c. 222, § 117, emerg. eff. July 1, 1987; Amended by Laws 1988, HB 1846, c. 187, § 3, emerg. eff. June 6, 1988; Amended by Laws 1993, HB 1471, c. 39, § 1, eff. September 1, 1993; Amended by Laws 1996, SB 719, c. 209, § 2, eff. November 1, 1996; Amended by Laws 1998, SB 996, c. 315, § 4, emerg. eff. May 28, 1998; Amended by Laws 1998, HB 3063, c. 368, § 11, emerg. eff. July 1, 1998; Amended by Laws 2001, SB 748, c. 355, § 1, emerg. eff. June 1, 2001; Amended by Laws 2002, HB 2738, c. 293, § 3, emerg. eff. May 22, 2002 (repealed by Laws 2003, HB 1816, c. 3, § 43, emerg. eff. March 19, 2003); Amended by SB 960, c. 478, § 2, emerg. eff. July 1, 2002; Amended by Laws 2003, HB 1816, c. 3, § 42, emerg. eff. March 19, 2003; Amended by Laws 2004, HB 1695, c. 328, § 1, emerg. eff. July 1, 2004; Amended by Laws 2005, HB 1553, c. 199, § 4, eff. November 1, 2005.

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Section 24A.4 – Duty to Keep and Maintain Complete Records of Receipt and Expenditure of Funds

51 O.S. § 24A.4:

In addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law.

Added by Laws 1985, SB 276, c. 355, § 4, eff. November 1, 1985.

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Section 24A.5 – Open and Confidential Records

51 O.S. § 24A.5:

All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:

a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,

b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,

c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or

d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall not be required to assemble for the requesting person specific information, in any format, from driving records relating to any person whose name and date of birth or whose driver license number is not furnished by the requesting person.

The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons, and the cost of copying, reproducing or certifying each individual record is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

a. is solely for commercial purpose, or

b. would clearly cause excessive disruption of the essential functions of the public body,

then the public body may charge a reasonable fee to recover the direct cost of record search and copying; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of a record for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy. The fee charged by the Department of Public Safety for a copy in a computerized format of a record of the Department shall not exceed the direct cost of making the copy unless the fee for the record is otherwise set by law.

Any public body establishing fees under this act shall post a written schedule of the fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in

accordance with the provisions of the Oklahoma Open Records Act; provided, however, the index shall not be copied or mechanically reproduced for the purpose of sale of the information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one person shall be available at all times to release records during the regular business hours of the public body.

Added by Laws 1985, SB 276, c. 355, § 5, eff. November 1, 1985; Amended by Laws 1986, SB 487, c. 213, § 1, emerg. eff. June 6, 1986; Amended by Laws 1986, HB 1633, c. 279, § 29, emerg. eff. July 1, 1986; Amended by Laws 1988, HB 1846, c. 187, § 4, emerg. eff. June 6, 1988; Amended by Laws 1992, HB 2142, c. 231, § 2, emerg. eff. May 19, 1992; Amended by Laws 1993, HB 1053, c. 97, § 7, eff. September 1, 1993; Amended by Laws 1996, SB 719, c. 209, § 3, eff. November 1, 1996; Amended by Laws 2000, HB 2100, c. 342, § 8, emerg. eff. July 1, 2000; Amended by Laws 2001, SB 665, c. 137, § 1, emerg. eff. April 24, 2001; Amended by Laws 2005, HB 1553, c. 199, § 5, eff. November 1, 2005; Amended by Laws 2005, HB 1318, c. 223, § 1, eff. November 1, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 35, emerg. eff. March 29, 2006); Amended by Laws 2006, HB 3139, c. 16, § 34, emerg. eff. March 29, 2006.

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Section 24A.6 – Written Notice of Business Hours of Public Bodies - Inspection, Copying, or Reproduction of Records of Public Body

51 O.S. § 24A.6:

A. If a public body or its office does not have regular business hours of at least thirty (30) hours a week, the public body shall post and maintain a written notice at its principal office and with the county clerk where the public body is located which notice shall:

1. Designate the days of the week when records are available for inspection, copying or mechanical reproduction;
2. Set forth the name, mailing address, and telephone number of the individual in charge of the records; and
3. Describe in detail the procedures for obtaining access to the records at least two days of the week, excluding Sunday.

B. The person requesting the record and the person authorized to release the records of the public body may agree to inspection, copying, or mechanical reproduction on a day and at a time other than that designated in the notice.

Added by Laws 1985, SB 276, c. 355, § 6, eff. November 1, 1985.

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Section 24A.7 – Confidential Personnel Records of Public Body

51 O.S. § 24A.7:

A. A public body may keep personnel records confidential:

1. Which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation; or

2. Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, employment applications submitted by persons not hired by the public body, and transcripts from institutions of higher education maintained in the personnel files of certified public school employees; provided, however, that nothing in this subsection shall be construed to exempt from disclosure the degree obtained and the curriculum on the transcripts of certified public school employees.

B. All personnel records not specifically falling within the exceptions provided in subsection A of this section shall be available for public inspection and copying including, but not limited to, records of:

1. An employment application of a person who becomes a public official;

2. The gross receipts of public funds;

3. The dates of employment, title or position; and

4. Any final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination.

C. Except as may otherwise be made confidential by statute, an employee of a public body shall have a right of access to his own personnel file.

D. Public bodies shall keep confidential the home address, telephone numbers and social security numbers of any person employed or formerly employed by the public body.

Added by Laws 1985, SB 276, c. 355, § 7, eff. November 1, 1985; Amended by Laws 1990, HB 1883, c. 257, § 6, emerg. eff. May 23, 1990; Amended by Laws 1994, HB 2268, c. 177, § 1, eff. September 1, 1994; Amended by Laws 2005, HB 1728, c. 116, § 2, eff. November 1, 2005.

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Section 24A.8 – Law Enforcement Agency Records Available for Public Inspection

51 O.S. § 24A.8:

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;
 2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer;
 3. A chronological list of all incidents, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred;
 4. Radio logs, including a chronological listing of the calls dispatched;
 5. Conviction information, including the name of any person convicted of a criminal offense;
 6. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;
 7. A crime summary, including an agency summary of crimes reported and public calls for service by classification or nature and number; and
 8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of commitment, the authority committing the prisoner, whether committed for a criminal offense, a description of the prisoner, and the date or manner of discharge or escape of the prisoner.
- B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial.
- C. Nothing contained in this section imposes any new recordkeeping requirements. Law enforcement records shall be kept for as long as is now or may hereafter be specified by law. Absent a legal requirement for the keeping of a law enforcement record for a specific time

period, law enforcement agencies shall maintain their records for so long as needed for administrative purposes.

D. Registration files maintained by the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act shall be made available for public inspection in a manner to be determined by the Department.

E. The Council on Law Enforcement Education and Training (C.L.E.E.T.) shall keep confidential all records it maintains pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and deny release of records relating to any employed or certified full-time officer, reserve officer, retired officer or other person; teacher lesson plans, tests and other teaching materials; and personal communications concerning individual students except under the following circumstances:

1. To verify the current certification status of any peace officer;
2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;
3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;
4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;
5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and
6. Pursuant to an order of the district court of the State of Oklahoma.

F. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

- a. training, lesson plans, teaching materials, tests, and test results,
- b. policies, procedures, and operations, any of which are of a tactical nature, and
- c. the following information from radio logs:

- (1) telephone numbers,
- (2) addresses other than the location of incidents to which officers are dispatched, and

(3) personal information which is contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725; and

2. For the purpose of preventing identity theft and invasion of law enforcement computer systems, except as provided in Title 47 of the Oklahoma Statutes, all driving records.

Added by Laws 1985, SB 276, c. 355, § 8, eff. November 1, 1985; Amended by Laws 1989, HB 1136, c. 212, § 8, eff. November 1, 1989; Amended by Laws 2000, HB 2428, c. 226, § 1, eff. November 1, 2000 (repealed by Laws 2001, HB 1965, c. 5, § 30, emerg. eff. March 21, 2001) ; Amended by Laws 2000, HB 2552, c. 349, § 2, eff. November 1, 2000; Amended by Laws 2001, HB 1965, c. 5, § 29, emerg. eff. March 21, 2001; Amended by Laws 2005, SB 13, c. 35, § 1, emerg. eff. April 12, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 37, emerg. eff. March 29, 2006); Amended by Laws 2005, HB 1553, c. 199, § 6, eff. November 1, 2005; Amended by Laws 2006, HB 3139, c. 16, § 36, emerg. eff. March 29, 2006; Amended by Laws 2009, HB 1049, c. 36, § 1, eff. November 1, 2009.

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Section 24A.9 – Confidential Personal Notes and Personally Created Materials of Public Official Making Recommendation

51 O.S. § 24A.9:

Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal notes and personally created materials other than departmental budget requests of a public body prepared as an aid to memory or research leading to the adoption of a public policy or the implementation of a public project.

Added by Laws 1985, SB 276, c. 355, § 9, eff. November 1, 1985.

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Section 24A.10 – Disclosure of Information Voluntarily Supplied

51 O.S. § 24A.10:

A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission which was not required to be considered by that agency, board or commission in the performance of its duties may, within thirty (30) days from June 6, 1988, be

removed from the files of such agency, board or commission by the person or entity which originally voluntarily supplied such information. Provided, after thirty (30) days from the effective date of this act, any information voluntarily supplied shall be subject to full disclosure pursuant to this act.

B. If disclosure would give an unfair advantage to competitors or bidders, a public body may keep confidential records relating to:

1. Bid specifications for competitive bidding prior to publication by the public body; or
2. Contents of sealed bids prior to the opening of bids by a public body; or
3. Computer programs or software but not data thereon; or
4. Appraisals relating to the sale or acquisition of real estate by a public body prior to award of a contract; or
5. The prospective location of a private business or industry prior to public disclosure of such prospect except for records otherwise open to inspection such as applications for permits or licenses.

C. Except as set forth hereafter, the Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, and the Oklahoma Film and Music Office may keep confidential:

1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking economic advice, business development or customized training from such Departments or school districts;
2. Proprietary information of the business submitted to the Department or school districts for the purpose of business development or customized training, and related confidentiality agreements detailing the information or records designated as confidential; and
3. Information compiled by such Departments or school districts in response to those submissions.

The Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, and the Oklahoma Film and Music Office may not keep confidential that submitted information when and to the extent the person or entity submitting the information consents to disclosure.

D. Although they must provide public access to their records, including records of the address, rate paid for services, charges, consumption rates, adjustments to the bill, reasons for adjustment, the name of the person that authorized the adjustment, and payment for each customer, public bodies that provide utility services to the public may keep confidential credit information, credit

card numbers, telephone numbers, social security numbers, bank account information for individual customers, and utility supply and utility equipment supply contracts for any industrial customer with a connected electric load in excess of two thousand five hundred (2,500) kilowatts if public access to such contracts would give an unfair advantage to competitors of the customer; provided that, where a public body performs billing or collection services for a utility regulated by the Corporation Commission pursuant to a contractual agreement, any customer or individual payment data obtained or created by the public body in performance of the agreement shall not be a record for purposes of this act.

Added by Laws 1985, SB 276, c. 355, § 10, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 5, emerg. eff. June 6, 1988; Amended by Laws 1996, SB 719, c. 209, § 4, eff. November 1, 1996; Amended by Laws 2004, SB 1108, c. 186, § 1, emerg. eff. May 3, 2004; Amended by Laws 2006, HB 2396, c. 18, § 1, eff. November 1, 2006; Amended by Laws 2007, HB 1038, c. 6, § 1, eff. November 1, 2007; Amended by Laws 2008, HB 2250, c. 284, § 1, eff. November 1, 2008; Amended by Laws 2009, SB 285, c. 158, § 1, eff. November 1, 2009; Amended by Laws 2010, SB 1351, c. 161, § 1.

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Section 24A.13 – Confidential Federal Legislation Records

51 O.S. § 24A.13:

Records coming into the possession of a public body from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law.

Added by Laws 1985, SB 276, c. 355, § 13, eff. November 1, 1985.

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Section 24A.14 – Confidential Personal Communications Exercising Constitutional Rights

51 O.S. § 24A.14:

Except for the fact that a communication has been received and that it is or is not a complaint, a public official may keep confidential personal communications received by the public official from a person exercising rights secured by the Constitution of the State of Oklahoma or the Constitution of the United States. The public official's written response to this personal

communication may be kept confidential only to the extent necessary to protect the identity of the person exercising the right.

Added by Laws 1985, SB 276, c. 355, § 14, eff. November 1, 1985.

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Section 24A.17 – Violations of Oklahoma Open Records Act – Civil Liability

51 O.S. § 24A.17:

A. Any public official who willfully violates any provision of the Oklahoma Open Records Act, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person denied access to records of a public body or public official:

1. May bring a civil suit for declarative or injunctive relief, or both, but such civil suit shall be limited to records requested and denied prior to filing of the civil suit; and

2. If successful, shall be entitled to reasonable attorney fees.

C. If the public body or public official successfully defends a civil suit and the court finds that the suit was clearly frivolous, the public body or public official shall be entitled to reasonable attorney fees.

D. A public body or public official shall not be civilly liable for damages for providing access to records as allowed under the Oklahoma Open Records Act.

Added by Laws 1985, SB 276, c. 355, § 17, eff. November 1, 1985; Amended by Laws 2005, HB 1553, c. 199, § 7, eff. November 1, 2005.

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Section 24A.18 – Additional Recordkeeping Requirements on Public Bodies or Public Officials not Imposed

51 O.S. § 24A.18:

Except as may be required in Section 24A.4 of this title, this act does not impose any additional recordkeeping requirements on public bodies or public officials.

Added by Laws 1985, SB 276, c. 355, § 18, eff. November 1, 1985; Amended by Laws 2005, HB 1553, c. 199, § 8, eff. November 1, 2005.

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Section 24A.20 – Access to Records in Possession of Public Body or Official for Investigatory Purposes

51 O.S. § 24A.20:

Access to records which, under the Oklahoma Open Records Act, would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file. However, a law enforcement agency may deny access to a copy of such a record in an investigative file if the record or a true and complete copy thereof is available for public inspection and copying at another public body.

Added by Laws 1988, HB 1846, c. 187, § 7, emerg. eff. June 6, 1988.

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Section 24A.21 – Fees Charged State Agency or Taxing Entity

51 O.S. § 24A.21:

The fees that may be charged by a public body pursuant to the provisions of paragraph 3 of Section 24A.5 of Title 51 of the Oklahoma Statutes shall not be charged when a state agency or taxing entity located within the boundaries of any district created pursuant to the provisions of

the Local Development Act request a copy of the reports required by subsections A and B of Section 18 of this act.

Added by Laws 1992, HB 1525, c. 342, § 21, emerg. eff. July 1, 1992.

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Section 24A.25 – Removal of Materials from the Public Record

51 O.S. § 24A.25:

Any order of the court for removal of materials from the public record shall require compliance with the provisions of paragraphs 2 through 7 of subsection C of Section 3226 of Title 12 of the Oklahoma Statutes.

Added by Laws 2000, SB 1329, c. 172, § 4, eff. November 1, 2000.

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Section 24A.26 – Intergovernmental Self-Insurance Pools

51 O.S. § 24A.26:

An intergovernmental self-insurance pool may keep confidential proprietary information, such as actuarial reports, underwriting calculations, rating information and records that are created based on conclusions of such information that are developed through the operation of the intergovernmental self-insurance pool.

Added by Laws 2000, HB 2428, c. 226, § 2, eff. November 1, 2000.

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Section 24A.27 – Confidentiality Vulnerability Assessments

51 O.S. § 24A.27:

A. Any state environmental agency or public utility shall keep confidential vulnerability assessments of critical assets in both water and wastewater systems. State environmental agencies or public utilities may use the information for internal purposes or allow the information to be used for survey purposes only. The state environmental agencies or public utilities shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. For purposes of this section:

1. “State environmental agencies” includes the:

- a. Oklahoma Water Resources Board,
- b. Oklahoma Corporation Commission,
- c. State Department of Agriculture,
- d. Oklahoma Conservation Commission,
- e. Department of Wildlife Conservation,
- f. Department of Mines, and
- g. Department of Environmental Quality;

2. “Public Utility” means any individual, firm, association, partnership, corporation or any combination thereof, municipal corporations or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

- a. producing, generating, transmitting, distributing, selling or furnishing electricity,
- b. the conveyance, transmission, reception or communications over a telephone system,
- c. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public, or
- d. the transportation, delivery or furnishing of water for domestic purposes or for power.

Added by Laws 2003, HB 1146, c. 166, § 1, emerg. eff. May 5, 2003.

Oklahoma Administrative Rules:

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

252:4-1-3. Organization

(a) **Environmental Quality Board.** The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage, petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 2-2-101.)

(b) **Advisory Councils.** There are seven advisory councils, each consisting of nine (9) members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or the Governor. (See further 27A O.S. § 2-2-201 and 59 O.S. § 1101 *et seq.*)

(c) **DEQ.** The DEQ consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, Customer Services and the State Environmental Laboratory.

Effective date – June 11, 2001