

APPENDIX O

Legal Authority

LEGAL AUTHORITY

27A O.S. §§ 1-3-101(B) and 2-5-105 give the Department of Environmental Quality (DEQ) jurisdiction over air quality in the state of Oklahoma, and, specifically, designate it as the administrative agency for the Oklahoma Clean Air Act (CAA) and the implementing state agency for the federal CAA. Additionally, upon recommendation of the Air Quality Advisory Council, the Environmental Quality Board has the authority, under 27A O.S. § 2-5-106, to adopt air quality regulations, for which DEQ is also the responsible administrative agency. In accordance with 27A O.S. § 2-3-101(E)(1) and OAC 252:4-1-3(c), DEQ has an Air Quality Division (AQD) that implements and carries out these statutory and regulatory authorities and responsibilities for the agency; the AQD has the authority to carry out all duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma CAA, for fulfilling the requirements of the federal CAA, and for the implementation of all air quality regulations adopted by the Environmental Quality Board. More specifically, DEQ's AQD has the statutory authority to:

- Enforce the Oklahoma CAA, applicable portions of the federal CAA, air quality regulations, compliance schedules, and orders of DEQ [27A O.S. §§ 1-1-202(A)(1), 2-3-202, 2-3-502, 2-3-504, 2-5-105(4) and (14), 2-5-110, and 2-5-117];
- Establish and implement a permitting program [27A O.S. §§ 2-5-105(2), and 2-5-112(B)];
- 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)];
- 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)]; Obtain information necessary to determine compliance [27A O.S. §§ 2-5-105(17) and (18)];
- Require recordkeeping, make inspections, and conduct tests [27A O.S. § 2-5-105(16) and (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 2-5-105(17)];
- Maintain and update an inventory of air emissions from stationary sources [27A O.S. § 2-5-105(18)];
- Make emissions data available to the public [51 O.S. §§ 24A.1 through 24A.30, subject to the exceptions outlined in §§ 24A.9, 24A.10a, 24A.11 through 24A.16a, 24A.19, 24A.22 through 24A.24, 24A.27, 24A.28, and 24A.30]; 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. §§ 1-1-202(A), 2-3-202, 2-5-105(20), 2-5-114, and 2-5-117].

Specifically, the Environmental Quality Board has the authority to:

- Adopt regulations, including emissions standards, which enable DEQ to implement the Oklahoma CAA and fulfill requirements of the federal CAA, and adopt all other rules necessary for the DEQ to implement its other duties and responsibilities [27A O.S. §§ 2-2-101(G)(2) and (H), 2-2-104, 2-5-106, 2-5-107, 2-5-112(C), 2-5-113(A) and (C), 2-5-114, and 2-5-130(C) and (E)];
- Assist the DEQ in conducting reviews and planning activities to establish goals,

- objectives, priorities, and policies of the DEQ [27A O.S. § 2-2-101(G)(4)];
- Review and evaluate the need for amendments or additions to the Oklahoma Statutes, including the Oklahoma CAA, regarding the programs and functions of the DEQ and make recommendations to the Legislature [27A O.S. § 2-2-101(G)(6)]; and
 - Approve the DEQ's budget requests [27A O.S. § 2-2-101(G)(3)].

LEGAL AUTHORITY
Text of Referenced Rules & Statutes

Oklahoma Statutes:

**Title 27A. Environment and Natural Resources Chapter 1 - Oklahoma Environmental Quality Act Article 1 – Environmental Offices and Agencies
Section 1-1-202 - Powers of State Environmental Agency**

27A O.S. § 1-1-202:

A. Each state environmental agency shall:

1. Be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility;
2. Utilize and enforce the Oklahoma Water Quality Standards established by the Oklahoma Water Resources Board;
3. Seek to strengthen relationships between state, regional, local and federal environmental planning, development and management programs;
4. Specifically facilitate cooperation across jurisdictional lines of authority with other state environmental agencies regarding programs to resolve environmental concerns;
5. Cooperate with all state environmental agencies, other state agencies and local or federal governmental entities to protect, foster, and promote the general welfare, and the environment and natural resources of this state;
6. Have the authority to engage in environmental and natural resource information dissemination and education activities within their respective areas of environmental jurisdiction; and
7. Participate in every hearing conducted by the Oklahoma Water Resources Board for the consideration, adoption or amendment of the classification of waters of the state and standards of purity and quality thereof, and shall have the opportunity to present written comment to the members of the Oklahoma Water Resources Board at the same time staff recommendations are submitted to those members for Board review and consideration.

Added by Laws 1993, HB 1002, c. 145, § 4, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 1, emerg. eff. July 1, 1993; Amended by Laws 1999, SB 549, c. 413, § 2, eff. November 1, 1999; Amended by Laws 2013, HB 1455, c. 227, § 5, eff. November 1, 2013.

**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(B):

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;

9. Hazardous waste and solid waste, including industrial, commercial and municipal waste;
10. Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986;
11. Radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for electronic products used for diagnosis by diagnostic x-ray facilities and electronic products used for bomb detection by public safety bomb squads within law enforcement agencies of this state or within law enforcement agencies of any political subdivision of this state;
12. Water, waste, and wastewater treatment systems including, but not limited to, septic tanks or other public or private waste disposal systems;
13. Emergency response as specified by law;
14. Environmental laboratory services and laboratory certification;
15. Hazardous substances other than branding, package and labeling requirements;
16. Freshwater wellhead protection;
17. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department;
18. Utilization and enforcement of Oklahoma Water Quality Standards and implementation documents;
19. Environmental regulation of any entity or activity, and the prevention, control and abatement of any pollution, not subject to the specific statutory authority of another state environmental agency;
20. Development and maintenance of a computerized information system relating to water quality pursuant to Section 1-4-107 of this title;
21. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility; and
22. Development and utilization of policies and requirements necessary for the implementation of Oklahoma Groundwater Quality Standards to the extent that the implementation of such standards are within the scope of the Department's jurisdiction, including but not limited to the establishment of points of compliance when warranted.

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; Amended by Laws 2017, SB 287, c. 129, § 1, eff. November 1, 2017; Amended by Laws 2018, SB 1147, c. 137, § 1, eff. November 1, 2018.

**Title 27A. Environment and Natural Resources Chapter 2 - Oklahoma
Environmental Quality Code Article II - Environmental Quality Board
and Councils Part 1. - Environmental Quality Board
Section 2-2-101 – Creation of the Environmental Quality Board - Members**

27A O.S. § 2-2-101(G) and (H):

G. The Board shall:

1. Appoint and fix the compensation of the Executive Director of the Department of Environmental Quality;
2. Be the rulemaking body for the Department of Environmental Quality;
3. Review and approve the budget request of the Department to the Governor;
4. Assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities and policies of the Department;
5. In conjunction with each regular meeting of the Board pursuant to subsection F and at such other times as the Board may determine to be necessary and appropriate, provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Department. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Department in response to comments received or upon the Board's own initiative; and
6. Review and evaluate the need for amendments or additions to the Oklahoma Statutes regarding the programs and functions of the Department and make legislative recommendations to the Legislature.

H. As the rulemaking body for the Department of Environmental Quality, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Department pursuant to this Code. Except as provided in this subsection, rules within the jurisdiction of a Council provided for by this act shall be promulgated with the advice of such Council. Proposed permanent rules within the jurisdiction of a Council shall not be considered by the Board for promulgation until receipt of the appropriate Council's recommendation on such promulgation; however, the Board may promulgate emergency rules without the advice of the appropriate Council when the time constraints of the emergency, as determined by the Board, do not permit the timely development of recommendations by the Council. All actions of the Councils with regard to rulemaking shall be deemed actions of the Board for the purposes of complying with the Administrative Procedures Act.

Added by Laws 1992, HB 2227, c. 398, § 7, eff. January 1, 1993; Amended by Laws 1993, HB 1002, c. 145, § 14, emerg. eff. July 1, 1993; Renumbered from 27A O.S § 7 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 55, eff. July 1, 1993; Amended by Laws 2001, SB 366, c. 110, § 1, emerg. eff. April 18, 2001; Amended by Laws 2005, SB 599, c. 20, § 1, emerg. eff. April 5, 2005.

**Title 27A. Environment and Natural Resources Chapter 2 - Oklahoma Environmental Quality Code Article II - Environmental Quality Board and Councils 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 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;

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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 III - Department of Environmental Quality and Executive Director Part 2.
Executive Director
Section 2-3-202 – Powers and Duties of Department**

27A O.S. § 2-3-202:

A. Within its jurisdictional areas of responsibility, the Department, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1. Access any premises at any reasonable time upon presentation of identification for purposes of administering this Code, and the right to apply to and obtain from a judge of the district court, an administrative or other warrant as necessary to enforce such access;
2. Determine and assess administrative penalties, take or request civil action, request criminal prosecution or take other administrative or civil action as specifically authorized by this Code or other law against any person or entity who has violated any of the provisions of this Code, rules promulgated thereunder, or any permit, license or order issued pursuant thereto;
3. Investigate or cause to be investigated alleged violations of this Code, rules promulgated thereunder, or permits, licenses or orders issued pursuant thereto;
4. Conduct investigations, inquiries and inspections, including but not limited to, the review of records and the collection of samples for laboratory analyses;
5. Conduct hearings and issue subpoenas according to the Administrative Procedures Act, this Code and rules promulgated by the Board, and file contempt proceedings against any person disobeying or refusing to comply with such subpoena;
6. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, industries, other states and the federal government, and other persons;
7. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program relating to environmental services or pollution control;
8. Require the establishment and maintenance of records and reports, and the installation, use, and maintenance of monitoring equipment or methods, and the provision of such information to the Department upon request;

9. Establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide application of law and rules;
10. Enforce the provisions of this Code and rules promulgated thereunder and orders, permits and licenses issued pursuant thereto;
11. Charge and receive fees pursuant to fee schedules promulgated by the Board;
12. Register persons, property and activities as required by this Code or rules promulgated by the Board;
13. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by this Code;
14. Collect and disseminate information and engage in environmental education activities relating to the provisions of this Code;
15. Provide a toll-free hot line for environmental complaints;
16. Enter into interagency agreements;
17. Sell films, educational materials and other items produced by the Department and sell, exchange or otherwise dispose of obsolete personal property belonging to the Department unless otherwise required by terms of federal grants;
18. Provide administrative and support services to the Board and the Councils as necessary to assist them in the performance of their duties; and
19. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of this Code.

B. The provisions of this part shall extend to all programs administered by the Department regardless of whether the statutes creating such program are codified in Title 27A of the Oklahoma Statutes.

Added by Laws 1993, HB 1002, c. 145, § 21, emerg. eff. July 1, 1993.

**Title 27A. Environment and Natural Resources Chapter 2 -
Oklahoma Environmental Quality Code
Article III - Department of Environmental Quality and Executive Director Part 5. General
Regulation and Enforcement
Section 2-3-502 – Violations of the Code**

27A O.S. § 2-3-502:

A. If upon inspection or investigation, or whenever the Department determines that there are reasonable grounds to believe that any person is in violation of this Code or any rule promulgated thereunder or of any order, permit or license issued pursuant thereto, the Department may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct such violation immediately or within a set time period or both and that the failure to do so will result in the issuance of a compliance order.

B. In addition to any other remedies provided by law, the Department may, after service of the notice of violation, issue a proposed compliance order to such person. A proposed compliance order shall become a final order unless, no later than fifteen (15) days after the order is served, any respondent named therein requests an administrative enforcement hearing.

1. The proposed compliance order may, pursuant to subsection K of this section:

a. assess an administrative penalty for past violations of this Code, rules promulgated thereunder, or the terms and conditions of permits or licenses issued pursuant thereto, and

b. propose the assessment of an administrative penalty for each day the respondent fails to comply with the compliance order.

2. Such proposed order may specify compliance requirements and schedules, or mandate corrective action, or both.

C. Failure to comply with a final compliance order, in part or in whole, may result in the issuance of an assessment order assessing an administrative penalty as authorized by law, or a supplementary order imposing additional requirements, or both. Any proposed order issued pursuant to this subsection shall become final unless, no later than seven (7) days after its service, any respondent named therein requests an administrative enforcement hearing.

D. Notwithstanding the provisions of subsection A and B of this section, the Executive Director, after notice and opportunity for an administrative hearing, may revoke, modify or suspend the holder's permit or license in part or in whole for cause, including but not limited to the holder's:

1. Flagrant or consistent violations of this Code, of rules promulgated thereunder or of final orders, permits or licenses issued pursuant thereto;

2. Reckless disregard for the protection of the public and the environment as demonstrated by noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

3. Actions causing, continuing, or contributing to the release or threatened release of pollutants or contaminants to the environment.

E. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment, the Executive Director may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. Such hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the Executive Director shall sustain or modify such order.

F. Except as otherwise expressly provided by law, any notice of violation, order, or other instrument issued by or pursuant to authority of the Department may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail return-receipt requested directed to such person at his last-known post office address as shown by the files or records of the Department. Proof of service shall be made as in the case of service of a summons or by publication in a civil action. Such proof of service shall be filed in the Office of Administrative Hearings.

G. Every certificate or affidavit of service made and filed shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

H. 1. The administrative hearings provided for in this section shall be conducted as individual proceedings in accordance with, and a record thereof maintained pursuant to, Article II of the Administrative Procedures Act, this Code and rules promulgated thereunder. When a hearing is timely requested by a respondent pursuant to this section, the Department shall promptly conduct such hearing.

2. Such hearing shall be conducted by an Administrative Law Judge or by the Executive Director. When an Administrative Law Judge holds the hearing, such Judge shall prepare a proposed order and shall:

a. serve it on the parties, by regular mail, and may offer an opportunity for parties to file exceptions to the proposed order before a final order is entered in the event the Executive Director does not review the record, and

b. present the proposed order, the exceptions, if any, and the record of the matter to the Executive Director, or

c. present the proposed order and the record of the matter to the Executive Director for review and entry of a final order for any default, failure to appear at the hearing or if the parties by written stipulation waive compliance with subparagraph a of this paragraph.

3. For administrative proceedings conducted by an Administrative Law Judge pursuant to this

section, the Executive Director may adopt, amend or reject any findings or conclusions of the Administrative Law Judge or exceptions of any party and issue a final order accordingly, or may in his discretion remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for the purpose. A final order shall not be issued by the Executive Director until after:

- a. the opportunity for exceptions has lapsed without receiving exceptions, or after exceptions, briefs and oral arguments, if any, are made, or
- b. review of the record by the Executive Director.

4. Any order issued by the Department shall become final upon service.

I. Any party aggrieved by a final order may petition the Department for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

J. If the Attorney General seeks redress on behalf of the state, as provided for in subsection I of this section, the Executive Director is empowered to appoint a special counsel for such proceedings.

K. 1. Unless specified otherwise in this Code, any penalty assessed or proposed in an order shall not exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance.

2. The determination of the amount of an administrative penalty shall include, but not be limited to, the consideration of such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the respondent from the violation, the history of such violations and respondent's degree of culpability and good faith compliance efforts. For purposes of this section, each day, or part of a day, upon which such violation occurs shall constitute a separate violation.

L. Notwithstanding the provisions of subsections A and B of this section, the Department may, within three (3) years of discovery, apply for the assessment of an administrative penalty for any violation of this Code, or rules promulgated thereunder or permits or licenses issued pursuant thereto.

M. Any order issued pursuant to this section may require that corrective action be taken. If corrective action must be taken on adjoining property, the owner of such adjoining property shall not give up any right to recover damages from the responsible party by allowing corrective action to occur.

N. Inspections, investigations, administrative enforcement hearings and other administrative actions or proceedings pursuant to the Code shall not be the basis for delaying judicial proceedings between private parties involving the same subject matter.

Added by Laws 1993, HB 1002, c. 145, § 26, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 832, c. 353, § 6, emerg. eff. July 1, 1994; Amended by Laws 1999, SB 241, c. 381, § 5 emerg. eff. June 8, 1999.

**Title 27A. Environment and Natural Resources Chapter 2 -
Oklahoma Environmental Quality Code
Article III - Department of Environmental Quality and Executive Director Part 5. General
Regulation and Enforcement
Section 2-3-504 – Penalties for Violations of the Code**

27A O.S. § 2-3-504:

A. Except as otherwise specifically provided by law, any person who violates any of the provisions of, or who fails to perform any duty imposed by, the Oklahoma Environmental Quality Code or who violates any order, permit or license issued by the Department of Environmental Quality or rule promulgated by the Environmental Quality Board pursuant to this Code:

1. Shall be guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not less than Two Hundred Dollars (\$200.00) for each violation and not more than Ten Thousand Dollars (\$10,000.00) for each violation or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment;
2. May be punished in civil proceedings in district court by assessment of a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each violation;
3. May be assessed an administrative penalty pursuant to Section 2-3-502 of this title not to exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance; or
4. May be subject to injunctive relief granted by a district court. A district court may grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code or any rule promulgated thereunder or order, license or permit issued pursuant to this Code.

B. Nothing in this part shall preclude the Department from seeking penalties in District Court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of this Code.

C. Any person assessed an administrative or civil penalty shall be required to pay, in addition to such penalty amount and interest thereon, attorneys fees and costs associated with the collection of such penalties.

D. For purposes of this section, each day or part of a day upon which such violation occurs shall

constitute a separate violation.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this Code or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of this Code or of any rule promulgated thereunder, or order, license, or permit issued pursuant thereto or for recovery of any administrative or civil penalty assessed pursuant to this Code may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. In any judicial action in which the Department seeks injunctive relief and alleges by verified petition that:

a. the defendant's actions or omissions constitute a violation of the Code or a rule, order, license or permit, and

b. the actions or omissions present an imminent and substantial endangerment to health or the environment if allowed to continue during the pendency of the action,

the Department shall be entitled to obtain a temporary order or injunction to prohibit such acts or omissions to the extent they present an imminent and substantial endangerment to health or the environment. Such temporary order or injunction shall remain in effect during the pendency of the judicial action until superceded or until such time as the court finds that the criteria of subparagraphs a and b of this paragraph no longer exist. If a temporary order or injunction has been issued without prior hearing, the court shall schedule a hearing within twenty (20) days after issuance of the temporary order to determine whether the temporary order should be lifted and a preliminary injunction should issue. The Department shall bear the burden of proof at such hearing.

4. It shall be the duty of the Attorney General and district attorney to bring such actions, if requested by the Executive Director of the Department.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the Department of Environmental Quality Revolving Fund.

H. In determining the amount of a civil penalty the court shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.

I. In addition to or in lieu of any administrative enforcement proceedings available to the Department, the Department may take or request civil action or request criminal prosecution, or both, as provided by law for any violation of this Code, rules promulgated thereunder, or orders issued, or conditions of permits, licenses, certificates or other authorizations prescribed pursuant thereto.

Added by Laws 1993, HB 1002, c. 145, § 28, emerg. eff. July 1, 1993; Amended by Laws 1998, SB 992, c. 186, § 1, emerg. eff. November 1, 1998.

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. Expediently 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;
7. Issue:
- a. general permits covering similar sources, and
 - b. permits to sources in violation, when compliance plans, which shall be enforceable by the Department, are incorporated into the permit;
7. Require, at a minimum, that emission control devices on stationary sources be reasonably maintained and properly operated;
8. Require that a permittee certify that the facility is in compliance with all applicable requirements of the permit and to promptly report any deviations therefrom to the Department;
9. Issue permits to sources requiring permits under Title V of the Federal Clean Air Act for a term not to exceed five (5) years, except that solid waste incinerators may be allowed a term of up to twelve (12) years provided that the permit shall be reviewed no less frequently than every five (5) years;
10. Specify requirements and conditions applicable to the content and submittal of permit applications; set by rule, a reasonable time in which the Department must determine the completeness of such applications; and
11. Determine the form and content of emission inventories and require their submittal by any source or potential source of air contaminant emissions.
- C. Rules of the Board may set limits below which a source of air contaminants may be exempted from the requirement to obtain a permit or to pay any fee. Any source so exempted, however, shall remain under jurisdiction of the Department and shall be subject to any applicable rules or general permit requirements. Such rules shall not prohibit sawmill facilities from open burning any wood waste resulting from the milling of untreated cottonwood lumber in areas that have always attained ambient air quality standards.

D. To ensure against unreasonable delay on the part of the Department, the failure of the Department to act in either the issuance, denial or renewal of a permit in a reasonable time, as determined by rule, shall be deemed to be a final permit action solely for purpose of judicial review under the Administrative Procedures Act, with regard to the applicant or any person who participated in the public review process. The Supreme Court or the district court, as the case may be, may require that action be taken by the Department on the application without additional delay. No permit, however, may be issued by default.

E. The Department shall notify, or require that any applicant notify, all states whose air quality may be affected and that are contiguous to the State of Oklahoma, or are within fifty (50) miles of the source of each permit application or proposed permit for those sources requiring permits under Title V of the Federal Clean Air Act, and shall provide an opportunity for such states to submit written recommendations respecting the issuance of the permit and its terms and conditions.

F. No person, including but not limited to the applicant, shall raise any reasonably ascertainable issue in any future proceeding, unless the same issues have been raised and documented before the close of the public comment period on the draft permit.

G. A change in ownership of any facility or source subject to permitting requirements under this section shall not necessitate any action by the Department not otherwise required by the Oklahoma Clean Air Act. Any permit applicable to such source at the time of transfer shall be enforceable in its entirety against the transferee in the same manner as it would have been against the transferor, as shall any requirement contained in any rule, or compliance schedule set forth in any variance or order regarding or applicable to such source. Provided, however, no transferee in good faith shall be held liable for penalties for violations of the transferor unless the transferee assumes all assets and liabilities through contract or other means. For the purposes of this subsection, good faith shall be construed to mean neither having actual knowledge of a previous violation nor constructive knowledge which would lead a reasonable person to know of the violation. It shall be the responsibility of the transferor to notify the Department in writing within thirty (30) days of the change in ownership.

H. Operating permits may be issued to new sources without public review upon a proper determination by the Department that:

1. The construction permit was issued pursuant to the public review requirements of the Code and rules promulgated thereunder; and
2. The operating permit, as issued, does not differ from the construction permit in any manner which would otherwise subject the permit to public review.

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 2-5-113 – Permit Fees

27A O.S. § 2-5-113:

A. Upon the effective date of rules promulgated pursuant to the Oklahoma Clean Air Act establishing a schedule of permit fees, the owner or operator of any source required to have a permit shall be subject to pay to the Department or, upon delegation, the appropriate city-county authority:

1. A fee sufficient to cover the reasonable cost of reviewing and acting upon any application for a construction or operating permit for any new source or for the modification of any existing source;

2. An annual operating permit fee sufficient to cover the reasonable costs, both direct and indirect, of implementing and enforcing the permit program authorized by the Oklahoma Clean Air Act and the Federal Clean Air Act, including, but not to be limited to:

- a. the costs of reviewing and acting upon any permit renewal,
- b. emissions and ambient monitoring, for those costs incurred under the permitting program,
- c. preparing generally applicable rules or guidance,
- d. modeling, monitoring, analyses and demonstrations,
- e. preparing inventories and tracking emissions, and
- f. inspections and enforcement.

B. The annual operating fee may be imposed in graduated yearly increases as necessary to cover the above costs, but for any major source, affected source, or any source, including an area source, subject to standards or regulations under Section 111 or 112 of the Federal Clean Air Act, any source required to have a permit under parts C or D of Title I of the Federal Clean Air Act, or any other source as may be required to have a permit pursuant to the Federal Clean Air Act, the fee, beginning January 1, 1993, shall be Ten Dollars (\$10.00) per ton of regulated air contaminant, due and payable upon receipt of invoice. Thereafter, following rulemaking, the

annual operating fee shall be Twenty-five Dollars (\$25.00) per ton or such amount, either higher or lower, as is determined to adequately reflect the demonstrated reasonable costs of the operating permit program. Fees may be based upon the amount of regulated air contaminant allowed by permit to be emitted, or upon actual emissions properly determined, or both; provided, however, that the rate per ton shall be the same whether applied to actual or to allowable emissions. The applicant shall annually have the option to elect either actual or allowable emissions as the basis for calculating the operating fee. For other sources subject to permitting requirements, fees may be assessed consistent with the criteria in subsection A of this section. No fee, however, shall be required for the emission of carbon monoxide and no assessment shall be made for emissions in excess of four thousand (4,000) tons per contaminant per year per source, or any group or stationary sources located within a contiguous area and under common control.

C. The fees authorized in this section shall be set forth by rule and shall preclude collection of any additional permitting fees by any other state or local governmental authority for emission of the same air contaminants. Provided further, in the event that a particular substance may exhibit the characteristics of more than one type of regulated air contaminant, and to prevent a double fee from being assessed, the Department may assign only one single classification to that particular substance for fee assessment purposes. For those sources subject to the fee specified in subsection B of this section, the rule shall further provide for the annual operating fee to be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For the purposes of this subsection:

1. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor as of the close of the twelve-month period ending on August 31 of each calendar year; and
2. The revision of the Consumer Price Index which is the most consistent with the Consumer Price Index for calendar year 1989 shall be used.

D. Any fee not received by the Department within the prescribed time period allotted for payment, unless a lesser amount shall be provided for by rule, shall be subject to a one and one-half percent (1 1/2%) per month penalty.

E. There is hereby created within the Department of Environmental Quality Revolving Fund, a subaccount which shall consist of all permit fees collected by the Department pursuant to Title V of the federal Clean Air Act as authorized by the Oklahoma Clean Air Act. All monies accruing to the credit of such subaccount shall be budgeted and expended by the Department for the sole purpose of implementing the permit program as set forth in Title V of the Federal Clean Air Act and the Oklahoma Clean Air Act.

Added by Laws 1992, HB 2251, c. 215, § 13, emerg. eff. May 15, 1992; Added by Laws 1993, HB 1002, c. 145, § 50, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1814 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324,

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 27A. Environment and Natural Resources Chapter 2 - Oklahoma Environmental Quality Code Article V - Oklahoma Clean Air Act
Section 2-5-130 – Prohibition of Air Curtain Incinerator - Defining Terms - Promulgation of Rules - Public Nuisance

27A O.S. 2-5-130

A. 1. The Department of Environmental Quality shall not require the use of an air curtain incinerator for fires purposely set for land clearing operations except in counties or areas within a county that:

a. are or have been designated nonattainment for National Ambient Air Quality Standards (NAAQS) or where the Department-certified ambient air quality monitoring data documents a violation of primary NAAQS prior to such determination, or

b. have a population of greater than five hundred thousand (500,000) people according to the latest Federal Decennial Census.

2. For the purposes of this section, "air curtain incinerator" means an incineration unit, operating by forcefully projecting a curtain of air across an open integrated combustion chamber or open pit or trench, in which combustion occurs.

B. The Department shall not require the use of an air curtain incinerator for fires purposely set for the burning of clean wood waste or yard brush except in counties or areas within a county that:

1. Are or have been designated nonattainment for National Ambient Air Quality Standards (NAAQS) or where the Department-certified ambient air quality monitoring data documents a violation of primary NAAQS prior to such determination; or

2. Have a population of greater than five hundred thousand (500,000) people according to the latest Federal Decennial Census.

C. The Department may promulgate rules to limit accumulation of clean wood waste or yard brush.

D. The burning of clean wood waste or yard brush shall not create a public nuisance.

E. The Department shall promulgate rules to carry out the provisions of this section.

Laws 2019, SB 1005, c. 230, § 1, eff. November 1, 2019; Amended by Laws 2021, SB 246, c. 399, § 1, eff. November 1, 2021

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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Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.3 – Definitions

51 O.S. § 24A.3:

As used in the Oklahoma Open Records 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 July 1, 2002, 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, or

(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;

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; Amended by Laws 2014, HB 2676, c. 266, § 2, eff. November 1, 2014.

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Chapter 1 – General

Provisions Oklahoma Open

Records Act

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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Chapter 1 – General Provisions
Oklahoma Open Records Act
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.30 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,

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

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, or

e. any test forms, question banks and answer keys developed for state licensure examinations, but specifically excluding test preparation materials or study guides;

2. All Social Security numbers included in a record may be confidential regardless of the person's status as a public employee or private individual and may be redacted or deleted prior to release of the record by the public body;

3. 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;

4. 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;

5. 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;

6. 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. A delay in providing access to records shall be limited solely to the time required for preparing the requested documents and the avoidance of excessive disruptions of the public body's essential functions. In no event may production of a current request for records be unreasonably delayed until after completion of a prior records request that will take substantially longer than the current request. Any public body which makes the requested records available on the Internet shall meet the obligation of providing prompt, reasonable access to its records as required by this paragraph; and

7. 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; Amended by Laws 2015, HB 1037, c. 370, § 1, emerg. eff. June 4, 2015; Amended by Laws 2016, HB 2281, c. 54, § 1, eff. November 1, 2016; Amended by Laws 2016, HB 2510, c. 192, § 1, eff. November 1, 2016; Amended by Laws 2017, SB 191, c. 202, § 1, eff. November 1, 2017.

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Chapter 1 – General Provisions

Oklahoma Open Records Act

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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Chapter 1 – General Provisions
Oklahoma Open Records Act
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 or D 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. The home addresses, home telephone numbers, Social Security numbers, private email addresses, and private mobile phone numbers of current and former public employees shall not be open to public inspection or disclosure; provided, however, that nothing in this subsection shall be construed to exempt from disclosure public records created using a private email address or private mobile phone.

E. Except as otherwise required by Section 6–101.16 of Title 70 of the Oklahoma Statutes, public bodies shall keep confidential all records created pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) which identify a current or former public employee and contain any evaluation, observation or other TLE record of such employee.

Added by Laws 1985, SB 276, c. 355, § 7, eff. November 1, 1985; Amended by Laws 1990,

HB1883, 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; Amended by Laws 2014, HB 3173, c. 130, § 1, eff. November 1, 2014. Amended by Laws 2021, HB 1876, c. 382, § 1, emerg. eff. May 3, 2021

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Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.8 – Law Enforcement Agency Records Available for Public Inspection

51 O.S. § 24A.8:

A. Law enforcement agencies shall make available for public inspection and copying, if kept, the following records:

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.
9. Audio and video recordings from recording equipment attached to law enforcement vehicles and/or on the person of a law enforcement officer; provided, the law enforcement agency may, before releasing any audio or video recording, redact or obscure specific portions of the recording which:
 - a. depict the death of a person or a dead body, unless the death was effected by a law

enforcement officer,

b. depict nudity,

c. would identify minors under the age of sixteen (16) years or would undermine any requirement to keep certain juvenile records confidential as provided for in Title 10A of the Oklahoma Statutes

d. depict acts of severe violence resulting in great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, against persons that are clearly visible, unless the act of severe violence was effected by a law enforcement officer,

e. depict great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, unless the great bodily injury was effected by a law enforcement officer,

f. include personal medical information that is not already public,

g. would undermine the assertion of a privilege provided in Section 1-109 or Section 3-428 of Title 43A of the Oklahoma Statutes for detention or transportation for mental health evaluation or treatment or drug or alcohol detoxification purposes,

h. include personal information other than the name or license plate number of a person not arrested, cited, charged or issued a written warning. Such personal information shall include any government-issued identification number, date of birth, address or financial information, or

i. reveal the identity of law enforcement officers who have become subject to internal investigation by the law enforcement agency as a result of an event depicted in the recording. The option to protect the identity of a law enforcement officer shall not be available to the law enforcement agency after the law enforcement agency has concluded the investigation and rendered a decision as to final disciplinary action. At such time when an investigation has concluded and the law enforcement agency has rendered its decision as to final disciplinary action, the portions of the recordings previously withheld as provided for in this subparagraph shall be available for public inspection and copying. The audio and video recordings withheld as provided for in this subparagraph shall be available for public inspection and copying before the conclusion of the investigation if the investigation lasts for an unreasonable amount of time; and

10. a. Audio and video recordings from recording equipment attached to the person of a law enforcement officer that depict:

(1) the use of any physical force or violence by a law enforcement officer,

(2) pursuits of any kind,

(3) traffic stops

(4) any person being arrested, cited, charged or issued a written warning,

(5) events that directly led to any person being arrested, cited, charged or receiving a written warning,

(6) detentions of any length for the purpose of investigation,

(7) any exercise of authority by a law enforcement officer that deprives a citizen of his or her liberty,

(8) actions by a law enforcement officer that have become the cause of an investigation or charges being filed,

(9) recordings in the public interest that may materially aid a determination of whether law enforcement officers are appropriately performing their duties as public servants, or

(10) any contextual events occurring before or after the events depicted in divisions (1) through (9) of this subparagraph.

b. Notwithstanding the provisions of subparagraph a of this paragraph, the law enforcement agency may, before releasing any audio or video recording provided for in this paragraph, redact or obscure specific portions of the recording that:

(1) depict the death of a person or a dead body, unless the death was effected by a law enforcement officer,

(2) depict nudity,

(3) would identify minors under the age of sixteen (16) years or would undermine any requirement to keep certain juvenile records confidential as provided for in Title 10A of the Oklahoma Statutes

(4) depict acts of severe violence resulting in great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, against persons that are clearly visible, unless the act of severe violence was effected by a law enforcement officer,

(5) depict great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, unless the great bodily injury was effected by a law enforcement officer,

(6) include personal medical information that is not already public,

(7) would undermine the assertion of a privilege provided in Section 1-109 or Section 3-428 of Title 43A of the Oklahoma Statutes for detention or transportation for mental health evaluation or treatment or drug or alcohol detoxification purposes,\

(8) identify alleged victims of sex crimes or domestic violence,

(9) identify any person who provides information to law enforcement or the information provided

by that person when that person requests anonymity or where disclosure of the identity of the person or the information provided could reasonably be expected to threaten or endanger the physical safety or property of the person or the physical safety or property of others,

(10) undermine the assertion of a privilege to keep the identity of an informer confidential as provided for in Section 2510 of Title 12 of the Oklahoma Statutes,

(11) include personal information other than the name or license plate number of a person not officially arrested, cited, charged or issued a written warning. Such personal information shall include any government-issued identification number, date of birth, address or financial information,

(12) include information that would materially compromise an ongoing criminal investigation or ongoing criminal prosecution, provided that:

(a) ten (10) days following the formal arraignment or initial appearance, whichever occurs first, of a person charged in the case in question, the recording shall be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division. Provided, before potential release of a recording as provided for in this subdivision, the prosecutor or legal representative of the person charged may request from the appropriate district court an extension of time during which the recording may be withheld under the provisions of this division. When a request for an extension of time has been filed with the court, the recording in question may be withheld until the court has issued a ruling. Such requests for an extension of the time during which the recording may be withheld may be made on the grounds that release of the recording will materially compromise an ongoing criminal investigation or criminal prosecution or on the grounds that release of the recording will materially compromise the right of an accused to a fair trial that has yet to begin. Courts considering such requests shall conduct a hearing and consider whether the interests of the public outweigh the interests asserted by the parties. In response to such requests, the court shall order that the recording be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division or order an extension of time during which the recording may be withheld under the provisions of this division. Provided further, each such time extension shall only be ordered by the court for an additional six-month period of time or less and cumulative time extensions shall not add up to more than eighteen (18) months, or

(b) in the event that one hundred twenty (120) days expire from the date of the events depicted in the recording without any person being criminally charged in the case in question and release of a recording or portions of a recording have been denied on the grounds provided for in this division, an appeal of such denial may be made to the appropriate district court. In situations where one hundred twenty (120) days have expired since the creation of the recording, criminal charges have not been filed against a person and the recording is being withheld on the grounds provided for in this division, courts considering appeals to the use of the provisions of this division for temporarily withholding a recording shall conduct a hearing and consider whether the interests of the public outweigh the interests of the parties protected by this division. In response to such appeals, the district court shall order that the recording be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division or order an extension of time during which the recording may be

withheld under the provisions of this division. An order granting an extension of time shall be applicable to the recording against all appellants for the duration of the extension. Provided, each such time extension shall only be ordered by the district court for an additional twelve-month period of time or less and cumulative time extensions shall not add up to more than three (3) years. Provided, charges being filed against a person in the case in question automatically cancels any extension of time. A new request for an extension of time following an arraignment or initial appearance may be requested by the parties on the grounds and under the terms provided for in subdivision (a) of this division.

The options presented in this division to potentially withhold a recording or portions of a recording on the grounds provided for in this division shall expire in totality four (4) years after the recording was made at which time all recordings previously withheld on the grounds provided for in this division shall be made available for public inspection and copying, or

(13) reveal the identity of law enforcement officers who have become subject to internal investigation by the law enforcement agency as a result of an event depicted in the recording. The option to protect the identity of a law enforcement officer shall not be available to the law enforcement agency after the law enforcement agency has concluded the investigation and rendered a decision as to final disciplinary action. At such time when an investigation has concluded and the law enforcement agency has rendered its decision as to final disciplinary action, the portions of the recordings previously withheld as provided for in this division shall be available for public inspection and copying. The audio and video recordings withheld on the grounds provided for in this division shall be available for public inspection and copying before the conclusion of the investigation if the investigation lasts for an unreasonable amount of time.

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. The provisions of this section shall not operate to deny access to law enforcement records if such records have been previously made available to the public as provided in the Oklahoma Open Records Act or as otherwise provided by law.

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; Amended by Laws 2014, HB 2676, c. 266, § 3, eff. November 1, 2014; Amended by Laws 2015, HB 1037, c. 370, § 2, emerg. eff. June 4, 2015.

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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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Chapter 1 – General Provisions
Oklahoma Open Records Act
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 shall be subject to full disclosure pursuant to Section 24A.1 et seq. of this title.

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, institutions within the Oklahoma State System of Higher

Education, and the Department of Corrections 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, the Oklahoma Film and Music Office, institutions within the Oklahoma State System of Higher Education, and the Department of Corrections 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; Amended by Laws 2015, SB 23, c. 41, § 1, eff. November 1, 2015; Amended by Laws 2018, SB 1153, c. 197, § 1.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.10a – Confidential Market Research and Marketing Plans

51 O.S. § 24A.10a:

The Oklahoma Medical Center may keep confidential market research conducted by and marketing plans developed by the Oklahoma Medical Center if the Center determines that disclosure of such research or plans would give an unfair advantage to competitors of the Oklahoma Medical Center regarding marketing research and planning, public education, and advertising and promotion of special and general services provided by the Oklahoma Medical Center.

Added by Laws 1988, HB 1567, c. 266, § 22, emerg. eff. July 1, 1988.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.11 – Confidential Library, Archive, or Museum Materials

51 O.S. § 24A.11:

A. A public body may keep confidential library, archive, or museum materials donated to the public body to the extent of any limitations imposed as a condition of the donation and any information which would reveal the identity of an individual who lawfully makes a donation to or on behalf of a public body including, but not limited to, donations made through a foundation operated in compliance with Sections 5-145 and 4306 of Title 70 of the Oklahoma Statutes.

B. If library, archive, or museum materials are donated to a public body and the donation may be claimed as a tax deduction, the public body may keep confidential any information required as a condition of the donation except the date of the donation, the appraised value claimed for the donation, and a general description of the materials donated and their quantity.

Added by Laws 1985, SB 276, c. 355, § 11, eff. November 1, 1985; Amended by Laws 1992, HB 2142, c. 231, § 3, emerg. eff. May 19, 1992.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.12 – Confidential Litigation Files and Investigatory Reports

51 O.S. § 24A.12:

Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, the Workers’ Compensation Commission, the office of the district attorney of any county of the state, and the office of the municipal attorney of any municipality may keep its litigation files and investigatory reports confidential.

Added by Laws 1985, SB 276, c. 355, § 12, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 6, emerg. eff. June 6, 1988. Amended by Laws 2021, SB 1013, c. 583, § 1, emerg. eff. May 28, 2021.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers

Chapter 1 – General Provisions

Oklahoma Open Records Act

Section 24A.15 – Confidential Crop and Livestock Reports Provided by Farmers, Ranchers, and Agribusinesses

51 O.S. § 24A.15:

A. The Division of Agricultural Statistics, Oklahoma Department of Agriculture, also known as the Oklahoma Crop and Livestock Reporting Service, may keep confidential crop and livestock reports provided by farmers, ranchers, and agribusinesses to the extent the reports individually identify the providers.

B. The State Board of Agriculture is authorized to provide for the confidentiality of any financial statement filed pursuant to Section 9-22 of Title 2 of the Oklahoma Statutes. Copies of such financial statements may only be obtained upon written request to the Commissioner of Agriculture.

Upon good cause shown, and at the discretion of the Commissioner of Agriculture, such financial statements may be released.

Added by Laws 1985, SB 276, c. 355, § 15, eff. November 1, 1985; Amended by Laws 1988, HB 1830, c. 259, § 14, emerg. eff. June 29, 1988.

Title 51. Officers

Chapter 1 – General Provisions

Oklahoma Open Records Act

Section 24A.16 – Confidential Records of Public Educational Institutions – Statistical and Directory Information

51 O.S. § 24A.16:

A. Except as set forth in subsection B of this section, public educational institutions and their employees may keep confidential:

1. Individual student records;
2. Teacher lesson plans, tests and other teaching material; and
3. Personal communications concerning individual students.

B. If kept, statistical information not identified with a particular student and directory information shall be open for inspection and copying. Except as provided in subsection C of this section, each educational institution may choose to designate specific information which shall be classified as directory information for students attending the educational institution. In accordance with the Family Educational Rights and Privacy Act, Section 1232g of Title 20 of the United States Code and Part 99 of Title 34 of the Code of Federal Regulations, "directory information" includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the student. Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as directory information with respect to each student attending the institution or agency and shall allow a reasonable period of time after the notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without prior consent of the parent or guardian or the student if the student is eighteen (18) years of age or older.

C. All educational agencies or institutions which are not the primary custodians of student directory information of students attending the educational institution, but which are allowed to access the information for educational purposes, shall be prohibited from releasing or selling any or all student directory information unless disclosure is authorized by the Family Educational Rights and Privacy Act, Section 1232g of Title 20 of the United States Code and Part 99 of Title 34 of the Code of Federal Regulations, or Section 3-168 of Title 70 of the Oklahoma Statutes.

D. A public school district may release individual student records for the current or previous school year to a school district at which the student was previously enrolled for purposes of evaluating educational programs and school effectiveness.

Added by Laws 1985, SB 276, c. 355, § 16, eff. November 1, 1985; Amended by Laws 1986, SB 371, c. 116, § 1, emerg. eff. April 9, 1986; Amended by Laws 2003, HB 1646, c. 430, § 1, emerg. eff. July 1, 2003. Amended by Laws 2021, HB 1875, c. 451, § 1, emerg. eff. May 10, 2021.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.16a – Confidentiality of Information Pertaining to Donors and Prospective Donors

51 O.S. § 24A.16a:

Institutions or agencies of The Oklahoma State System of Higher Education may keep confidential all information pertaining to donors and prospective donors to or for the benefit of the institutions or agencies.

Added by Laws 2007, HB 1384, c. 170, § 2, eff. May 31, 2007.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.19 – Confidential Nature of Research Information

51 O.S. § 24A.19:

In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential:

1. Any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity may have in the research or the results of the research including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results, or other writings about the research; and
2. The specific terms and conditions of any license or other commercialization agreement relating to state owned or controlled technology or the development, transfer, or commercialization of the technology. Any other information relating to state owned or controlled technology or the development, transfer, or commercialization of the technology which, if disclosed, will adversely affect or give other persons or entities an advantage over public bodies in negotiating terms and conditions for the development, transfer, or commercialization of the technology. However, institutions within The Oklahoma State System of Higher Education shall:
 - a. report to the Oklahoma State Regents for Higher Education as requested, on forms provided by the Regents, research activities funded by external entities or the institutions, the results of which have generated new intellectual property, and
 - b. report to the Oklahoma State Regents for Higher Education annually on forms provided:
 - (1) expenditures for research and development supported by the institution,
 - (2) any financial relationships between the institution and private business entities,
 - (3) any acquisition of an equity interest by the institution in a private business,
 - (4) the receipt of royalty or other income related to the sale of products, processes, or ideas by the institution or a private business entity with which the institution has established a financial arrangement,
 - (5) the gains or losses upon the sale or other disposition of equity interests in private business entities, and
 - (6) any other information regarding technology transfer required by the Oklahoma State Regents for Higher Education.

The reports required in subparagraphs a and b of this paragraph shall not be deemed confidential and shall be subject to full disclosure pursuant to the Oklahoma Open Records Act.

Added by Laws 1988, HB 1803, c. 68, § 2, eff. November 1, 1988; Amended by Laws 1999, SB 480, c. 287, § 1, emerg. eff. May 27, 1999.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.22 – Confidential Nature of Public Utility Records

51 O.S. § 24A.22:

A. The Corporation Commission shall keep confidential those records of a public utility, its affiliates, suppliers and customers which the Commission determines are confidential books and records or trade secrets.

B. As used in this section, "public utility" means any entity regulated by the Corporation Commission, owning or operating for compensation in this state equipment or facilities for:

1. Producing, generating, transmitting, distributing, selling or furnishing electricity;
2. The conveyance, transmission, or reception of communication over a telephone system; or
3. Transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public.

Added by Laws 1994, SB 1160, c. 315, § 12, emerg. eff. July 1, 1994.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.23 – Confidential Nature of Information Provided to Department of Wildlife Conservation for Holding Permit or License to Extent Information Identifies Person

51 O.S. § 24A.23:

A. The Department of Wildlife Conservation shall keep confidential the information provided by persons, including the name and address of the person, applying for or holding any permit or license issued by the Department, to the extent the information individually identifies the person. The Department may use the information for Department purposes or allow the United States Fish and Wildlife Service to use the information for survey purposes only. The Department shall allow any public body to have access to the information for purposes specifically related to the public body's function.

B. The provisions of subsection A of this section shall not apply to information provided by persons applying for or holding a commercial hunting or fishing license.

C. The provisions of subsection A of this section shall not apply to information voluntarily provided by persons for promotional purposes by the Department.

D. Based upon the information required to be submitted through the electronic game harvest check system for harvested deer, the Department shall publicly disclose, in a timely manner, online or in published listings, by county of harvest, an antler description of each deer harvested and the name of the hunter who harvested the deer. The hunter shall be allowed to choose when entering the harvest information whether or not the name of the hunter is released. The Department shall not release the name of the hunter if the hunter elects not to release that information.

Added by Laws 1996, HB 2292, c. 32, § 1, emerg. eff. July 1, 1996; Amended by Laws 2013, HB 1594, c. 288, § 2, emerg. eff. May 15, 2013.

Title 51. Officers

Chapter 1 – General Provisions

Oklahoma Open Records Act

Section 24A.24 – Confidential Investigatory Records and Notes of Juvenile System Oversight

51 O.S. § 24A.24:

Unless otherwise provided by law, the Office of Juvenile System Oversight may keep its investigatory records and notes confidential, unless ordered by a court of competent jurisdiction to disclose the information.

Added by Laws 1996, HB 2692, c. 247, § 42, emerg. eff. July 1, 1996.

Title 51. Officers

Chapter 1 – General Provisions

Oklahoma Open Records Act

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.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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, records received from risk pool participants that can otherwise be obtained from risk pool participants 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. Amended by Laws 2021, SB 1015, c. 18, § 1, eff. November 1, 2021

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
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.

Title 51. Officers

Chapter 1 – General Provisions

Oklahoma Open Records Act

Section 24A.28 – Confidentiality of Information Relating to Terrorism

51 O.S. § 24A.28:

A. The following information may be kept confidential:

- 1. Investigative evidence of a plan or scheme to commit an act of terrorism;
- 2. Assessments of the vulnerability of government facilities or public improvements to an act of terrorism and work papers directly related to preparing the assessment of vulnerability;
- 3. Records including details for deterrence or prevention of or protection from an act or threat of an act of terrorism;
- 4. Records including details for response or remediation after an act of terrorism;
- 5. Information technology of a public body or public official but only if the information specifically identifies:

- a. design or functional schematics that demonstrate the relationship or connections between devices or systems,
 - b. system configuration information,
 - c. security monitoring and response equipment placement and configuration,
 - d. specific location or placement of systems, components or devices,
 - e. system identification numbers, names, or connecting circuits,
 - f. business continuity and disaster planning, or response plans, or
 - g. investigative information directly related to security penetrations or denial of services;
6. Investigation evidence of an act of terrorism that has already been committed;
7. Records received, maintained or generated by the Oklahoma Office of Homeland Security which include confidential private business information or an individual's private records;
8. Records received by the Oklahoma Office of Homeland Security from the United States Department of Homeland Security or records maintained or generated by the Oklahoma Office of Homeland Security involving the United States Department of Homeland Security;
9. Records received, maintained or generated by the Department of Environmental Quality that contain information regarding sources of radiation in quantities determined by the United States Nuclear Regulatory Commission to be significant to public health and safety, by whomever possessed, whether in transit or at fixed sites, when the information could reasonably be expected to have an adverse effect on the health and safety of the public by increasing the likelihood of theft, diversion or sabotage of the radiation sources or facilities. The information may include but is not limited to information:
- a. from or relating to radioactive material licensees identifying the exact location of the radioactive material,
 - b. describing how the radioactive material is secured from unauthorized removal or access when it is in storage,
 - c. describing the control and maintenance of constant surveillance of the radioactive material when it is not in storage,
 - d. describing specific policies and procedures for actions to physically protect the radioactive material,
 - e. identifying possession limits or actual inventories of radionuclides,

- f. containing or describing assessments or analyses that could reveal vulnerabilities,
- g. identifying specific locations of safety and security equipment,
- h. describing emergency planning, emergency response and fire protection, and
- i. containing or describing other information that could reasonably be expected to be useful to persons with malevolent intent;

10. The names of school district personnel who have been designated to carry a firearm pursuant to Section 5-149.2 of Title 70 of the Oklahoma Statutes;

11. Information technology of the State Election Board or a county election board which is determined jointly by the Secretary of the State Election Board and the State Chief Information Officer to be technology that could reasonably be expected to be useful to persons with intent to interfere with the conduct of an election, voter registration or other election processes; and

12. Records received, maintained or generated by the Oklahoma Municipal Power Authority established pursuant to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and in its role as an electric utility regulated by the federal government, related to security plans and procedures including, but not limited to, cybersecurity matters.

B. The following information shall not be kept confidential:

- 1. Records related to federal grants administered by the Oklahoma Office of Homeland Security or the Department of Environmental Quality;
- 2. Records related to the receipt and expenditure of public funds; or
- 3. Records related to the financial performance or financial administration of the Oklahoma Office of Homeland Security or the Department of Environmental Quality.

C. For the purposes of this section, the term “terrorism” means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

D. 1. Public educational institutions may keep confidential campus security plans. An institution or agency may in its discretion release information contained in or related to the campus security plan in order to design or implement the plan.

2. Nothing in this subsection shall preclude an institution or agency within The Oklahoma State System of Higher Education from collecting and releasing information relating to campus crime statistics and campus security policies as is required pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f).

3. For purposes of this subsection, “campus security plan” shall include, but is not limited to, prevention and response procedures to and notification procedures for perceived or actual security threats and incidents on or impacting the campus.

Added by Laws 2003, SB 395, c. 174, § 2, emerg. eff. May 5, 2003; Amended by Laws 2005, SB 28, c. 14, § 1, emerg. eff. June 6, 2005; Amended by Laws 2009, SB 585, c. 166, § 1, emerg. eff. July 1, 2009; Amended by Laws 2013, SB 489, c. 14, § 1, emerg. eff. April 8, 2014; Amended by Laws 2016, SB 1036, c. 231, § 1, emerg. eff. July 1, 2016. Amended by Laws 2019, SB 261, c. 163, § 9, eff. November 1, 2019. Amended by Laws 2021, SB 118, c. 130, § 2, eff. November 1, 2021.

Title 51. Officers

Chapter 1 – General Provisions

Oklahoma Open Records Act

Section 24A.29 – Protected Materials – Protective Orders – Orders Directing Withholding, Removal of Pleadings or Other Material from Public Record

51 O.S. § 24A.29:

A. Unless confidentiality is specifically required by law, any order directing the withholding or removal of pleadings or other material from a public record shall contain:

1. A statement that the court has determined it is necessary in the interests of justice to remove the material from the public record and in those instances where such withholding is required by law, the order shall so indicate;

2. Specific identification of the material which is to be withheld, removed or withdrawn from the public record, or which is to be filed but not placed in the public record; and

3. A requirement that any party seeking to file protected materials place such materials in a sealed manila envelope clearly marked with the caption and case number, the word "CONFIDENTIAL", and stating the date the order was entered and the name of the judge entering the order. This requirement may also be satisfied by requiring the party to file the documents pursuant to the procedure for electronically filing sealed or confidential documents approved for electronic filing in the courts of this state.

B. No protective order entered after the filing and microfilming of documents of any kind shall be construed to require the microfilm record of such filing to be amended in any fashion, and no other accounting entries may be affected by such order.

C. The party or counsel who has received the protective order shall be responsible for promptly presenting the order to appropriate supervisory court clerk personnel for action.

D. All documents produced or testimony given under a protective order shall be retained in the office of counsel until required by the court to be filed in the case.

E. Counsel for the respective parties shall be responsible for informing witnesses and other persons, as necessary, of the contents of the protective order.

F. When a case is filed in which a party intends to seek an order withholding removing material from the public record, the parties shall be initially designated on the petition under a pseudonym such as "John or Jane Doe", or "Roe", and the petition shall clearly indicate that the party designations are fictitious. The party seeking confidentiality or other order withholding or removing the case, in whole or in part from the public record, shall immediately present application to the court, seeking instructions for the conduct of the case, including confidentiality of the records.

G. It shall be the duty of the party filing confidential materials with the court to remove the materials from the custody of the court clerk within sixty (60) days after dismissal or other disposition of the main case in which the materials were filed. If the party fails to remove confidential documents, the court clerk shall be authorized to destroy without notice such materials after a period of one (1) year has elapsed since the dismissal or other disposition of the main case in which materials were filed.

H. Municipal courts shall keep confidential all personal identifying information of the parties involved in any case in municipal court, except where such information is provided to the Oklahoma Tax Commission for purposes of collection of municipal court fees. The personal identifying information that shall be kept confidential includes the following:

1. Credit card numbers;
2. Social security numbers; and
3. Bank account numbers.

Added by Laws 2005, SB 967, c. 72, § 1, eff. November 1, 2005; Amended by Laws 2010, HB 2541, c. 193, § 1, eff. November 1, 2010; Amended by Laws 2012, HB 2192, c. 278, § 7, eff. November 1, 2012.

Title 51. Officers
Chapter 1 – General Provisions
Oklahoma Open Records Act
Section 24A.30 – Court Records - Authority of the Court to Seal a Record

51 O.S. § 24A.30:

All court records, as defined by Section 32.1 of Title 12 of the Oklahoma Statutes, shall be considered public records and shall be subject to the provisions of the Oklahoma Open Records Act, unless otherwise identified by statute to be confidential. If confidentiality is not required by statute, the court may seal a record or portion of a record only if a compelling privacy interest exists which outweighs the public's interest in the record. In all cases where the court is sealing a record or portion of a record, the court shall enter an order which shall be public and shall:

1. Make findings of fact which identify the facts which the court relied upon in entering its order;
2. Make conclusions of law specific enough so that the public is aware of the legal basis for the sealing of the record;
3. Utilize the least restrictive means for achieving confidentiality; and

4. Be narrowly tailored so that only the portions of the record subject to confidentiality are sealed and the remainder of the record is kept open.

Added Laws 2014, HB 2998, c. 87, § 1, eff. November 1, 2014.

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 five advisory councils. Each council consists of nine to twelve 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)

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

Effective date – September 15, 2016