OKLAHOMA STATUTES
TITLE 27A. ENVIRONMENT AND NATURAL RESOURCES

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§27A-1-1-101. Short title.

Chapter 1 of this title shall be known and may be cited as the "Oklahoma Environmental Quality Act".

Added by Laws 1992, c. 398, § 1, emerg. eff. June 12, 1992. Amended by Laws 1993, c. 145, § 1, eff. July 1, 1993. Renumbered from § 1 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1-1-102. Purpose of act.

The purpose of the Oklahoma Environmental Quality Act is to provide for the administration of environmental functions which will:

1. Provide that environmental regulatory concerns of industry and the public shall be addressed in an expedient manner;

2. Improve the manner in which citizen complaints are tracked and resolved;

3. Better utilize state financial resources for environmental regulatory services; and

4. Coordinate environmental activities of state environmental agencies.

Added by Laws 1992, c. 398, § 2, emerg. eff. June 12, 1992. Amended by Laws 1993, c. 145, § 2, eff. July 1, 1993. Renumbered from § 2 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1-1-201. Definitions.

As used in the Oklahoma Environmental Quality Act:

1. “Clean Water Act” means the federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;

2. “Discharge” includes but is not limited to a discharge of a pollutant, and means any addition of any pollutant to waters of the state from any point source;

3. “Environment” includes the air, land, wildlife, and waters of the state;

4. “Federal Safe Drinking Water Act” means the federal law at 42 U.S.C., Section 300 et seq., as amended;

5. “Groundwater protection agencies” include the:

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

6. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined and includes but is not limited to agricultural storm water runoff and return flows from irrigated agriculture;

7. "N.P.D.E.S." or "National Pollutant Discharge Elimination System" means the system for the issuance of permits under the Federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;

8. "Point source" means any discernible, confined and discrete conveyance or outlet including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure container, rolling stock or vessel or other floating craft from which pollutants are or may be discharged into waters of the state. The term "point source" shall not include agricultural storm water runoff and return flows from irrigated agriculture;

9. "Pollutant" includes but is not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agribusiness waste;

10. "Pollution" means the presence in the environment of any substance, contaminant or pollutant, or any other alteration of the physical, chemical or biological properties of the environment or the release of any liquid, gaseous or solid substance into the environment in quantities which are or will likely create a nuisance or which render or will likely render the environment harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property;

11. "Source" means any and all points of origin of any wastes, pollutants or contaminants whether publicly or privately owned or operated;

12. "State agencies with limited environmental responsibilities" means:

a. the Department of Public Safety,
b. the Department of Labor, and
c. the Department of Civil Emergency Management;

13. "State environmental agency" 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;

14. “Storm water” means rain water runoff, snow melt runoff, and surface runoff and drainage;

15. “Total maximum daily load” means the sum of individual wasteload allocations (W.L.A.) for point sources, safety, reserves, and loads from nonpoint sources and natural backgrounds;

16. “Waste” means any liquid, gaseous or solid or semi-solid substance, or thermal component, whether domestic, municipal, commercial, agricultural or industrial in origin, which may pollute or contaminate or tend to pollute or contaminate, any air, land or waters of the state;

17. “Wastewater” includes any substance, including sewage, that contains any discharge from the bodies of human beings or animals, or pollutants or contaminating chemicals or other contaminating wastes from domestic, municipal, commercial, industrial, agricultural, manufacturing or other forms of industry;

18. “Wastewater treatment” means any method, technique or process used to remove pollutants from wastewater or sludge to the extent that the wastewater or sludge may be reused, discharged into waters of the state or otherwise disposed and includes, but is not limited to, the utilization of mechanized works, surface impoundments and lagoons, aeration, evaporation, best management practices (BMPs), buffer strips, crop removal or trapping, constructed wetlands, digesters or other devices or methods. “Treatment” also means any method, technique or process used in the purification of drinking water;

19. “Wastewater treatment system” means treatment works and all related pipelines or conduits, pumping stations and force mains, and all other appurtenances and devices used for collecting, treating, conducting or discharging wastewater;

20. “Waters of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Provided, waste treatment systems, including treatment ponds or lagoons designed to meet federal and state requirements other than cooling ponds as defined in the Clean Water Act or rules promulgated thereto and prior converted cropland are not waters of the state; and

21. “Wellhead protection area” means the surface and subsurface area surrounding a water well or wellfield supplying a public water system that defines the extent of the area from which water is supplied to such water well or wellfield.

Added by Laws 1993, c. 145, § 3, eff. July 1, 1993. Amended by Laws 1999, c. 413, § 1, eff. Nov. 1, 1999; Laws 2003, c. 118, § 1, emerg. eff. April 22, 2003.

§27A-1-1-202. State environmental agencies - Powers, duties and responsibilities.

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.

B. 1. In addition to the requirements of subsection A of this section, each state environmental agency shall have promulgated by July 1, 2001, a Water Quality Standards Implementation Plan for its jurisdictional areas of environmental responsibility in compliance with the Administrative Procedures Act and pursuant to the provisions of this section. Each agency shall review its plan at least every three (3) years thereafter to determine whether revisions to the plan are necessary.

2. Upon the request of any state environmental agency, the Oklahoma Water Resources Board shall provide consulting assistance to such agency in developing a Water Quality Standards Implementation Plan as required by this subsection.

3. Each Water Quality Standards Implementation Plan shall:

a. describe, generally, the processes, procedures and methodologies the state environmental agency will

utilize to ensure that programs within its jurisdictional areas of environmental responsibility will comply with anti-degradation standards and lead to:

(1) maintenance of water quality where beneficial uses are supported,

(2) removal of threats to water quality where beneficial uses are in danger of not being supported, and

(3) restoration of water quality where beneficial uses are not being supported,

b. include the procedures to be utilized in the application of use support assessment protocols to make impairment determinations,

c. list and describe programs affecting water quality,

d. include technical information and procedures to be utilized in implementing the Water Quality Standards Implementation Plan,

e. describe the method by which the Water Quality Standards Implementation Plan will be integrated into the water quality management activities within the jurisdictional areas of environmental responsibility of the state environmental agency,

f. detail the manner in which the agency will comply with mandated statewide requirements affecting water quality developed by other state environmental agencies including, but not limited to, total maximum daily load development, water discharge permit activities and nonpoint source pollution prevention programs,

g. include a brief summary of the written comments and testimony received pursuant to all public meetings held or sponsored by the state environmental agency for the purpose of providing the public and other state environmental agencies an opportunity to comment on the plan, and

h. describe objective methods and means to evaluate the effectiveness of activities conducted pursuant to the Water Quality Standards Implementation Plan to achieve Water Quality Standards.

C. 1. Each state environmental agency with groundwater protection authority pursuant to Article III of the Oklahoma Environmental Quality Act shall be the groundwater protection agency for activities within its jurisdictional areas of environmental responsibility.

2. The Department of Environmental Quality shall cooperate with other state environmental agencies, as appropriate and necessary, in the protection of such unassigned activities.

3. Groundwater regulatory agencies shall develop groundwater protection practices to prevent groundwater contamination from activities within their respective jurisdictional areas of environmental responsibility.

4. Each groundwater protection agency shall promulgate such rules, and issue such permits, policies, directives or any other appropriate requirements, as necessary, to implement the requirements of this subsection.

5. Groundwater protection agencies shall take such action as may be necessary to assure that activities within their respective jurisdictional areas of environmental responsibility protect groundwater quality to support the uses of the state's water quality.

6. In addition, each groundwater protection agency with enforcement authority is hereby authorized to:

a. engage the voluntary cooperation of all persons in the maintenance and protection of groundwater, and to advise, consult and cooperate with all persons, all agencies of the state, universities and colleges, the federal government or other states, and with interstate agencies in the furtherance of the purposes of this subsection, and to this end and for the purposes of studies, scientific or other investigations, research, experiments and demonstrations pertaining thereto, receive and spend funds as appropriated by the Legislature, and from such agencies and other officers and persons on behalf of the state,

b. encourage the formulation and execution of plans to maintain and protect groundwater by cooperative groups or associations of municipal corporations, industries, industrial users and other users of groundwaters of the state, who, jointly or severally, are or may be impacting on the maintenance and protection of groundwater,

c. encourage, participate in or conduct or cause to be conducted studies, scientific or other investigations, research, experiments and demonstrations relating to the maintenance and protection of groundwater, and to collect data with respect thereto, all as may be deemed advisable and necessary to carry out the purposes of this subsection, and to make reports and recommendations with respect thereto,

d. conduct groundwater sampling, data collection, analyses and evaluations with sufficient frequency to ascertain the characteristics and quality of groundwater and the sufficiency of the groundwater protection programs established pursuant to this subsection, and

e. develop a public education and promotion program to aid and assist in publicizing the need of, and securing support for, the maintenance and protection of groundwater.

D. Each state environmental agency and each state agency with limited environmental responsibilities shall participate in the information management system developed by the Department of Environmental Quality, pursuant to Section 1-4-107 of this title, with such information as the Department shall reasonably request.

E. In each even-numbered year, in cooperation with other state environmental agencies participating in the monitoring of water resources, the Oklahoma Water Resources Board shall provide a report on the status of water quality monitoring to the Legislature for review.

Added by Laws 1993, c. 145, § 4, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 1, eff. July 1, 1993; Laws 1999, c. 413, § 2, eff. Nov. 1, 1999; Laws 2013, c. 227, § 5, eff. Nov. 1, 2013.

§27A-1-1-203. State environmental agencies - Establishment of rules for issuance or denial of permits or licenses and complaint resolution.

A. Each state environmental agency and each state agency with limited environmental responsibilities, within its areas of environmental jurisdiction, shall promulgate, by rule, time periods for issuance or denial of permits and licenses that are required by law. Any such matter requiring an individual proceeding shall be resolved in accordance with the rules of the agency and any applicable statutes. The rules shall provide that such time periods shall only be extended by agreement with the licensee or permittee or if circumstances outside the agency's control prevent that agency from meeting its time periods. If the agency fails to issue or deny a permit or license within the required time periods because of circumstances outside of the agency's control, the agency shall state in writing the reasons such licensing or permitting is not ready for issuance or denial.

B. 1. Each state environmental agency and each state agency with limited environmental responsibilities shall promulgate rules establishing time periods for complaint resolution as required by law.

2. Complaints received by any state environmental agency or state agency with limited environmental responsibilities concerning a site or facility permitted by or which clearly falls within the jurisdiction of another state environmental agency or state agency with limited environmental responsibilities shall be immediately referred to the appropriate agency for investigation and resolution. Such investigation shall be made by the appropriate division and employees of the appropriate agency.

C. Any person, as defined in Section 2-1-102 of this title, who performs environmental investigation or remediation work which is regulated by the Corporation Commission, must first receive a license for performing investigative or remediation work from the Corporation Commission.

Added by Laws 1992, c. 398, § 11, emerg. eff. June 12, 1992. Amended by Laws 1993, c. 145, § 5, eff. July 1, 1993. Renumbered from § 11 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993; Laws 1999, c. 413, § 15, eff. Nov. 1, 1999; Laws 2005, c. 435, § 27, eff. Nov. 1, 2005.

§27A-1-1-204. State environmental agencies - Complaint investigation and response process - Rules - False complaints.

A. Each state environmental agency and each state agency with limited environmental responsibilities shall develop, implement and utilize a complaint investigation and response process that will ensure all state environmental agencies with authority to investigate, mitigate and resolve complaints, respond to complaints in a timely manner by initiating appropriate action and informing the complainant regarding potential actions that may occur. Complainants shall also be notified, in writing:

1. Of the resolution of the complaint; and

2. Of the complainant's options for further resolution of the complaint if such complainant objects or disagrees with the actions or decision of the agency.

B. Rules to implement such system shall be promulgated by each state environmental agency.

C. 1. It shall be unlawful for any person to knowingly and willfully file a false complaint with a state environmental agency or to knowingly and willfully misrepresent material information to a state environmental agency or a state agency with limited environmental responsibilities relating to a complaint.

2. Any person filing such false complaint or misrepresenting such material information shall be deemed guilty of a misdemeanor and may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment in the county jail for a term of not more than sixty (60) days or both such fine and imprisonment.

Added by Laws 1992, c. 398, § 5, emerg. eff. June 12, 1992. Amended by Laws 1993, c. 145, § 6, eff. July 1, 1993. Renumbered from § 5 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1996, c. 158, § 1, eff. Nov. 1, 1996; Laws 1999, c. 413, § 16, eff. Nov. 1, 1999.

§27A-1-1-205. State environmental agencies - Transferred and assigned programs and functions - Unexpired or unrevoked licenses,

permits, certifications or registrations - Existing rights, obligations and remedies - Existing orders, claims or causes of action.

A. With regard to all programs and functions transferred and assigned among the state environmental agencies pursuant to Section 1-3-101 of this title, all agency rules, including fee schedules for state and county, relating to such programs and functions are hereby transferred to the receiving agency for the purpose of maintaining and operating such programs and functions. Such rules shall remain in effect only until June 30, 1994, at which time such transferred rules will terminate unless earlier superseded by rules promulgated by the receiving agency. By February 1, 1994, each agency receiving programs or functions shall have adopted new permanent rules to implement the programs and functions within the jurisdiction of the agency pursuant to Section 1-3-101 of this title.

B. Unexpired or unrevoked licenses, permits, certifications or registrations issued prior to July 1, 1993, shall remain valid for stated terms and conditions until otherwise provided by law. Such licenses, permits or registrations shall be subject to the laws and rules of the state agency to which jurisdiction over such licenses, permits or registrations are transferred pursuant to the Oklahoma Environmental Quality Act.

C. All rights, obligations and remedies arising out of laws, rules, agreements and causes of action are also transferred to such agency.

D. Nothing in the Oklahoma Environmental Quality Act shall operate to bar or negate any existing order, claim or cause of action transferred or available to any state environmental agency or its respective predecessor, nor shall it operate to affect enforcement action undertaken by any program, division or service prior to such transfer to any state environmental agency. Violations of provisions of law now contained in this title, and violations of rules, permits or final orders which occurred prior to the transfer of jurisdiction and authority to any state environmental agency shall be subject to penalties available and existing at the time of violation.

E. Any application pending on June 30, 1993, before the Oklahoma Water Resources Board or the State Department of Health for a permit or license over which the Department has jurisdiction is hereby transferred to the Department and shall be subject to the Oklahoma Environmental Quality Code.

F. All permit applications filed with the Oklahoma Water Resources Board on or before June 30, 1993, for which no permit has been issued by the Oklahoma Water Resources Board for the land application of industrial waste, sludge or wastewater shall be subject to the requirements of this Code.

Added by Laws 1992, c. 398, § 12, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 9, eff. July 1, 1993. Renumbered from § 12 of this

title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 8, eff. July 1, 1993.

§27A-1-1-206. Economic impact and environmental benefit statements.

A. Each state environmental agency in promulgation of permanent rules within its areas of environmental jurisdiction, prior to the submittal to public comment and review of any rule that is more stringent than corresponding federal requirements, unless such stringency is specifically authorized by state statute, shall duly determine the economic impact and the environmental benefit of such rule on the people of the State of Oklahoma including those entities that will be subject to the rule. Such determination shall be in written form.

B. Such economic impact and environmental benefit statement of a proposed permanent rule shall be issued prior to or within fifteen (15) days after the date of publication of the notice of the proposed permanent rule adoption. The statement may be modified after any hearing or comment period afforded pursuant to Article I of the Administrative Procedures Act.

C. The economic impact and environmental benefit statement shall be submitted to the Governor pursuant to Section 303.1 of Title 75 of the Oklahoma Statutes and to the Legislature pursuant to Section 308 of Title 75 of the Oklahoma Statutes. Such reports submitted to the Governor and to the Legislature shall include a brief summary of any public comments made concerning the statement and any response by the agency to the public comments demonstrating a reasoned evaluation of the relative impacts and benefits of the more stringent regulation.

Added by Laws 1994, c. 96, § 1, eff. Sept. 1, 1994.

§27A-1-1-207. Kyoto Protocol – Implementation – Ratification by United States Senate.

A. Neither the legislative or executive branch of the State of Oklahoma shall take actions to implement the Kyoto Protocol until such time as the Kyoto Protocol has been ratified by the United States Senate or otherwise enacted into law.

B. Nothing in this section shall:

1. Be construed to limit or to impede state or private participation in any ongoing voluntary initiatives to reduce greenhouse gases, including, but not limited to, the United States Environmental Protection Agency’s Green Lights program, the United States Department of Energy’s Climate Challenge program and similar state and federal initiatives relying on voluntary participation; provided, however, that such participation does not involve any allocation or other distribution of greenhouse gas emission entitlements pursuant to or under color of the Kyoto Protocol; or

2. Prohibit industry from complying with the Oklahoma Clean Air Act as it exists or may be amended, or prohibit the Department of

Environmental Quality from carrying out its duties under the Oklahoma Clean Air Act as it exists or may be amended, or prohibit the Environmental Quality Board from promulgating rules to maintain or achieve compliance with the Federal Clean Air Act as it exists or may be amended.

C. This section shall remain in full force and effect until repealed by the Legislature of the State of Oklahoma, or until such time as the Kyoto Protocol is ratified by the United States Senate.

Added by Laws 1999, S.J.R. No. 6, § 1, emerg. eff. April 26, 1999.

§27A-1-2-101. Secretary of Environment or successor cabinet position - Powers, duties and responsibilities.

A. The Secretary of Environment or successor cabinet position having authority over the Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. Powers and duties for environmental areas designated to such position by the Governor;

2. The recipient of federal funds disbursed pursuant to the Federal Water Pollution Control Act, provided the Oklahoma Water Resources Board is authorized to be the recipient of federal funds to administer the State Revolving Fund Program. The federal funds received by the Secretary of Environment shall be disbursed to each state environmental agency and state agency with limited environmental responsibilities based upon its statutory duties and responsibilities relating to environmental areas as determined by the Secretary of Environment in consultation with the Secretary of Agriculture. Such funds shall be distributed to the appropriate state environmental agency or state agency with limited environmental responsibilities within thirty (30) days of its receipt by the Secretary or as otherwise provided by grant or contract terms without any assessment of administrative fees or costs. Disbursement of other federal environmental funds shall not be subject to this section. The Secretary of Environment shall make an annual written report no later than November 1 to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Chair of each environmental committee of both the House of Representatives and Senate detailing the disbursement of federal funds;

3. Coordinate pollution control and complaint management activities of the state carried on by all state agencies to avoid duplication of effort including but not limited to the development of a common data base for water quality information with a uniform format for use by all state agencies and the public; and

4. Act on behalf of the public as trustee for natural resources under the federal Oil Pollution Act of 1990, the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the federal Water Pollution Control Act and any

other federal laws providing that a trustee for the natural resources is to be designated. The Secretary is authorized to make claims against federal funds, receive federal payments, establish and manage a revolving fund in relation to duties as the natural resources trustee consistent with the federal enabling acts and to coordinate, monitor and gather information from and enter into agreements with the appropriate state environmental agencies or state agencies with limited environmental responsibilities in carrying out the duties and functions of the trustee for the natural resources of this state.

B. 1. The Secretary of the Environment or successor cabinet position having authority over the Department of Environmental Quality shall develop and implement, by January 1, 2000, public participation procedures for the development and/or modification of:

a. the federally required list of impaired waters (303(d) report),

b. the federally required water quality assessment (305(b) report),

c. the federally required nonpoint source state assessment (319 report), and

d. the continuing planning process document.

2. The procedures shall provide for the documents to be submitted for formal public review with a published notice consistent with the Administrative Procedures Act, providing for a thirty-day comment period and the preparation of a responsiveness summary by the applicable state environmental agency.

3. Information from current research shall be considered when made available to the agency.

Added by Laws 1993, c. 145, § 10, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 3, emerg. eff. June 7, 1993; Laws 1999, c. 413, § 3, eff. Nov. 1, 1999; Laws 2003, c. 381, § 1, eff. July 1, 2003; Laws 2004, c. 381, § 2, emerg. eff. June 3, 2004.

§27A-1-2-102. Coordination of monitoring of lakes - Identification of eutrophic lakes - Discharge of wastewater into eutrophic lake - Penalties - Order of suspension and forfeiture.

A. The Office of the Secretary of the Environment shall coordinate monitoring lakes in the State of Oklahoma and identify those lakes which it determines to be eutrophic as defined by Oklahoma's Water Quality Standards.

B. No person may discharge wastewaters from a point source within or outside of this state which will foreseeably enter a lake in this state which has been identified as eutrophic by the Oklahoma's Water Quality Standards without subjecting such wastewaters to the best available technology as identified in the federal Clean Water Act for nitrogen and phosphorous. The Office of the Secretary of the Environment shall coordinate the monitoring of all lakes it identifies as eutrophic and notify by certified mail any

person who discharges wastewater which enters such lakes in violation of this section of the provisions of this section and shall order such person to immediately cease and desist from any further violation of this section.

C. Any person who violates the provisions of subsection B of this section shall be guilty of a misdemeanor punishable by a penalty of not more than One Hundred Dollars ($100.00) per day for each day on which a violation occurs. The Attorney General is authorized to prosecute violations of this section. Venue and jurisdiction shall be proper in a county which contains all or part of a eutrophic lake which is the subject of a discharge in violation of this section.

D. 1. In addition to the penalty provided in subsection C of this section if a person continues to violate subsection B of this section after having received notification from the Secretary of the Environment to cease and desist, such person shall be guilty of a misdemeanor punishable by a fine of not more than Ten Thousand Dollars ($10,000.00) per day.

2. If the owner of a facility which discharges wastewater in violation of this subsection is a corporation authorized to do business in this state, the court may enter an order directing the suspension of any authorization to do business in this state and of the charter or other instrument of organization, under which the corporation may be organized and the forfeiture of all corporate or other rights inuring thereunder. The order of suspension and forfeiture shall have the same effect on the rights, privileges and liabilities of the corporation and its officers and directors as a suspension and forfeiture ordered pursuant to Section 1212 of Title 68 of the Oklahoma Statutes for failure to pay franchise tax. Additionally, all officers and directors of a corporation found to be in violation of this subsection shall be personally liable for any fine imposed pursuant to this subsection.

Added by Laws 1998, c. 232, § 25, eff. July 1, 1998.

§27A-1-2-103. Environmental Remediation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Secretary of Energy and Environment or the successor cabinet position having authority over the Department of Environmental Quality to be designated the "Environmental Remediation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Secretary from Natural Resource Damage Assessments on behalf of the state, pursuant to paragraph 4 of subsection A of Section 1-2-101 of Title 27A of the Oklahoma Statutes, that are not designated for deposit to any other fund as authorized by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Secretary to perform the duties imposed by law. Expenditures from the fund shall be made upon warrants issued by the

State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2014, c. 310, § 1, eff. July 1, 2014.

§27A-1-2-104. Environmental Programs Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Secretary of Energy and Environment or the successor cabinet position having authority over the Department of Environmental Quality to be designated the "Environmental Programs Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Secretary from appropriations, fees, charges, penalties, and any other sources that are not designated for deposit to any other fund as authorized by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Secretary to perform the duties imposed by law. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2014, c. 310, § 2, eff. July 1, 2014.

§27A-1-3-101. State environmental agencies - Jurisdictional areas of environmental responsibilities.

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

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

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration,

manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;

2. All nonpoint source discharges and pollution except as provided in subsections D, E and F of this section;

3. Technical lead agency for point source, nonpoint source and storm water pollution control programs funded under Section 106 of the federal Clean Water Act, for areas within the Department's jurisdiction as provided in this subsection;

4. Surface water and groundwater quality and protection and water quality certifications;

5. Waterworks and wastewater works operator certification;

6. Public and private water supplies;

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

a. Class II injection wells,

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

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

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

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

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.

C. Oklahoma Water Resources Board. The Oklahoma Water Resources Board shall have the following jurisdictional areas of environmental responsibility:

1. Water quantity including, but not limited to, water rights, surface water and underground water, planning, and interstate stream compacts;

2. Weather modification;

3. Dam safety;

4. Flood plain management;

5. State water/wastewater loans and grants revolving fund and other related financial aid programs;

6. Administration of the federal State Revolving Fund Program including, but not limited to, making application for and receiving capitalization grant awards, wastewater prioritization for funding, technical project reviews, environmental review process, and financial review and administration;

7. Water well drillers/pump installers licensing;

8. Technical lead agency for clean lakes eligible for funding under Section 314 of the federal Clean Water Act or other applicable sections of the federal Clean Water Act or other subsequent state and federal clean lakes programs; administration of a state program for assessing, monitoring, studying and restoring Oklahoma lakes with

administration to include, but not be limited to, receipt and expenditure of funds from federal, state and private sources for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources, provided such funds from federal Clean Water Act sources are administered and disbursed by the Office of the Secretary of Environment;

9. Except as set forth in paragraph 22 of subsection B of this section, statewide water quality standards and their accompanying use support assessment protocols, anti-degradation policy and implementation, and policies generally affecting Oklahoma Water Quality Standards application and implementation including but not limited to mixing zones, low flows and variances or any modification or change thereof pursuant to Section 1085.30 of Title 82 of the Oklahoma Statutes;

10. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Board;

11. 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;

12. Development of classifications and identification of permitted uses of groundwater, in recognized water rights, and associated groundwater recharge areas;

13. Establishment and implementation of a statewide beneficial use monitoring program for waters of the state in coordination with the other state environmental agencies;

14. Coordination with other state environmental agencies and other public entities of water resource investigations conducted by the federal United States Geological Survey for water quality and quantity monitoring in the state; and

15. Development and submission of a report concerning the status of water quality monitoring in this state pursuant to Section 1-1-202 of this title.

D. Oklahoma Department of Agriculture, Food, and Forestry.

1. The Oklahoma Department of Agriculture, Food, and Forestry shall have the following jurisdictional areas of environmental responsibility except as provided in paragraph 2 of this subsection:

a. point source discharges and nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste,

b. pesticide control,

c. forestry and nurseries,

d. fertilizer,

e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals,

f. dairy waste and wastewater associated with milk production facilities,

g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,

h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,

i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and

j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

2. In addition to the jurisdictional areas of environmental responsibility specified in subsection B of this section, the Department of Environmental Quality shall have environmental jurisdiction over:

a. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,

(2) slaughterhouses, but not including feedlots at these facilities, and

(3) aquaculture and fish hatcheries,

including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities, and

b. facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal NPDES regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

E. Corporation Commission.

1. The Corporation Commission is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to promulgate and enforce rules, and issue and enforce orders governing and regulating:

a. the conservation of oil and gas,

b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,

c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,

d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines,

e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,

f. underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, of:

(1) Class II injection wells,

(2) Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Commission,

(3) those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act, and

(4) 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.

Any substance that the United States Environmental Protection Agency allows to be injected into a Class II well may continue to be so injected,

g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,

h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:

(1) natural gas liquids extraction plant,

(2) refinery,

(3) reclaiming facility other than for those specified within subparagraph e of this subsection,

(4) mineral brine processing plant, and

(5) petrochemical manufacturing plant,

i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells, at:

(1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and

(2) other oil and gas extraction facilities and activities,

j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities,

k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata,

l. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission,

m. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents, and

n. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

2. The exclusive jurisdiction, power and authority of the Commission shall also extend to the construction, operation, maintenance, site remediation, closure and abandonment of the facilities and activities described in paragraph 1 of this subsection.

3. When a deleterious substance from a Commission-regulated facility or activity enters a point source discharge of pollutants or storm water from a facility or activity regulated by the Department of Environmental Quality, the Department shall have sole jurisdiction over the point source discharge of the commingled pollutants and storm water from the two facilities or activities insofar as Department-regulated facilities and activities are concerned.

4. The Commission and the Department of Environmental Quality are hereby authorized to obtain authorization from the Environmental Protection Agency to administer, within their respective jurisdictions, any and all programs regulating oil and gas discharges into the waters of this state. For purposes of the federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Commission pursuant to paragraph 1 of this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or storm

water to waters of the United States shall be subject to the direct jurisdiction and permitting authority of the Oklahoma agency having received delegation of this program from the Environmental Protection Agency.

5. The Commission shall have jurisdiction over:

a. underground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality,

b. aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality, and

c. the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund, the Oklahoma Petroleum Storage Tank Release Indemnity Program, and the Oklahoma Leaking Underground Storage Tank Trust Fund.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities. The Department of Environmental Quality shall not have any jurisdiction with respect to pipeline transportation of carbon dioxide.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for point and nonpoint source discharges of pollutants and storm water to waters of the state from:

a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,

b. manufacturing of equipment and products related to oil and gas,

c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection, and

d. other facilities, activities and sources not subject to the jurisdiction of the Commission or the Oklahoma Department of Agriculture, Food, and Forestry as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the federal Clean Air Act as amended.

F. Oklahoma Conservation Commission. The Oklahoma Conservation Commission shall have the following jurisdictional areas of environmental responsibility:

1. Soil conservation, erosion control and nonpoint source management except as otherwise provided by law;

2. Monitoring, evaluation and assessment of waters to determine the condition of streams and rivers being impacted by nonpoint source pollution. In carrying out this area of responsibility, the Oklahoma Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the federal Clean Water Act or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal storm water or as otherwise provided by state law;

3. Wetlands strategy;

4. Abandoned mine reclamation;

5. Cost-share program for land use activities;

6. Assessment and conservation plan development and implementation in watersheds of clean lakes, as specified by law;

7. Complaint data management;

8. Coordination of environmental and natural resources education;

9. Federal upstream flood control program;

10. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission;

11. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility;

12. Utilization of Oklahoma Water Quality Standards and Implementation documents; and

13. Verification and certification of carbon sequestration pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This responsibility shall not be superseded by the Oklahoma Carbon Capture and Geologic Sequestration Act.

G. Department of Mines. The Department of Mines shall have the following jurisdictional areas of environmental responsibility:

1. Mining regulation;

2. Mining reclamation of active mines;

3. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission; and

4. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of responsibility.

H. Department of Wildlife Conservation. The Department of Wildlife Conservation shall have the following jurisdictional areas of environmental responsibilities:

1. Investigating wildlife kills;

2. Wildlife protection and seeking wildlife damage claims; and

3. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

I. Department of Public Safety. The Department of Public Safety shall have the following jurisdictional areas of environmental responsibilities:

1. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act; and

2. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Hazardous Materials Transportation Act.

J. Department of Labor. The Department of Labor shall have the following jurisdictional areas of environmental responsibility:

1. Regulation of asbestos in the workplace pursuant to Chapter 11 of Title 40 of the Oklahoma Statutes;

2. Asbestos monitoring in public and private buildings; and

3. Indoor air quality as regulated under the authority of the Oklahoma Occupational Health and Safety Standards Act, except for those indoor air quality issues specifically authorized to be regulated by another agency.

Such programs shall be a function of the Department's occupational safety and health jurisdiction.

K. Oklahoma Department of Emergency Management. The Oklahoma Department of Emergency Management shall have the following jurisdictional areas of environmental responsibilities:

1. Coordination of all emergency resources and activities relating to threats to citizens' lives and property pursuant to the Oklahoma Emergency Resources Management Act of 1967;

2. Administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 and develop such other emergency operations plans that will enable the state to prepare for, respond to, recover from and mitigate potential environmental emergencies and disasters pursuant to the Oklahoma Hazardous Materials Planning and Notification Act;

3. Administer and conduct periodic exercises of emergency operations plans provided for in this subsection pursuant to the Oklahoma Emergency Resources Management Act of 1967;

4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders pursuant to the Oklahoma Emergency Resources Management Act of 1967; and

5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

Added by Laws 1992, c. 398, § 6, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 11, eff. July 1, 1993. Renumbered from § 6 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 6, eff. July 1, 1993; Laws 1994, c. 140, § 24, eff. Sept. 1, 1994; Laws 1997, c. 217, § 1, eff. July 1, 1997; Laws 1999, c. 413, § 4, eff. Nov. 1, 1999; Laws 2000, c. 364, § 1, emerg. eff. June 6, 2000; Laws 2002, c. 397, § 1, eff. Nov. 1, 2002; Laws 2004, c. 100, § 2, eff. July 1, 2004; Laws 2004, c. 430, § 11, emerg. eff. June 4, 2004; Laws 2009, c. 429, § 8, emerg. eff. June 1, 2009; Laws 2012, c. 110, § 1, eff. Nov. 1, 2012; Laws 2017, c. 129, § 1, eff. Nov. 1, 2017; Laws 2018, c. 137, § 1, eff. Nov. 1, 2018.

§27A-1-3-102. Repealed by Laws 1994, c. 192, § 3, eff. July 1, 1996.

§27A-1-3-103. Renumbered as Title 2, § 18.2 by Laws 2004, c. 100, § 4, eff. July 1, 2004.

§27A-1-4-107. Maintenance of computerized water quality data.

A. The Department of Environmental Quality shall maintain a computerized information system of water quality data, including but not limited to the results of surface water and groundwater quality monitoring in a manner that is accessible to the state environmental agencies and to the public.

B. 1. Each state environmental agency shall submit the results of any water quality monitoring performed by the agency in readable electronic format as determined by the Department pursuant to recommendations of the State Water Quality Standards Implementation Advisory Committee.

2. All submitted data shall be in a format consistent with the applicable federal program.

3. If any state environmental agency is unable to submit the data, such fact shall be reported to the Secretary of the Environment.

Added by Laws 1999, c. 413, § 6, eff. Nov. 1, 1999.

§27A-1-4-110. Short title - Oklahoma Environmental, Health and Safety Audit Privilege Act.

This act shall be known and may be cited as the "Oklahoma Environmental, Health and Safety Audit Privilege Act".

Added by Laws 2019, c. 229, § 1, eff. Nov. 1, 2019.

§27A-1-4-111. Purpose.

A. The purpose of this act is to encourage voluntary compliance with environmental and occupational health and safety laws.

B. A regulatory agency in this state shall not adopt a rule or impose a condition that circumvents the purpose of this act.

Added by Laws 2019, c. 229, § 2, eff. Nov. 1, 2019.

§27A-1-4-112. Definitions.

A. As used in this act:

1. "Acquisition closing date" means the date on which ownership of, or a direct or indirect majority interest in the ownership of, a regulated facility or operation is acquired in an asset purchase, equity purchase, merger or similar transaction;

2. "Audit report" means the final report in a written document which contains the comments and recommendations of the auditor;

3. "Environmental or health and safety audit" or "audit" means a systematic voluntary evaluation, review or assessment of compliance with environmental or health and safety laws or with any permit issued under an environmental or health and safety law conducted by an owner or operator, an employee of an owner or operator, a person, including an employee or independent contractor of the person, that is considering the acquisition of a regulated facility or operation, or an independent contractor of:

a. a regulated facility or operation, or
b. an activity at a regulated facility or operation;

4. "Environmental or health and safety law" means:

a. a federal or state environmental or occupational health and safety law, or
b. a rule, regulation or regional or local law adopted in conjunction with a law described by subparagraph a of this paragraph;

5. "Owner or operator" means a person who owns or operates a regulated facility or operation;

6. "Penalty" means an administrative, civil or criminal sanction imposed by the state to punish a person for a violation of a statute or rule. The term does not include a technical or remedial provision ordered by a regulatory authority; and

7. "Regulated facility or operation" means a facility or operation that is regulated under an environmental or health and safety law.

B. A person acts willfully for purposes of this act if the person acts willfully within the meaning of Section 92 of Title 21 of the Oklahoma Statutes.

C. A person acts knowingly for purposes of this act if the person acts knowingly within the meaning of Section 96 of Title 21 of the Oklahoma Statutes.

To fully implement the privilege established by this act, the term "environmental or health and safety law" shall be construed broadly.

Added by Laws 2019, c. 229, § 3, eff. Nov. 1, 2019.

§27A-1-4-113. Audit report - Components.

A. An audit report is a report that includes each document and communication, other than those set forth in Section 8 of this act, produced from an environmental or health and safety audit.

B. General components that may be contained in a completed audit report include:

1. A report prepared by an auditor, monitor or similar person, which may include:

a. a description of the scope of the audit,

b. the information gained in the audit and findings, conclusions and recommendations, and

c. exhibits and appendices;

2. Memoranda and documents analyzing all or a portion of the materials described by paragraph 1 of this subsection or discussing implementation issues; and

3. An implementation plan or tracking system to correct past noncompliance, improve current compliance or prevent future noncompliance.

C. The types of exhibits and appendices that may be contained in an audit report include supporting information that is collected or developed for the primary purpose of and in the course of an environmental or health and safety audit, including:

1. Interviews with current or former employees;

2. Field notes and records of observations;

3. Findings, opinions, suggestions, conclusions, guidance, notes, drafts and memoranda;

4. Legal analyses;

5. Drawings;

6. Photographs;

7. Laboratory analyses and other analytical data;

8. Computer-generated or electronically recorded information;

9. Maps, charts, graphs and surveys; and

10. Other communications associated with an environmental or health and safety audit.

D. To facilitate identification, each document in an audit report should be labeled "COMPLIANCE REPORT: PRIVILEGED DOCUMENT," or labeled with words of similar import. Failure to label a document under this section does not constitute a waiver of the audit privilege or create a presumption that the privilege does or does not apply.

E. Unless an extension is approved by the governmental entity with regulatory authority over the regulated facility or operation based on reasonable grounds, an environmental or health and safety audit must be completed within a reasonable time not to exceed six months after:

1. The date the audit is initiated; or

2. The acquisition closing date, if the person continues the audit.

F. Paragraph 1 of subsection E of this section does not apply to an environmental or health and safety audit conducted before the acquisition closing date by a potential purchaser that is considering the acquisition of the regulated facility or operation.

Added by Laws 2019, c. 229, § 4, eff. Nov. 1, 2019.

§27A-1-4-114. Audit report privilege - Confidentiality.

A. An audit report is privileged as provided in this section.

B. Except as provided in Sections 6 through 9 of this act, any part of an audit report is privileged and is not admissible as evidence or subject to discovery in:

1. A civil action, whether legal or equitable; or

2. An administrative proceeding.

C. A person, when called or subpoenaed as a witness, may not be compelled to testify or produce a document related to an environmental or health and safety audit if:

1. The testimony or document discloses any item listed in Section 4 of this act that was made as part of the preparation of an environmental or health and safety audit report and that is addressed in a privileged part of an audit report; and

2. The person is:

a. a person who conducted any portion of the audit but did not personally observe the physical events,

b. a person to whom the audit results are disclosed under Section 6 of this act, or

c. a custodian of the audit results.

D. A person who conducts or participates in the preparation of an environmental or health and safety audit and who has actually

observed physical events of violation may testify about those events but may not be compelled to testify about or produce documents related to the preparation of or any privileged part of an environmental or health and safety audit or any item listed in Section 4 of this act.

E. An employee of a state agency may not request, review or otherwise use an audit report during an agency inspection of a regulated facility or operation, or an activity of a regulated facility or operation.

F. A party asserting the privilege described in this section has the burden of establishing the applicability of the privilege.

G. No audit report or any associated information or records shall be subject to Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. All records collected pursuant to this act shall be deemed confidential.

Added by Laws 2019, c. 229, § 5, eff. Nov. 1, 2019.

§27A-1-4-115. Waiver of privilege – Unauthorized disclosure - Liability.

A. The privilege described by Section 5 of this act does not apply to the extent the privilege is expressly waived by the owner or operator who prepared the audit report or caused the report to be prepared.

B. Disclosure of an audit report or any information generated by an environmental or health and safety audit does not waive the privilege established by Section 5 of this act if the disclosure:

1. Is made to address or correct a matter raised by the environmental or health and safety audit and is made only to:

a. a person employed by the owner or operator, including temporary and contract employees,

b. a legal representative of the owner or operator,

c. an officer or director of the regulated facility or operation or a partner of the owner or operator,

d. an independent contractor retained by the owner or operator,

e. a person considering the acquisition of the regulated facility or operation that is the subject of the audit, or

f. an employee, temporary employee, contract employee, legal representative, officer, director, partner or independent contractor of a person described in subparagraph e of this paragraph;

2. Is made under the terms of a confidentiality agreement between the person for whom the audit report was prepared or the owner or operator of the audited facility or operation and:

a. a partner or potential partner of the owner or operator of the facility or operation,

b. a transferee or potential transferee of the facility or operation,

c. a lender or potential lender for the facility or operation,

d. a governmental official of a state agency, or

e. a person engaged in the business of insuring, underwriting or indemnifying the facility or operation; or

3. Is made under a claim of confidentiality to a governmental official or agency by the person for whom the audit report was prepared or by the owner or operator.

C. A party to a confidentiality agreement described in paragraph 2 of subsection B of this section who violates that agreement is liable for damages caused by the disclosure and for any other penalties stipulated in the confidentiality agreement.

D. Information that is disclosed under paragraph 3 of subsection B of this section is confidential and is not subject to disclosure under Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. A public entity, public employee or public official who discloses information in violation of this subsection is subject to penalty. It is an affirmative defense to the clerical dissemination of a privileged audit report that the report was not clearly labeled "COMPLIANCE REPORT: PRIVILEGED DOCUMENT" or words of similar import. The lack of labeling may not be raised as a defense if the entity, employee or official knew or had reason to know that the document was a privileged audit report.

E. This section may not be construed to circumvent the protections provided by federal or state law for individuals who disclose information to law enforcement authorities.

Added by Laws 2019, c. 229, § 6, eff. Nov. 1, 2019.

§27A-1-4-116. Disclosure by court or administrative hearings officials.

A. A court or administrative hearings official with competent jurisdiction may require disclosure of a portion of an audit report in a civil or administrative proceeding if the court or administrative hearings official determines, after an in camera review consistent with the appropriate rules of procedure, that:

1. The privilege is asserted for a fraudulent purpose;

2. The portion of the audit report is not subject to the privilege under Section 8 of this act; or

3. The portion of the audit report shows evidence of noncompliance with an environmental or health and safety law and appropriate efforts to achieve compliance with the law were not promptly initiated and pursued with reasonable diligence after discovery of noncompliance.

B. A party seeking disclosure under this section has the burden of proving that paragraph 1, 2 or 3 of subsection A of this section applies.

C. Notwithstanding Section 250 et seq. of Title 75 of the Oklahoma Statutes, a decision of an administrative hearings official under paragraph 1, 2 or 3 of subsection A of this section is directly appealable to a court of competent jurisdiction without disclosure of the audit report to any person unless so ordered by the court.

D. A person claiming the privilege is subject to sanctions as provided by Section 3226.1 of Title 12 of the Oklahoma Statutes if the court finds that the person willfully or knowingly claimed the privilege for information as provided in Section 8 of this act.

E. A determination of a court under this section is subject to interlocutory appeal to an appropriate appellate court.

Added by Laws 2019, c. 229, § 7, eff. Nov. 1, 2019.

§27A-1-4-117. Information not subject to privilege.

A. The privilege established by Section 5 of this act does not apply to:

1. A document, communication, datum or report or other information required by a regulatory agency to be collected, developed, maintained or reported under a federal or state environmental or health and safety law;

2. Information obtained by observation, sampling or monitoring by a regulatory agency; or

3. Information obtained from a source not involved in the preparation of the environmental or health and safety audit report.

B. This section does not limit the right of a person to agree to conduct and disclose an audit report.

Added by Laws 2019, c. 229, § 8, eff. Nov. 1, 2019.

§27A-1-4-118. Privilege in criminal proceedings – Review of privileged information required under state or federal law.

A. If an audit report is obtained, reviewed or used in a criminal proceeding, the administrative or civil evidentiary privilege established by Section 5 of this act is not waived or eliminated for any other purpose.

B. Notwithstanding the privilege established by Section 5 of this act, a regulatory agency may review information that is required to be available under a specific state or federal law, but that review does not waive or eliminate the administrative or civil evidentiary privilege if applicable.

C. If information is required to be available to the public by operation of a specific state or federal law, the governmental authority shall notify the person claiming the privilege of the potential for public disclosure before obtaining the information under subsection A or B of this section.

D. If privileged information is disclosed under subsection B or C of this section on the motion of a party, a court or the appropriate administrative official shall suppress evidence offered in any civil or administrative proceeding that arises or is derived from review, disclosure or use of information obtained under this section unless the review, disclosure or use is authorized under Section 8 of this act. A party having received information under subsection B or C of this section has the burden of proving that the evidence offered did not arise and was not derived from the review of privileged information.

Added by Laws 2019, c. 229, § 9, eff. Nov. 1, 2019.

§27A-1-4-119. Voluntary disclosure of violations - Immunity.

A. Except as otherwise provided by this act, a person who makes a voluntary disclosure of a violation of an environmental or health and safety law is immune from an administrative or civil penalty for the violation disclosed.

B. A disclosure is voluntary only if:

1. The disclosure was made:

   a. promptly after knowledge of the information disclosed is obtained by the person making the disclosure, and

   b. no later than forty-five (45) days after the acquisition closing date, if the violation was discovered during an audit conducted before the acquisition closing date by a person considering the acquisition of the regulated facility or operation;

2. Notice of the disclosure was made in writing by certified mail to an agency that has regulatory authority with regard to the violation disclosed;

3. An investigation of the violation was not initiated or the violation was not independently detected by an agency with enforcement jurisdiction before the disclosure was made using certified mail;

4. The disclosure arises out of a voluntary environmental or health and safety audit;

5. The person who makes the disclosure initiates an appropriate effort to achieve compliance, pursues that effort with due diligence, and corrects the noncompliance within a reasonable time;

6. The person making the disclosure cooperates with the appropriate agency in connection with an investigation of the issues identified in the disclosure; and

7. The violation did not result in:

   a. injury or imminent and substantial risk of serious injury to one or more persons at the site, or

   b. off-site substantial harm or imminent and substantial risk of harm to persons, property, or the environment.

C. For a disclosure described in subparagraph b of paragraph 1 of subsection B of this section, the person making the disclosure must certify in the disclosure that before the acquisition closing date:

1. The person was not responsible for the environmental, health, or safety compliance at the regulated facility or operation that is subject to the disclosure;

2. The person did not have the largest ownership share of the seller;

3. The seller did not have the largest ownership share of the person; and

4. The person and the seller did not have a common corporate parent or a common majority interest owner.

D. A disclosure is not voluntary for purposes of this section if it is a report to a regulatory agency required solely by a specific condition of an enforcement order or decree.

E. The immunity established by subsection A of this section does not apply and an administrative or civil penalty may be imposed under applicable law if:

1. The person who made the disclosure willfully or knowingly committed or was responsible within the meaning of state laws for the commission of the disclosed violation;

2. The person who made the disclosure recklessly committed or was responsible within the meaning of state laws for the commission of the disclosed violation and the violation resulted in substantial injury to one or more persons at the site or off-site harm to persons, property or the environment;

3. The offense was committed willfully or knowingly by a member of the person's management or an agent of the person and the person's policies or lack of prevention systems contributed materially to the occurrence of the violation;

4. The offense was committed recklessly by a member of the person's management or an agent of the person, the person's policies or lack of prevention systems contributed materially to the occurrence of the violation, and the violation resulted in substantial injury to one or more persons at the site or off-site harm to persons, property or the environment; or

5. The violation has resulted in a substantial economic benefit that gives the violator a clear advantage over its business competitors.

F. A penalty that is imposed under subsection D of this section should, to the extent appropriate, be mitigated by factors such as:

1. The voluntariness of the disclosure;

2. Efforts by the disclosing party to conduct environmental or health and safety audits;

3. Remediation;

4. Cooperation with government officials investigating the disclosed violation;

5. The period of ownership of the regulated facility or operation; or

6. Other relevant considerations.

G. In a civil or administrative enforcement action brought against a person for a violation for which the person claims to have made a voluntary disclosure, the person claiming the immunity has the burden of establishing a prima facie case that the disclosure was voluntary. After the person claiming the immunity establishes a prima facie case of voluntary disclosure, other than a case in which under subsections D and E of this section immunity does not apply, the enforcement authority has the burden of rebutting the presumption by a preponderance of the evidence.

H. In order to receive immunity under this section, a facility conducting an environmental or health and safety audit under this act must give notice to an appropriate regulatory agency of the fact that it is planning to commence the audit. The notice shall specify the facility or portion of the facility to be audited, the anticipated time the audit will begin and the general scope of the audit. The notice may provide notification of more than one scheduled environmental or health and safety audit at a time.

I. In order to receive immunity under this section, a potential purchaser:

1. That acquires a regulated facility or operation that is the subject of an audit begun prior to acquisition may continue the audit after the acquisition closing date if, no later than forty-five (45) days after the acquisition closing date, the person provides notice to an appropriate regulatory agency of the fact that the potential purchaser intends to continue the ongoing audit;

2. The notice must specify:

a. the facility or portion of the facility being audited,

b. the date the audit began, and

c. the general scope of the audit; and

3. The potential purchaser must certify that before the acquisition closing date:

a. the potential purchaser was not responsible for the scope of the environmental, health, or safety compliance being audited at the regulated facility of operation,

b. the potential purchaser did not have the largest ownership share of the seller,

c. the seller did not have the largest ownership share of the potential purchaser, and

d. the potential purchaser and the seller did not have a common corporate parent or a common majority interest owner.

J. The immunity under this section does not apply if a court or administrative law judge finds that the person claiming the immunity has, after the effective date of this act:

1. Repeatedly or continuously committed significant violations; and

2. Not attempted to bring the facility or operation into compliance, so as to constitute a pattern of disregard of environmental or health and safety laws.

For violations to be considered a pattern, the person shall have committed a series of violations that were due to separate and distinct events occurring within a three-year period at the same facility or operation.

Added by Laws 2019, c. 229, § 10, eff. Nov. 1, 2019.

§27A-1-4-120. Effective date of application.

The privilege established by this act applies to environmental or health and safety audits that are conducted on or after the effective date of this act.

Added by Laws 2019, c. 229, § 11, eff. Nov. 1, 2019.

§27A-1-4-121. Construction with statutory or common law privilege.

This act shall not limit, waive or abrogate the scope or nature of any statutory or common law privilege, including the work product doctrine and the attorney-client privilege.

Added by Laws 2019, c. 229, § 12, eff. Nov. 1, 2019.

§27A-2. Renumbered as § 1-1-102 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-1-101. Short title - Subsequent enactments.

A. Chapter 2 of this title shall be known and may be cited as the "Oklahoma Environmental Quality Code".

B. All statutes hereinafter enacted and codified in Chapter 2 of this title shall be considered and deemed part of the Oklahoma Environmental Quality Code.

Added by Laws 1993, c. 145, , § 12, eff. July 1, 1993.

§27A-2-1-102. Definitions.

As used in the Oklahoma Environmental Quality Code:

1. "Administrative hearing" means an individual proceeding, held by the Department when authorized by the provisions of this Code and conducted pursuant to the Administrative Procedures Act, this Code and rules promulgated thereunder, for a purpose specified by this Code. "Administrative hearing" includes "administrative permit hearing", "enforcement hearing" and "administrative enforcement hearing" within the context of this Code. An "administrative hearing" shall be a quasi-judicial proceeding;

2. "Administrative Procedures Act" means the Oklahoma Administrative Procedures Act;

3. "Board" means the Environmental Quality Board;

4. "Code" means Chapter 2 of this title;

5. "Department" means the Department of Environmental Quality;

6. "Enforcement hearing" means an individual proceeding conducted pursuant to the Administrative Procedures Act, this Code and rules promulgated thereunder, for the purpose of enforcing the provisions of this Code, rules promulgated thereunder and orders, permits or licenses issued pursuant thereto. The term "administrative hearing" shall mean the same as "enforcement hearing" when held for enforcement purposes. An "enforcement hearing" shall be a quasi-judicial proceeding;

7. "Environment" includes the air, land, wildlife, and waters of the state;

8. "Executive Director" means the Executive Director of the Department of Environmental Quality;

9. "Industrial wastewater treatment permit" shall mean permits issued by the Department after July 1, 1993, under Section 2-6-501 of Title 27A of the Oklahoma Statutes, and waste disposal permits issued on or before June 30, 1993, by the Oklahoma Water Resources Board for land application of industrial waste or surface impoundments or disposal systems for industrial waste or wastewater;

10. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined;

11. "Person" means an individual, association, partnership, firm, company, public trust, corporation, joint-stock company, trust, estate, municipality, state or federal agency, other governmental entity, any other legal entity or an agent, employee, representative, assignee or successor thereof;

12. "Pollution" means the presence in the environment of any substance, contaminant or pollutant, or any other alteration of the physical, chemical or biological properties of the environment or the release of any liquid, gaseous or solid substance into the environment in quantities which are or will likely create a nuisance or which render or will likely render the environment harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property;

13. "Public meeting" means a formal public forum, held by the Department when authorized by the provisions of this Code, and conducted by a presiding officer pursuant to the requirements of this Code and rules promulgated thereunder, at which an opportunity is provided for the presentation of oral and written views within reasonable time limits as determined by the presiding officer. Views

expressed at a "public meeting" shall be limited to the topic or topics specified by this Code for such meeting. "Public meeting" shall mean a "public hearing" when held pursuant to requirements of the Code of Federal Regulations or the Oklahoma Pollutant Discharge Elimination System Act, and shall be synonymous with "formal public meeting" and "informal public meeting" as used within the context of this Code and rules promulgated thereunder. A "public meeting" shall not be a quasi-judicial proceeding;

14. "State environmental agency" 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,
g. Department of Public Safety,
h. Department of Labor,
i. Department of Environmental Quality, and
j. Department of Civil Emergency Management; and

15. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof.

Added by Laws 1993, c. 145, § 13, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 4, eff. July 1, 1993.

§27A-2-2-101. Environmental Quality Board - Creation - Eligibility - Composition - Terms - Meetings - Powers and duties - Promulgation of rules.

A. There is hereby created the Environmental Quality Board to represent the interests of the State of Oklahoma which shall consist of thirteen (13) members appointed by the Governor with the advice and consent of the Senate.

B. To be eligible for appointment to the Board a person shall:

1. Be a citizen of the United States;
2. Be a resident of this state;
3. Be a qualified elector of this state; and
4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state or the laws of the United States.

C. The Board shall be composed of:

1. One member who shall be a certified or registered environmental professional. Such member shall be an environmental professional experienced in matters of pollution control, who shall not be an employee of any unit of government;

2. One member who shall be selected from industry in general. Such member shall be employed as a manufacturing executive carrying on a manufacturing business within the state;

3. One member who shall be selected from the hazardous waste industry within the state;

4. One member who shall be selected from the solid waste industry within this state;

5. One member who shall be well versed in recreational, irrigational, municipal or residential water usage;

6. One member who shall be selected from the petroleum industries being regulated by the Department of Environmental Quality;

7. One member who shall be selected from the agriculture industries regulated by the Department of Environmental Quality;

8. One member who shall be selected from the conservation districts of the state;

9. Three members who shall be citizen members of any statewide nonprofit environmental organization;

10. One member who shall be a member of the local governing body of a city or town; and

11. One member who shall be from a rural water district organized pursuant to the laws of this state.

D. The term of office of a member of the Board shall be for five (5) years and until a successor is appointed and qualified.

E. 1. An appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following such vacancy, the Board may appoint a provisional member to serve in the interim until the Governor acts.

2. A member may be reappointed.

3. In making appointments to the Environmental Quality Board, the Governor shall recognize the geographic diversity of the state and endeavor to appoint members representing each quadrant of the state.

F. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall select, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each

member of the Board. A majority of the Board present at the meeting shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act.

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, c. 398, § 7, eff. Jan. 1, 1993. Amended by Laws 1993, c. 145, § 14, eff. July 1, 1993. Renumbered from § 7 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 55, eff. July 1, 1993; Laws 2001, c. 110, § 1, emerg. eff. April 18, 2001; Laws 2005, c. 20, § 1, emerg. eff. April 5, 2005.

§27A-2-2-102. Renumbered as § 2-10-308 of this title by Laws 1994, c. 353, § 41, eff. July 1, 1994.

§27A-2-2-103. Attorney General as legal counsel.

The Office of the Attorney General of this state shall serve as legal counsel for the Environmental Quality Board and shall assist the Board in the performance of its duties pursuant to the Environmental Quality Code.

Added by Laws 1993, c. 324, § 2, emerg. eff. June 7, 1993.

§27A-2-2-104. Board rules incorporating by reference federal provisions - No effect on rules from subsequent changes in federal provisions.

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, c. 353, § 3, eff. July 1, 1994.

§27A-2-2-105. Applications for permits for water reuse projects.

A. The Department of Environmental Quality shall receive, review, and evaluate permit applications for discharges to water bodies for water reuse projects. The Department shall approve such applications as comply with the applicable rules of the Environmental Quality Board for discharges to the waters of the State.

B. 1. Subject to subsection A of this section, the Department shall issue permits for point-source discharges into sensitive public and private water supplies, as defined by the rules of the Oklahoma Water Resources Board, where such discharges do not contain concentrations of pollutants greater than the existing concentrations of such pollutants in the receiving water body. The issuance of such permit by the Department shall not be considered a violation of the anti-degradation provisions of the State’s water quality standards.

2. Upon initial receipt of an application for a discharge permit that is for the purpose of developing and implementing a water reuse project, the Department shall acknowledge to the applicant in writing or by electronic mail the date that the Department received the application, thus initiating the period for administrative review of the application. The Department shall review the application in accordance with timelines for administrative and technical review adopted by the Environmental Quality Board.

3. Applications for point-source discharges into water bodies designated by the Oklahoma Water Resources Board as Sensitive Public or Private Water Supplies shall be considered Tier III permit applications under the Uniform Environmental Permitting Act.
Added by Laws 2014, c. 364, § 1, emerg. eff. May 28, 2014.

§27A-2-2-201. Advisory councils.

A. There are hereby created until July 1, 2020, pursuant to the provisions of the Oklahoma Sunset Law:

1. The Water Quality Management Advisory Council;
2. The Hazardous Waste Management Advisory Council;
3. The Solid Waste Management Advisory Council; and
4. The Radiation Management Advisory Council.

B. 1. Except as provided for in paragraph 2 of this subsection, each Council created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. Appointments shall be for three-year terms. Members of the Advisory Councils shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. a. The Solid Waste Management Advisory Council shall consist of ten (10) members. Four members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. Appointments shall be for three-year terms. Members of the Solid Waste Management Advisory Council shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Six members shall constitute a quorum.

b. The Water Quality Management Advisory Council shall consist of twelve (12) members. Four members shall be appointed by the Governor, four members shall be appointed by the President Pro Tempore of the Senate, and four members shall be appointed by the Speaker of the House of Representatives. Appointments shall be for three-year terms. Members shall serve at the pleasure of and may be removed by the appointing authority. Members may be eligible for reappointment and shall continue to serve until their successors are

appointed. Vacancies shall be filled in the same manner as their original appointments. Seven members shall constitute a quorum.

3. Each Council shall elect a chair and a vice-chair from among its members. Each Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three members.

C. 1. All members of the Water Quality Management Advisory Council shall be knowledgeable of water quality and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint four members as follows:
   (1) one member representing the field of engineering,
   (2) one member representing a statewide nonprofit environmental organization,
   (3) one member representing the general public, and
   (4) one member representing a commercial or publicly owned laboratory accredited by the Department for both the Drinking Water and the General Environmental Laboratory classifications of accreditation,

b. the President Pro Tempore of the Senate shall appoint four members as follows:
   (1) one member representing an industry located in this state,
   (2) one member representing an oil field-related industry,
   (3) one member representing the field of geology, and
   (4) one member who holds a certificate under the Waterworks and Wastewater Works Operator Certification Act and who is the operator of a municipal waterworks or wastewater works facility, and

c. the Speaker of the House of Representatives shall appoint four members as follows:
   (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
   (2) one member representing a rural water district organized pursuant to the laws of this state,
   (3) one member representing the field of agriculture, and
   (4) one member who holds a certificate under the Waterworks and Wastewater Works Operator Certification Act and who is the operator of a waterworks or wastewater works for a rural water or sewer district organized pursuant to law.

2. The jurisdictional areas of the Water Quality Management Advisory Council shall include Article VI of this chapter, Article IV of this chapter, waterworks and wastewater activities, water quality and protection and related activities and such other areas as designated by the Board.

D. 1. All members of the Hazardous Waste Management Advisory Council shall be knowledgeable of hazardous waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:
   (1) one member representing an industry located in this state,
   (2) one member representing a statewide nonprofit environmental organization, and
   (3) one member representing a political subdivision of the state who shall be a member of the local governing body of a city or town,

b. the President Pro Tempore of the Senate shall appoint three members as follows:
   (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
   (2) one member representing the general public, and
   (3) one member representing industry generating hazardous waste, and

c. the Speaker of the House of Representatives shall appoint three members as follows:
   (1) one member representing the field of engineering,
   (2) one member representing the hazardous waste industry, and
   (3) one member representing the field of geology.

2. The jurisdictional areas of the Hazardous Waste Management Advisory Council shall include Article VII of this chapter, the Oklahoma Hazardous Waste Reduction Program, and such other areas as designated by the Board.

E. 1. All members of the Solid Waste Management Advisory Council shall be knowledgeable of solid waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint four members as follows:
   (1) one member representing a statewide nonprofit environmental organization,
   (2) one member shall be a county commissioner,
   (3) one member representing the general public, and
   (4) one member representing the solid waste incineration, waste-to-energy industry in this state,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing an industry located in this state generating solid waste,
(2) one member representing a political subdivision of this state who shall be a member of the local governmental body of a city or town, and
(3) one member representing the field of geology, and

c. the Speaker of the House of Representatives shall appoint three members as follows:
(1) one member representing the solid waste disposal industry in this state,
(2) one member representing the field of engineering, and
(3) one member representing the transportation industry.

2. The jurisdictional areas of the Solid Waste Management Advisory Council shall include Article X of this chapter, the Oklahoma Used Tire Recycling Act and such other areas as designated by the Board.

F. 1. All members of the Radiation Management Advisory Council shall be knowledgeable of radiation hazards and radiation protection. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:
(1) one member representing an industry located in this state which uses sources of radiation in its manufacturing or processing business,
(2) one member representing a statewide nonprofit environmental organization, and
(3) one member representing the engineering profession who shall be a professional engineer employed and experienced in matters of radiation management and protection,

b. the President Pro Tempore of the Senate shall appoint three members as follows:
(1) one member representing the faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of radiation management and protection,
(2) one member representing the general public, and
(3) one member representing the field of industrial radiography, and

c. the Speaker of the House of Representatives shall appoint three members as follows:
(1) one member representing the transportation industry,

(2) one member representing the petroleum industry who is trained and experienced in radiation management and protection, and

(3) one member representing a medical institution within this state who shall be experienced in matters of radiation management and protection.

2. The jurisdictional areas of the Radiation Management Advisory Council shall include Article IX of this chapter and such other areas as designated by the Board.

G. 1. The Air Quality Council created pursuant to Section 6, Chapter 215, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-1807.1) shall remain in effect as the Air Quality Advisory Council and carry on the powers and duties assigned to it by law. Future appointments to the Council shall be made according to the provisions of this section.

2. The Council shall consist of nine (9) members who shall be residents of this state and appointed by the Governor with the advice and consent of the Senate.

3. Members of the Council shall have the qualifications as follows:

a. one member shall be selected from the engineering profession, and, as such, shall be a professional engineer and experienced in matters of air pollution equipment and control, who shall not be an employee of any unit of government,

b. one member shall be selected from industry in general, and, as such, shall be employed as a manufacturing executive carrying on a manufacturing business within this state,

c. one member shall be selected from a faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of air pollution control and evaluation,

d. one member shall be selected from the transportation industry,

e. one member shall be selected from the petroleum industry, and, as such, shall be employed by a petroleum company carrying on a petroleum refining business within the state, and, as such, shall be trained and experienced in matters of scientific knowledge of causes as well as effects of air pollution,

f. one member shall be selected from agriculture, and, as such, shall be engaged in or employed by a basic agricultural business or the processing of agricultural products,

g. one member shall be selected from the political subdivisions of the state, and, as such, shall be a member of the local government body of a city or town,

h. one member, whose first term shall expire on June 15, 1998, shall be selected from the general public, and

i. one member, whose first term shall expire on June 15, 1999, shall be selected from the electric utilities industry, and as such, shall be knowledgeable in matters of air pollution and control.

4. Each member shall be appointed to serve a term of office of seven (7) years.

The terms of all members shall be deemed to have expired on June 15th of the year of expiration, and shall continue until successors have been duly appointed and qualified. If a vacancy occurs, the Governor shall appoint a person for the remaining portion of the unexpired term created by the vacancy. Five members of the Council shall constitute a quorum.

5. The Council shall hold at least two regular meetings each calendar year at a place and time to be fixed by the Council. The Council shall select one of its members to serve as chair and another of its members to serve as vice-chair at the first regular meeting in each calendar year to serve as the chair and vice-chair for the ensuing year. Special meetings may be called, and any meeting may be canceled, by the chair, or by three members of the Council by delivery of written notice to each member of the Council.

6. The jurisdictional areas of the Air Quality Council shall include Article V of this chapter and such other areas as designated by the Board.

H. In addition to other powers and duties assigned to each Council pursuant to this Code, each Council shall, within its jurisdictional area:

1. Have authority to recommend to the Board rules on behalf of the Department. The Department shall not have standing to recommend to the Board permanent rules or changes to such rules within the jurisdiction of a Council which have not previously been submitted to the appropriate Council for action;

2. Before recommending any permanent rules to the Board, give public notice, offer opportunity for public comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act;

3. Have the authority to make written recommendations to the Board which have been concurred upon by at least a majority of the membership of the Council;

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

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

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

5. Cooperate with each other Council, the public, the Board and the Executive Director in order to coordinate the rules within their respective jurisdictional areas and to achieve maximum efficiency and effectiveness in furthering the objectives of the Department.

I. The Councils shall not recommend rules for promulgation by the Environmental Quality Board unless all applicable requirements of the Administrative Procedures Act have been followed, including but not limited to notice, rule impact statement and rulemaking hearings.

J. Members of the Councils shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Councils are authorized to utilize the conference rooms of the Department of Environmental Quality and obtain administrative assistance from the Department, as required.

Added by Laws 1992, c. 398, § 10, eff. Jan. 1, 1993. Amended by Laws 1993, c. 145, § 15, eff. July 1, 1993. Renumbered from § 10 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1995, c. 80, § 1, eff. July 1, 1995; Laws 2010, c. 301, § 1, eff. July 1, 2010; Laws 2011, c. 164, § 9, eff. July 1, 2011; Laws 2013, c. 227, § 6, eff. Nov. 1, 2013; Laws 2014, c. 91, § 1, emerg. eff. April 21, 2014; Laws 2019, c. 430, § 1, eff. Nov. 1, 2019.

§27A-2-3-101. Creation - Powers and duties - Disclosure of interests - Employee classification - Programs - Departmental offices and divisions - Annual report - Environmental Quality Report - Environmental services contracts.

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;

2. Water programs which shall be responsible for water quality, including, but not limited to point source and nonpoint source pollution within the jurisdiction of the Department, public and private water supplies, public and private wastewater treatment, water protection and discharges to waters of the state;

3. Land protection programs which shall be responsible for hazardous waste, solid waste, radiation, and municipal, industrial, commercial and other waste within its jurisdictional areas of environmental responsibility pursuant to Section 1-3-101 of this title; and

4. Special projects and services programs which shall be responsible for duties related to planning, interagency coordination, technical assistance programs, laboratory services and laboratory certification, recycling, education and dissemination of information.

F. Within the Department there are hereby created:

1. The complaints program which shall be responsible for intake processing, investigation, mediation and conciliation of inquiries and complaints received by the Department and which shall provide for the expedient resolution of complaints within the jurisdiction of the Department; and

2. The customer assistance program which shall be responsible for advising and providing to licensees, permittees and those persons representing businesses or those persons associated with and representing local political subdivisions desiring a license or permit, the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Code. The customer assistance program shall coordinate with other programs of the Department to assist businesses and municipalities in complying with state statutes and rules governing environmental areas.

The customer assistance program shall also be responsible for advising and providing assistance to persons desiring information

concerning the Department's rules, laws, procedures, licenses or permits, and forms used to comply with the Oklahoma Environmental Quality Code.

G. The Department shall be responsible for holding administrative hearings as defined in Section 2-1-102 of this title and shall provide support services related to them, including, but not limited to, giving required notices, maintaining the docket, scheduling hearings, and maintaining legal records.

H. 1. The Department shall prepare and submit an annual report assessing the status of the Department's programs to the Board, the Governor, the President Pro Tempore of the State Senate, and the Speaker of the Oklahoma House of Representatives by January 1 of each year. The annual status report shall include: the number of environmental inspections made within the various regulatory areas under the Department's jurisdiction; the number of permit applications submitted within the various regulatory areas under the Department's jurisdiction; the number of permits issued within the various regulatory areas under the Department's jurisdiction; the number and type of complaints filed with the Department; the number of resolved and unresolved Department complaints; a list of any permits and complaints which failed to be either completed or resolved within the Department's established time frames and an explanation of why the Department was unable to meet said time frames; the number and kinds of services provided corporations, businesses, cities, towns, schools, citizen groups and individuals by the customer assistance programs; a summary of the Department's environmental education efforts; the number and type of administrative hearings held and their outcomes; a detailed description of any promulgated and pending emergency or permanent rules requested by the Department and the current status of pending rules within the rulemaking process; the number of notices of violations issued by the Department within the various regulatory areas under its jurisdiction; the amount of penalties collected by the Department within the various regulatory areas under its jurisdiction; and any other information which the Department believes is pertinent.

2. Beginning January 1, 1995, and on or before January 1 of every year thereafter, the Department shall prepare an Oklahoma Environmental Quality Report which outlines the Department's annual needs for providing environmental services within its jurisdictional areas. The report shall reflect any new federal mandates and any state statutory or constitutional changes recommended by the Department within its jurisdictional areas. The Oklahoma Environmental Quality Report shall be reviewed, amended, and approved by the Board. The Department shall transmit an approved copy of the Oklahoma Environmental Quality Report to the Governor, President Pro

Tempore of the State Senate, and Speaker of the House of Representatives.

3. The Executive Director shall establish such divisions and such other programs and offices as the Executive Director may determine necessary to implement and administer programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Code.

I. 1. The Department may contract with other governmental entities to provide environmental services. Such contracts may include duties related to providing information to the public regarding state environmental services, resources, permitting requirements and procedures based upon the ability, education and training of state environmental agency employees.

2. The Department, in conjunction with the state environmental agencies, may develop a program for the purpose of training government employees to provide any needed environmental services; provided, that the investigation of complaints regarding, or inspections of, permitted sites or facilities shall not be performed by employees of other agencies, unless otherwise authorized by law.

Added by Laws 1992, c. 398, § 9, eff. Jan. 1, 1993. Amended by Laws 1993, c. 145, § 16, eff. July 1, 1993. Renumbered from § 9 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 5, eff. July 1, 1993; Laws 1995, c. 246, § 1, eff. Nov. 1, 1995; Laws 2002, c. 139, § 1, emerg. eff. April 29, 2002.

§27A-2-3-102. Customer assistance program - Additional responsibilities.

The customer assistance program of the Department of Environmental Quality, in addition to responsibilities specified in Section 2-3-101 of this title and assigned to the program by the Executive Director, shall:

1. Establish and maintain an information and referral system to assist the public in understanding and complying with state and local governmental requirements concerning the use of natural resources and protection of the environment. The system shall provide a telephone information service and disseminate printed and electronic materials;

2. Standardize permit processes in coordination with the Board and the Department;

3. Coordinate and facilitate public information procedures associated with each permit program;

4. Provide for the statewide distribution of the telephone number of the customer assistance program; and

5. Ensure that all current rules of the Department are readily available to the public.

Added by Laws 1993, c. 145, § 17, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 4, eff. July 1, 1994; Laws 2002, c. 139, § 2, emerg. eff. April 29, 2002; Laws 2011, c. 127, § 1, eff. July 1, 2011.

§27A-2-3-103. Administrative Law Judges - Duties - Qualifications - Proceedings.

A. The Department shall employ one or more Administrative Law Judges to conduct individual proceedings, and perform such other duties as are assigned to them by the Executive Director which are not inconsistent with their statutory duties.

B. Each Administrative Law Judge shall:

1. Have a general knowledge of the contaminants, pollutants, wastes and other materials which are regulated by the Oklahoma Environmental Quality Code;

2. Have a working knowledge of the laws and rules under this Code;

3. Be currently licensed to practice law by the Supreme Court of this state; and

4. Not be an owner, stockholder, employee or officer of, nor have any other business relationship with, any corporation, partnership, or other business or entity that is subject to regulation by the Department.

C. Individual proceedings shall be conducted in compliance with Article II of the Administrative Procedures Act, this Code and rules promulgated thereunder.

Added by Laws 1993, c. 145, § 18, eff. July 1, 1993. Amended by Laws 2002, c. 139, § 3, emerg. eff. April 29, 2002.

§27A-2-3-104. Complaints program.

A. The complaints program shall, in addition to the responsibilities specified by Section 2-3-101 of this title, refer, upon written request, all complaints in which one of the complainants remains unsatisfied with the Department's resolution of said complaint to an outside source trained in mediation. Complainants and persons named in the complaint shall be made aware that participation in the mediation process conducted by the outside source is completely voluntary and confidential. Fulfillment of any agreements reached in mediation shall be up to the parties of the dispute. Participation in the mediation process shall not hinder or interfere with any enforcement action taken by the Department. Mediation may run parallel to any enforcement action. Participation by a complainant in the mediation process shall not preclude such complainants from seeking other relief provided by law.

B. The complaints program shall maintain a roster of certified mediators which will be available to the public.

C. The complaints program shall document the outcome of mediations to determine compliance with mediated agreements and for documentation of program success.
Added by Laws 1993, c. 145, § 19, eff. July 1, 1993. Amended by Laws 2002, c. 139, § 4, emerg. eff. April 29, 2002.

§27A-2-3-105. Pollution Prevention Program - Creation.

A Pollution Prevention Program within the Department of Environmental Quality is hereby authorized.
Added by Laws 1994, c. 134, § 1, eff. Sept. 1, 1994.

§27A-2-3-106. Pollution prevention, defined.

As used in this act and the Oklahoma Environmental Quality Act and the Oklahoma Environmental Quality Code, unless otherwise specified:

1. "Pollution prevention" means any practice which reduces the use of any hazardous substance or amount of any pollutant or contaminant prior to recycling, treatment or disposal, and reduces the hazards to public health and the environment associated with the use or release or both of such substances, pollutants or contaminants. The term "pollution prevention" shall not include or in any way be construed to promote or require substitution of one hazardous waste for another, treatment, increased pollution control, off-site recycling, or incineration.
Added by Laws 1994, c. 134, § 2, eff. Sept. 1, 1994.

§27A-2-3-107. Pollution Prevention Program - Duties - Authority - Award and recognition program - Confidentiality - Funding.

A. It shall be the duty of the Pollution Prevention Program within the Department of Environmental Quality to create a cooperative partnership among the business community, municipalities, agencies of the state, the environmental community and the Department of Environmental Quality and all other state environmental agencies in which technical assistance, outreach, and education activities are coordinated and conducted to achieve pollution prevention, waste minimization and source reduction.

B. The Pollution Prevention Program is hereby authorized to and may:

1. Encourage and assist facilities using toxic or hazardous substances to engage in comprehensive pollution prevention planning and develop measurable performance goals;

2. Offer and provide technical assistance, including audits, to the users and generators of toxic or hazardous substances; provided, however, the Program shall not duplicate services readily available in the private sector;

3. Promote pollution prevention as the preferred means for achieving compliance with the laws of this state and shall further

encourage all agencies and political subdivisions of the State of Oklahoma to strongly pursue pollution prevention goals;

4. Promote research in toxics use reduction in order to spur public and private investment in pollution prevention;

5. Develop and provide curriculum and training on pollution prevention for students and faculty of educational institutions, users and generators of toxic or hazardous substances and agencies of the State of Oklahoma and its political subdivisions;

6. Sponsor and conduct conferences and workshops on pollution prevention for specific classes of business or industry; and

7. Compile, organize and make information available for distribution on pollution prevention.

C. The Pollution Prevention Program may develop an award and a recognition program for the purpose of promoting pollution prevention activities among businesses and governmental entities.

D. 1. The Pollution Prevention Program shall not make available to the Department of Environmental Quality information the Program obtains in the course of providing technical assistance to a user or generator of toxic or hazardous waste, unless:

a. the user or generator agrees that such information may be available to the Department,

b. the information is public record information,

c. the information pertains to an imminent threat to public health or safety, or to the environment, or

d. disclosure to the Department is required by law.

2. The Program shall notify users or generators requesting technical assistance of these provisions.

3. Any technical assistance or information obtained by the Program shall not result in any regulatory inspections or other enforcement actions unless there is a reasonable cause to believe there exists a clear and imminent threat to the public health or safety or to the environment.

E. Positions created pursuant to this article compensated with federal funds shall be contingent upon the procurement of federal funds and shall be terminated when federal support of those positions is discontinued.

Added by Laws 1994, c. 134, § 3, eff. Sept. 1, 1994.

§27A-2-3-108. State environmental regulatory agencies - Encouragement of pollution prevention practices.

Each state environmental regulatory agency required by law to regulate any industry which generates hazardous substances, pollutants or contaminants may develop a program and promulgate rules for the purpose of encouraging entities regulated by such agency to implement pollution prevention practices and activities.

Added by Laws 1994, c. 134, § 4, eff. Sept. 1, 1994.

§27A-2-3-109. Oklahoma Energy Efficiency and Emission Reduction Program.

A. There is hereby created the "Oklahoma Energy Efficiency and Emission Reduction Program", to be administered by the Department of Environmental Quality. The purpose of the Oklahoma Energy Efficiency and Emission Reduction Program is to fund activities and projects designed to reduce regional air pollution.

B. The Oklahoma Legislature finds that any activity or project that reduces regional air pollution is desirable and advantageous and serves a compelling public interest. Further, improved air quality enhances the health and quality of life for the citizens of Oklahoma, helps maintain the abundant natural beauty and resources of the state, and fosters the economic well-being of the state by reducing the potential that the federal government will designate some or all of the state as in air-quality "nonattainment" status, resulting in extremely burdensome additional regulatory requirements.

C. 1. Any funds made available for the Oklahoma Energy Efficiency and Emission Reduction Program shall be used by the Department for matching grants to governmental and nongovernmental entities in Oklahoma to encourage the implementation of recognized air pollution reduction measures, including, but not limited to, the retrofitting of truck and bus fleets or locomotives to use cleaner fuels and the installation and implementation of energy efficiency measures.

2. Grants awarded under the Program shall be limited to ninety-five percent (95%) of the direct project costs in the case of governmental entities and seventy-five percent (75%) of the direct project costs in the case of nongovernmental entities.

3. In making grant awards, the Department shall enter into a contract or memorandum of agreement with the grantee that includes conditions and safeguards to ensure that the matching funds are expended for the purposes specified and that the state receives a clear benefit from the expenditure. In addition to any other conditions and safeguards deemed necessary and appropriate:

a. the Department shall require grant recipients to submit a report within a reasonable time after construction, installation, or implementation of the project that summarizes the results, including emissions reductions achieved and "lessons learned". Information from the reports may be used by the Department in evaluation of future grant applications or proposals for the Oklahoma Energy Efficiency and Emission Reduction Program or any similar grant program and to determine the viability of other projects or programs that may be proposed to control or reduce air pollution in the state, and

b. to secure the maximum possible benefit by increasing awareness of the Oklahoma Energy Efficiency and

Emission Reduction Program, the Department may require any grant recipient to post notice in a conspicuous place of participation in the Program and the nature of the funded project.

4. Before making any grants, the Department shall determine to its satisfaction that the proposed project will significantly reduce air pollution within the state. The Department is authorized to set a deadline for grant applications, and if the total grant funding sought exceeds the amount available under the Program, the Department shall give priority to those projects that appear to achieve the maximum public health benefit for citizens of the state.

5. Not more than twenty-five percent (25%) of the total sum available for grants under the Program shall be awarded to any single entity. Application of this limit shall not preclude participation by the recipient in any similar grant program in the future.

D. If funds are appropriated by the Legislature for the Oklahoma Energy Efficiency and Emission Reduction Program, not more than One Hundred Thousand Dollars ($100,000.00) annually of the funds shall be used by the Department for personnel and other costs associated with administration and management of the Program, and for providing technical assistance to entities applying for and participating in the Program.

E. On or before September 1, 2009, and by September 1 each year thereafter, the Department shall submit to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate a report on the Oklahoma Energy Efficiency and Emission Reduction Program. The report shall outline program expenditures, estimate emission reductions achieved, and health or environmental benefits associated with those reductions for the previous fiscal year, and any other information the Department determines is necessary to aid the Governor and Legislature in evaluating the Program.

Added by Laws 2008, c. 160, § 1, eff. July 1, 2008.

§27A-2-3-201. Executive Director - Appointment - Qualifications - Power, duties and responsibilities.

A. The Environmental Quality Board shall appoint the Executive Director of the Department of Environmental Quality. The Executive Director shall serve at the pleasure of the Board.

B. The Executive Director shall have experience in industry, conservation, environmental sciences or such other areas as may be required by the Environmental Quality Board.

C. The Executive Director shall provide for the administration of the Department and shall:

1. Be the executive officer and supervise the activities of the Department of Environmental Quality;

2. Employ, discharge, appoint or contract with, and fix the duties and compensation of such assistants, attorneys, chemists, geologists, environmental professionals, medical professionals, engineers, sanitarians, administrative, clerical and technical, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in his judgment and discretion shall be deemed necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives, responsibilities or statutory provisions relating to the Department of Environmental Quality, or to assist the Executive Director in the performance of his official duties and functions;

3. Establish internal policies and procedures for the proper and efficient administration of the Department; and

4. Exercise all incidental powers which are necessary and proper to implement the purposes of the Department pursuant to this Code.

D. The Executive Director shall not be an owner, stockholder, employee or officer of, nor have any other business relationship with or receive compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department of Environmental Quality and, with regard to the exercise of powers and duties associated with the Oklahoma Pollutant Discharge Elimination System Act, shall meet all requirements of Section 304 of the Clean Water Act and applicable federal regulations promulgated thereunder by the United States Environmental Protection Agency regarding conflict of interest.

E. 1. In addition to the powers and duties specified in subsection D of this section, the Executive Director shall have the power and duty to:

a. issue, deny, modify, amend, renew, refuse to renew, suspend, reinstate or revoke licenses or permits pursuant to the provisions of this Code, and rules promulgated by the Board, and

b. issue final orders and assess administrative penalties according to the Administrative Procedures Act, this Code and rules promulgated by the Board.

2. The powers and duties specified in paragraph 1 of this subsection shall be exercised exclusively by the Executive Director and may not be delegated to other employees of the Department except as specifically provided in this Code.

3. In the event of the Executive Director's temporary absence, the Executive Director may delegate the exercise of such powers and duties to an acting director during the Executive Director's absence subject to an organizational structure approved by the Board. In the event of a vacancy in the position of Executive Director, the Board may designate an interim or acting Executive Director who is

authorized to exercise such powers and duties until a permanent Executive Director is employed.

4. Any designee exercising such powers and duties of the Executive Director as authorized or on a temporary, acting or interim basis shall meet the requirements of subsection D of this section for the Executive Director.

5. All references in this Code to the Department with respect to the exercise of the powers and duties specified in paragraph 1 of this subsection shall mean the exercise of such powers and duties by the Executive Director or his authorized designee.

Added by Laws 1992, c. 398, § 8, eff. Jan. 1, 1993. Amended by Laws 1993, c. 145, § 20, eff. July 1, 1993. Renumbered from § 8 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 5, eff. July 1, 1994; Laws 1995, c. 285, § 1, eff. July 1, 1995.

§27A-2-3-202. Powers and duties of Department.

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, c. 145, § 21, eff. July 1, 1993.

§27A-2-3-301. Renewal of license - Renewal fee - Penalty fee - Promulgation of rules.

The holder of any license issued under the provisions of this Code which is renewable by payment of a fee shall be entitled to thirty (30) days after the expiration date thereof in which to renew the same, without penalty, and if he fails to pay the renewal fee within such thirty-day period, he shall, unless otherwise provided in this Code, be required to pay the renewal fee plus a penalty fee in an amount as promulgated by rule. Such penalty fee shall not exceed

the amount of the renewal fee. In the case of any renewal fee which shall exceed Ten Thousand Dollars ($10,000.00), the penalty fee shall be one and one-half percent (1.5%) per month of the outstanding balance of the renewal fee. The Board may promulgate rules which prohibit the renewal of any license which has expired by more than ninety (90) days.
Added by Laws 1993, c. 145, § 22, eff. July 1, 1993.

§27A-2-3-302. Applications for permits or other authorizations.

A. For permits or other authorizations required pursuant to the Oklahoma Environmental Quality Code, applicants shall file applications in the form and manner established by the Department of Environmental Quality. The Department shall review such applications as filed and subsequently amended or supplemented. Any permit issued or authorization granted may include conditions.

B. Permits and other authorizations required pursuant to the Oklahoma Environmental Code may contain provisions requiring that operations shall be in compliance with municipal and other local government ordinances, rules and requirements. A determination or certification that the operations under the requested permit or authorization conform or comply with such ordinances, rules or requirements, the enforcement of which are not within the jurisdiction or authority of the Department, shall not be considered by the Department in their review and approval or denial of a permit or authorization.
Added by Laws 1993, c. 145, § 61, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 10, eff. July 1, 1994. Renumbered from § 2-6-106 of this title by Laws 1994, c. 353, § 45, eff. July 1, 1994; Laws 1999, c. 381, § 4, emerg. eff. June 8, 1999.

§27A-2-3-401. Department of Environmental Quality Revolving Fund - Subaccounts - Transfer of revolving fund monies.

A. There is hereby created in the State Treasury a revolving fund for the Department of Environmental Quality to be designated the "Department of Environmental Quality Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department from appropriations, administrative penalties, fees, charges, gifts and monies from any other source that are not designated for deposit to any other fund authorized by this Code. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing and enforcing this Code. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Individual subaccounts shall be established in the Department of Environmental Quality Revolving Fund as necessary to maintain the tracking of monies collected and to support the programs and functions within the jurisdiction of the Department. Each subaccount shall consist of all monies collected pursuant to the program or function for which such subaccount has been established and all monies collected for such programs and functions shall be expended only and solely in furtherance of the statutory objectives of such programs and functions. Provided, as otherwise authorized by law, the Department may transfer monies between subaccounts to meet cash flow needs of the Department so long as the monies are transferred back to the appropriate subaccount to be expended on the appropriate programs and functions.

C. All revolving fund monies belonging to, deposited in or payable to the State Department of Health or the Oklahoma Water Resources Board for the purpose of administering a program or function over which the Department of Environmental Quality has jurisdiction, are hereby transferred to the appropriate funds of the Department of Environmental Quality. All other monies belonging to, deposited in or payable to any other revolving fund under the jurisdiction of the Department are hereby transferred.

Added by Laws 1993, c. 145, § 23, eff. July 1, 1993. Amended by Laws 2012, c. 304, § 103.

§27A-2-3-402. Schedule of fees.

A. The Board shall establish schedules of fees to be charged for applications for, or the issuance of, new, modified or renewed permits, licenses, certificates and other authorizations and for such other environmental services as are involved in the regulation of environmental functions and programs authorized by the provisions of this Code. Such fees shall be subject to the following limitations:

1. The Board shall follow the procedures required by the Administrative Procedures Act for promulgation of rules in establishing or amending any such schedule of fees;

2. The Board shall base its schedule of fees for each environmental function or program upon the reasonable costs of operating such environmental functions or programs, including, but not limited to, the costs of administration, personnel, office space, equipment, training, travel, inspection and review rendered in connection with each such function or program;

3. The Board shall promulgate rules establishing fee schedules for services, functions and programs within the advisory jurisdiction of a Council created by this Code only upon receipt of fee schedule recommendations from such Council;

4. Any facility exempt from the requirement to obtain a permit based on date of construction or start-up may be assessed an annual permit renewal fee equivalent; and

5. The Department shall expend monies received from permit, license and certification programs, including but not limited to application, review, inspection, monitoring and operating fees, only on the direct or indirect costs of the specific programs from which such monies originate.

B. The Board shall establish a schedule of fees to be charged for services including, but not limited to, searches, compilations, certifications or reproduction of maps and publications, transcripts, blueprints, computer data, electronic recordings or documents. Such fees shall be based on the actual cost to the Department for the provision of such services.

C. The Board shall promulgate a schedule of fees for the provision of services to validate reports from facilities required to report, but not merely to notify, under the Oklahoma Hazardous Materials Planning and Notification Act.

D. The Board's authority to establish fee schedules by rule shall extend to all programs administered by the Department, regardless of whether the statutes creating such programs are codified in Title 27A of the Oklahoma Statutes.

Added by Laws 1993, c. 145, § 24, eff. July 1, 1993.

§27A-2-3-403. Environmental Trust Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Department of Environmental Quality to be designated the "Environmental Trust Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies collected pursuant to the provisions of Section 354 of Title 17 of the Oklahoma Statutes for deposit in the Environmental Trust Revolving Fund and monies received in the form of gifts, grants, reimbursements, and from any other source specified for the purposes specified by this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Environmental Quality for matching federal funds available for environmental remediation and cleanup. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1993, c. 324, § 35, eff. July 1, 1993. Amended by Laws 2012, c. 304, § 104.

§27A-2-3-501. Sampling, inspecting and investigating conditions relating to pollution or damage to natural resource - Power to enter – Federal Superfund sites - Record and reports - Administrative warrants.

A. Any duly authorized representative of the Department of Environmental Quality shall have the power to enter at reasonable

times upon any private or public property for the purpose of sampling, inspecting and investigating conditions relating to pollution, damage to natural resources or the possible pollution of any air, land or waters of the state or the environment or relating to any other environmental or permitting responsibility authorized by law.

B. If the property to be entered has been identified on the federal National Priority List as a Superfund site or otherwise identified for an action under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C., Section 9601 et seq.) and the Department of Environmental Quality has been designated by the United States Environmental Protection Agency as lead agency for CERCLA activities at the site, any duly authorized representative of the Department shall have the power, in addition to the powers listed in subsection A of this section, to enter for purposes of conducting those CERCLA activities or to prevent unreasonable interference with such activities or remedies. The Department may seek administrative or judicial remedies for any person’s refusal to allow, or interference with, entry for this purpose.

C. The Department may require the establishment and maintenance of records and reports relating to any activity regulated by the Department. Copies of such records shall be submitted to the Department on request. Any authorized representative of the Department shall be allowed access and may examine such reports or records.

D. The Department may apply to and obtain from a judge of the district court, an order authorizing an administrative warrant to enforce access to premises for sampling, investigation, inquiry and inspection under the provisions of this Code and the rules promulgated by the Board. Failure to obey an administrative warrant of the district court may be punished by the district court as a contempt of court.

E. The Executive Director may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to investigate environmental crimes. Peace officers who become employed under this section who have service credit in the Oklahoma Law Enforcement Retirement System may, within thirty (30) days after becoming employed, elect to continue membership in the Oklahoma Law Enforcement Retirement System; otherwise they shall be eligible to enroll only in the Oklahoma Public Employees Retirement System.

Added by Laws 1972, c. 242, § 9. Amended by Laws 1993, c. 145, § 25, eff. July 1, 1993. Renumbered from § 926.9 of Title 82 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 9, eff. July 1, 1993; Laws 1995, c. 285, § 22, eff. July 1, 1995; Laws

2004, c. 141, § 1, eff. Nov. 1, 2004; Laws 2005, c. 1, § 23, emerg. eff. March 15, 2005.
NOTE: Laws 2004, c. 111, § 1 repealed by Laws 2005, c. 1, § 24, emerg. eff. March 15, 2005.

§27A-2-3-502. Notice of Code violation - Administrative remedies, compliance - Penalties, corrective action.

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, c. 145, § 26, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 6, eff. July 1, 1994; Laws 1999, c. 381, § 5, emerg. eff. June 8, 1999.

§27A-2-3-503. Notice of complaint - Opportunity to provide written information pertinent to complaint.

If the Department undertakes an enforcement action as a result of a complaint, the Department shall notify the complainant of the enforcement action by mail and offer the complainant an opportunity to provide written information pertinent to the complaint within fourteen (14) calendar days after the date of the mailing.

Added by Laws 1993, c. 145, § 27, eff. July 1, 1993.

§27A-2-3-504. Violation of Code, order, permit or license or rule - Penalties and remedies.

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 superseded 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, c. 145, § 28, eff. July 1, 1993. Amended by Laws 1998, c. 186, § 1, eff. Nov. 1, 1998.

§27A-2-3-505. Fraud or misrepresentation - Additional penalties.

In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in, or omits material data from, any application for a permit, license, certificate or other authorization, or any notice, analyses or report required by this Code, rules promulgated thereunder or any permit, license, certificate or other authorization issued pursuant thereto, or knowingly misrepresents or omits material data in such report to any person relying on such report or who alters any sample or knowingly renders inaccurate any monitoring device or method required to be maintained by such Code, rules, permits, licenses, certificates or authorization, or with regard to owners and employees of laboratories certified by the Department, misrepresents or omits material data from any report or analyses submitted to any person relying on such data because of the laboratory's certification shall, upon conviction, be guilty of a

misdemeanor and may be subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each such violation.
Added by Laws 1993, c. 145, § 29, eff. July 1, 1993.

§27A-2-3-506. Violations, remedies and penalties cumulative.

A. It is the purpose of this Code to provide additional and cumulative remedies to prevent, abate and control pollution. Nothing contained in this Code shall be construed to abridge or alter rights of action or remedies under the common law or statutory law, criminal or civil; nor shall any provision of this Code, or any act done by virtue thereof, be construed as estopping the state, or any municipality or person in the exercise of their rights under the common law to suppress nuisances or to abate pollution. Nothing in this Code shall in any way impair or affect a person's right to recover damages for pollution.

B. Nothing in this Code shall be construed to preclude the disposition of any matter by stipulation, agreed settlement, consent order or default.

C. Unless otherwise specified, the violations, remedies and penalties contained in this Code are in addition to those in the Environmental Crimes Act and other Oklahoma law. The specific enforcement provisions of other articles of this Code shall control over the provisions of this part when inconsistent.

D. 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, c. 145, § 30, eff. July 1, 1993.

§27A-2-3-507. Compliance schedules.

Political subdivisions may, when compliance with environmental standards would create excessive debt, enter into compliance schedules with the Department of Environmental Quality to prioritize compliance based on their greatest environmental or other public health and safety needs. Excessive debt is indicated when the work needed for compliance would require a capital cost or user charge significantly beyond the per-household cost for similar sized communities within the state. Penalties shall not be assessed if a political subdivision complies with the schedule authorized by the Department.
Added by Laws 1997, c. 53, § 1, emerg. eff. April 8, 1997.

§27A-2-4-101. Definitions.

As used in this article:

1. "Acceptable results" means a result within limits determined on the basis of statistical procedures as prescribed by the Department;

2. “Accreditation” means the act of certifying that a laboratory maintains suitable standards and includes primary accreditation and reciprocity accreditation;

3. “Analyte” means the characteristics of a laboratory sample determined by an analytic laboratory testing procedure;

4. "Department" means the Department of Environmental Quality;

5. "Evaluation" means a review of the quality control and quality assurance procedures, recordkeeping, reporting procedures, methodology, personal qualifications, equipment, facilities and analytical technique of a laboratory for measuring or establishing specific parameters;

6. "Laboratory" means a facility that performs analyses to determine the chemical, physical, or biological properties of air, water, solid waste, hazardous waste, wastewater, or soil or subsoil materials or performs any other analyses related to environmental quality evaluations; and

7. “Letters of accreditation” means a document issued by the Department showing those analytes for which a laboratory is accredited.

Added by Laws 1993, c. 145, § 31, eff. July 1, 1993. Amended by Laws 1998, c. 109, § 1, emerg. eff. April 13, 1998; Laws 2003, c. 118, § 2, emerg. eff. April 22, 2003.

§27A-2-4-201. Services and analyses - Rules - Fee schedule - Contracts.

A. The Department of Environmental Quality is authorized to acquire, operate and maintain laboratories to analyze samples to:

1. Obtain factual data to support any order, permit, function or program of the Department;

2. Provide laboratory service for individuals, cities, towns, counties, tribes, state institutions and other state and federal agencies; and

3. Provide such services and perform such other analyses as is necessary to implement and enforce the programs and functions under the jurisdiction of the Department pursuant to this Code.

B. The Board of Environmental Quality shall promulgate rules for laboratory services under this Code. The Board shall follow the procedures required by the Administrative Procedures Act for promulgation of such rules.

C. 1. The Board, pursuant to the Administrative Procedures Act, shall promulgate as a rule a fee schedule based on actual cost of analyses and the costs of the provision of laboratory services. The schedule shall include fees for specific analytes and procedures.

2. Fees charged pursuant to this section shall be paid into the Department of Environmental Quality Revolving Fund and shall only be used by the Department in administering the Department's environmental laboratory.

D. The Department may, if necessary to meet the demand for laboratory services, contract, pursuant to the provisions of the Central Purchasing Act, for the performance of analyses with laboratories accredited by the Department.

Added by Laws 1963, c. 325, art. 9, § 905, operative July 1, 1963. Amended by Laws 1993, c. 145, § 32, eff. July 1, 1993. Renumbered from § 1-905 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2003, c. 118, § 3, emerg. eff. April 22, 2003; Laws 2004, c. 381, § 3, emerg. eff. June 3, 2004.

§27A-2-4-301. Duties of Department.

The Department of Environmental Quality is hereby designated as the administrative agency for national environmental laboratory accreditation programs and shall:

1. Establish and administer the state water quality and environmental laboratory accreditation programs for laboratories which apply; and

2. Issue, modify, renew, reinstate, revoke, or suspend the accreditation of a laboratory or deny a new or renewal accreditation application.

Added by Laws 1993, c. 145, § 33, eff. July 1, 1993. Amended by Laws 1998, c. 109, § 2, emerg. eff. April 13, 1998; Laws 2003, c. 118, § 4, emerg. eff. April 22, 2003.

§27A-2-4-302. Promulgation of rules - Fee schedule - Disposition of fees.

A. The Board of Environmental Quality shall promulgate rules for accreditation of privately and publicly owned laboratories for performance of environmental analyses. The Board may also promulgate rules which adopt standards of a national environmental laboratory accreditation program and the United States Environmental Protection Agency by reference.

B. The Board, pursuant to Section 2-2-101 of this title and the Administrative Procedures Act, shall promulgate rules for the assessment of reasonable fees to participating laboratories for the administrative costs of the accreditation program.

C. Fees charged pursuant to this section shall be paid into the Department of Environmental Quality Revolving Fund and shall only be used by the Department in administering the Department's laboratory accreditation program.

Added by Laws 1993, c. 145, § 34, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 17, eff. July 1, 1993; Laws 1998, c. 109, § 3, emerg. eff. April 13, 1998; Laws 2003, c. 118, § 5, emerg. eff. April 22, 2003.

§27A-2-4-303. Applications for accreditation - Form and manner - On-site evaluations - Issuance or denial of accreditation.

A. Applications for accreditation shall be made in the form and manner established by the Department of Environmental Quality.

B. The Department may make on-site evaluations of applicant laboratories.

C. 1. Based upon completion of the criteria evaluation by the Department or other evaluations, the Department shall either issue or deny accreditation to an applicant laboratory.

2. Only those laboratories that meet Department rules shall be accredited. Letters of accreditation shall be issued only for the categories or analytes for which the capabilities and adequacy of the laboratory have been demonstrated.

3. Causes for denial of an application shall include, but not be limited to, the misrepresentation of or the omission of fact or facts from any accreditation application or the failure to demonstrate compliance with Board rules. If accreditation is denied, the Department shall give written notice to the applicant of such denial and the reasons therefor.

Added by Laws 1993, c. 145, § 35, eff. July 1, 1993. Amended by Laws 2003, c. 118, § 6, emerg. eff. April 22, 2003.

§27A-2-4-304. Acceptance of reports or laboratory analyses performed by accredited laboratories.

A. The Department of Environmental Quality shall accept reports or laboratory analyses performed by accredited laboratories but may reject analyses that were not performed in compliance with the Department's rules or the laboratory's accreditation. The Department may require that reports or laboratory analyses which are submitted pursuant to this Code, rules promulgated or permits and orders issued pursuant thereto shall be performed by laboratories accredited by the Department if the submission of reports or laboratory analyses performed by an accredited laboratory is specifically required or authorized by this Code, rules promulgated thereto or federal law or federal regulations.

B. The Department shall accept laboratory reports and analyses prepared and performed by Department-certified laboratory operators for operational testing of municipal wastewater treatment systems and water supply systems provided that the analyses were performed in compliance with the Department's rules or the terms of the laboratory operator's certification.

C. Acceptance of such reports or analyses shall not preclude the Department from declining for cause to rely on such results or from requiring additional laboratory analyses or reports from the person submitting such analyses or reports.

Added by Laws 1993, c. 145, § 36, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 18, eff. July 1, 1993; Laws 2003, c. 118, § 7, emerg. eff. April 22, 2003.

§27A-2-4-305. Suspension, revocation, or refusal to renew laboratory accreditation.

A. The Department of Environmental Quality may suspend, revoke, or refuse to renew in part or in whole the accreditation of any laboratory which does not continue to comply with Board of Environmental Quality rules or conditions of accreditation, or for cause, including but not limited to:

1. The knowing and willful falsification of data submitted to the Department;

2. The misrepresentation or omission of material data in any report submitted to any person relying on such report because of the laboratory's accreditation;

3. Failure to maintain or utilize approved quality control procedures, recordkeeping, reporting procedures, methodology, personnel requirements, equipment, facilities or analytical techniques on which the accreditation was issued;

4. Failure to achieve acceptable results on proficiency testing samples; or

5. For laboratories holding Department-issued accreditation, the expiration, suspension or revocation of the laboratory's reciprocal out-of-state certification or accreditation.

B. The Department may conduct on-site evaluations of accredited laboratories.

Added by Laws 1993, c. 145, § 37, eff. July 1, 1993. Amended by Laws 1998, c. 109, § 4, emerg. eff. April 13, 1998; Laws 2003, c. 118, § 8, emerg. eff. April 22, 2003.

§27A-2-4-306. Department of Environmental Quality - Accreditations.

A. The Department of Environmental Quality shall mutually recognize environmental laboratory accreditations issued by The NELAC Institute’s (TNI) primary National Environmental Laboratory Accreditation Program (NELAP) accreditation bodies without any duplicative actions to determine the laboratory’s conformity to TNI Standards. These actions include, but are not limited to, proficiency testing, quality assurance, and on-site assessment.

B. Mutual recognition does not mean automatic accreditation by the Department or exemption from complying with the Department’s administrative processes.

C. Mutual recognition does not prevent the Department from verifying the accreditation with the primary accreditation body or requiring a laboratory to adhere to applicable laws, rules and normal administrative processes, such as submitting applications and paying fees, so long as the Department does not impose additional requirements concerning proficiency testing, quality assurance, on-site assessment or other matters relating to conformance to TNI Standards.

D. Mutual recognition is limited to the fields of accreditation included in the primary accreditation consistent with the scope of the Department's laboratory accreditation program. If a laboratory does not hold a primary accreditation in categories requested of the Department, the laboratory must apply for primary accreditation for those categories in Oklahoma.

E. The Department is not required to recognize a primary accreditation or grant secondary accreditation if a law, rule, administrative proceeding or court order precludes or has the effect of precluding the Department from granting accreditation in whole or in part to a laboratory.

F. The Environmental Quality Board is authorized to promulgate rules necessary to implement the provisions of this section.

Added by Laws 2010, c. 56, § 1, eff. July 1, 2010.

§27A-2-5-101. Citation.

This article may be cited as the "Oklahoma Clean Air Act".

Added by Laws 1967, c. 80, § 1, emerg. eff. April 18, 1967. Renumbered from Title 63, § 2001 by Laws 1978, c. 62, § 2. Amended by Laws 1993, c. 145, § 38, eff. July 1, 1993. Renumbered from Title 63, § 1-1801 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-102. Purpose - Definitions - Administrative agency - Rules and regulations - Air Quality Council - Chief of Air Quality Service - Complaints and investigations - Hearings - Variances - Violations - Penalties - Cooperation among agencies.

It is the purpose of the Oklahoma Clean Air Act to provide the means to achieve and maintain atmospheric purity necessary for the protection and enjoyment of human, plant or animal life and property in this state consistent with and limited by generally accepted social standards and requirements, desired employment and industrial development, area conditions, and the availability of economic and feasible controls.

Added by Laws 1967, c. 80, § 2, emerg. eff. April 18, 1967. Amended by Laws 1971, c. 347, § 1, operative July 1, 1971; Laws 1975, c. 333, § 1, emerg. eff. June 12, 1975; Laws 1978, c. 62, § 1. Renumbered from Title 63, § 2002 by Laws 1978, c. 62, § 2. Amended by Laws 1981, c. 186, § 1, emerg. eff. May 20, 1981; Laws 1983, c. 333, § 22, emerg. eff. June 29, 1983; Laws 1985, c. 178, § 44, operative July 1, 1985; Laws 1992, c. 215, § 1, emerg. eff. May 15, 1992; Laws 1993, c. 145, § 39, eff. July 1, 1993. Renumbered from Title 63, § 1-1802 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-103. Municipal regulation - Powers of State Board of Agriculture.

A. 1. Nothing in the Oklahoma Clean Air Act:

a. shall prevent cities, towns and counties from enacting ordinances or codes with respect to air pollution which will not conflict with the provisions of the Oklahoma Clean Air Act and which contain provisions more stringent than those fixed by the operation of the Oklahoma Clean Air Act; provided, however, that any city or town which has a population of less than three hundred thousand (300,000) persons according to the most current census shall not enforce any ordinance or code regarding air pollution containing more stringent provisions unless and until such ordinance or code is reviewed by the Council and approved as to its reasonableness and technical feasibility.

b. shall prevent cities and towns from summarily abating public nuisances as now provided by law.

2. This subsection shall not apply to any air pollution ordinances or codes enacted by cities, towns or counties and in effect prior to May 15, 1992.

B. Except for authority regarding abatement of public nuisances, no city, town, municipality, county or other political subdivision shall enact or enforce any code, ordinance or rule which is more stringent than, or which is in conflict with any state or federal law, code or rule concerning the utilization of fuel in any flange-wheeled railroad rolling stock or which attempts to regulate or affect the emissions therefrom.

C. The Oklahoma Clean Air Act shall not be construed to limit, modify, or repeal or affect in any way the powers, duties or functions of the State Board of Agriculture, except to the extent necessary to comply with the Federal Clean Air Act.

Added by Laws 1967, c. 80, § 3, emerg. eff. April 18, 1967. Renumbered from § 2003 of this title by Laws 1978, c. 62, § 2. Amended by Laws 1993, c. 145, § 40, eff. July 1, 1993. Renumbered from Title 63, § 1-1803 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 10, eff. July 1, 1993.

§27A-2-5-104. Definitions.

As used in the Oklahoma Clean Air Act:

1. "Accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source;

2. "Air contaminants" means the presence in the outdoor atmosphere of fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof which creates a condition of air pollution;

3. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as tend to be or may be injurious to

human, plant or animal life or to property, or which interfere with the comfortable enjoyment of life and property, excluding, however, all conditions pertaining to employer-employee relations;

4. "Ambient air" means the surrounding outdoor air;

5. "Chair" means the Chair of the Air Quality Council;

6. "Council" means the Air Quality Council;

7. "Director" means the Director of Air Quality Division;

8. "Emission" means the release or discharge of any air contaminant or potential air contaminant into the ambient air;

9. "Federal Clean Air Act" means the Federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended, including the Federal Clean Air Act Amendments of 1990;

10. "Hazardous air pollutant" means any air pollutant listed and regulated pursuant to subsection (b) of Section 112 of the Federal Clean Air Act;

11. "Hearing officer" means a person appointed to preside at public hearings held pursuant to this article;

12. "Panel" means the Compliance Advisory Panel;

13. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, municipality or any other legal entity, or their representative, agent or assign;

14. "Regulated substance" means any substance, including extremely hazardous substances, listed and regulated pursuant to Section 112(r) (3) of the Federal Clean Air Act;

15. "Small Business Stationary Source" means a stationary source as defined in Section 507 (c) of the Federal Clean Air Act;

16. "Toxic air contaminant" means any substance determined to be highly toxic, moderately toxic, or of low toxicity pursuant to criteria set forth by rule. The term shall not be construed to include pollutants for which a primary and secondary ambient air quality standard has been promulgated under the Federal Clean Air Act to the extent of the criteria for which they are listed; and

17. "Trade secret" means information, including but not limited to a formula, pattern, compilation, program, device, method, technique or process, that:

a. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

b. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The term "trade secret" shall not be construed to include data concerning the amount, emission rate or identification of any air contaminant emitted by any source, nor shall it include the contents of any proposed or final permit.

Added by Laws 1992, c. 215, § 3, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 41, eff. July 1, 1993. Renumbered from Title 63, § 1-1804.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-105. Administrative agency - Powers and duties.

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, c. 215, § 4, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 42, eff. July 1, 1993. Renumbered from § 1-1805.1 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1998, c. 314, § 6, eff. July 1, 1998; Laws 2002, c. 397, § 2, eff. Nov. 1, 2002.

NOTE: Laws 1993, c. 47, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§27A-2-5-106.1. Controlled open burning - Fire training.

A. For purposes of this section, "open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

B. A municipal fire department may engage in controlled open burning of a structure for purposes of fire training if the records of the department document the purpose of the open burn and the following conditions are met:

1. The municipal fire chief or designee shall provide notification of the planned open burn to the Department of Environmental Quality at least ten (10) days prior to the burning. The notification shall be on a form developed by the Department, document that the provisions of this section are satisfied and be signed by the municipal fire chief;

2. For any human-made structure, the entire structure, including, but not limited to, insulation, roofing, flooring, painted surfaces and plumbing, shall be examined for the presence of asphalt, asbestos and lead-containing materials. All asphalt, asbestos and lead-containing materials shall be removed from the structure prior to the fire training. Asbestos inspection and removal shall be conducted according to the requirements of federal law;

3. Any human-made structure demolished pursuant to the provisions of this act shall not be demolished prior to the fire training. Demolition shall not include structural deterioration due to natural causes;

4. Prior to conducting any fire training involving a human-made structure located within three hundred (300) feet of another human-made structure, the municipality shall notify in writing the owners of the property located within three hundred (300) feet within ten (10) days prior to a meeting of the governing body of the municipality to provide an opportunity for public comment; and

5. Following the completion of fire training, all debris resulting from the training must be disposed of in the appropriate manner.

C. The Board of Environmental Quality shall have the authority to promulgate rules as may be necessary to implement the purposes of this section.

Added by Laws 2003, c. 238, § 1, eff. Nov. 1, 2003.

§27A-2-5-106. Rules and regulations.

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, c. 215, § 5, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 43, eff. July 1, 1993. Renumbered from Title 63, § 1-1806.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-107. Air Quality Council - Powers and duties.

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, c. 215, § 7, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 44, eff. July 1, 1993. Renumbered from Title 63, § 1-1808.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 7, eff. July 1, 1994.

§27A-2-5-108. Director of Air Quality Program - Powers and duties.

A. A Director of the Air Quality Program shall be appointed and employed by the Executive Director and shall have the following duties and powers:

1. Perform those duties and responsibilities as may be assigned by the Executive Director and as may be required for carrying out the air pollution program of the Department;

2. Attend, or designate an alternate to attend, all meetings of the Council and the Panel, but shall not be entitled to a vote;

3. Serve or appoint a designee to serve as secretary to the Council and serve or appoint a designee to serve as secretary to the Panel;

B. The Department shall:

1. Make recommendations to the Council with respect to rules and air pollution prevention and abatement;

2. Investigate citizen complaints, violations of the Oklahoma Clean Air Act and the rules promulgated thereunder, make inspections, observations and analyses of air pollution conditions; and make recommendations to the Council and to the Executive Director for the issuance of formal complaints and for the prosecution of such complaints by the Department;

3. Keep a record of all meetings of the Council and the Panel; and

4. Notify the members of the Council and the Panel of the time, place and purpose of their respective meetings.

Added by Laws 1992, c. 215, § 8, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 45, eff. July 1, 1993. Renumbered from Title 63, § 1-1809 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 11, eff. July 1, 1993.

§27A-2-5-109. Variances - Petition - Incremental compliance schedule - Final order - Periodic reports.

A. Any person seeking a variance from any provision of the Oklahoma Clean Air Act, or from any applicable air quality rule, shall do so by filing a petition for variance with the Department, who shall promptly investigate such petition and make a recommendation to the Council as to the disposition thereof. Upon receiving the recommendation of the Department, the Council may, in its discretion, determine whether or not an administrative hearing is necessary in granting a variance. Such hearing shall be held as provided in the Administrative Procedures Act, except the burden of proof shall be on the petitioner. The petitioner shall be notified by the Department of the time and place of the administrative hearing.

B. The Council may grant individual variances beyond the limitations prescribed in the Oklahoma Clean Air Act, whenever it is

found, upon presentation of adequate proof, that compliance with any provision of the Oklahoma Clean Air Act, or any rule promulgated thereunder, will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people, the environment or to public health. The Council may also propose rules applicable to such variances.

C. In determining under what conditions and to what extent a variance from the Oklahoma Clean Air Act or any rule promulgated thereunder may be granted, the Council shall give due recognition to the progress which the person requesting such variance shall have made in eliminating or preventing air pollution. In such a case, the Council shall consider the reasonableness of granting a variance conditioned upon such person effecting a partial abatement of the particular air pollution over a period of time which it shall consider reasonable under the circumstances.

D. If the Council deems proper, such an incremental compliance schedule may be imposed and shall contain a date or dates certain by which compliance with otherwise applicable rules or provisions of the Oklahoma Clean Air Act shall be achieved. The Council may also include provisions whereby a penalty of up to Ten Thousand Dollars ($10,000.00) per day may be assessed for failure to achieve compliance by the date(s) specified in the compliance schedule, if any, and taking into account conditions beyond the control of the applicant.

E. The Council, in conformity with the intent and purpose of the Oklahoma Clean Air Act to protect health, welfare and property, may also prescribe other and different requirements with which the person who receives such variance shall comply.

F. Any variance granted pursuant to the provisions of this section shall constitute a final order, shall be in writing, and shall be granted for a period of time not to exceed three (3) years. Any variance so granted shall require to be submitted to the Department such periodic reports as the Council shall specify as to the progress which such person shall have made toward compliance with any rule as to which a variance has been granted. Such variance may, for good cause shown, be extended on a year-to-year basis by affirmative action of the Council.

G. Nothing in this section shall be construed to preclude the informal disposition of any matter by stipulation, agreed settlement, consent order or default.

Added by Laws 1992, c. 215, § 9, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 46, eff. July 1, 1993. Renumbered from Title 63, § 1-1810 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 12, eff. July 1, 1993.

§27A-2-5-110. Violations - Compliance orders - Administrative penalties - Notice and hearing - Burden of proof - Settlements or consent orders.

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, c. 215, § 10, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 47, eff. July 1, 1993. Renumbered from § 1-1811 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 13, eff. July 1, 1993; Laws 1999, c. 131, § 1, eff. Nov. 1, 1999; Laws 2001, c. 109, § 1, emerg. eff. April 18, 2001.

§27A-2-5-111. Field citations - Election of penalty or hearing - Qualifications of persons issuing citations.

A. The Department of Environmental Quality shall have the authority, pursuant to rules of the Board, to implement a field citation program establishing appropriate violations for which field citations assessing administrative penalties may be issued. No citation shall assess a penalty in excess of One Thousand Dollars ($1,000.00) per day, or part of a day, per violation, nor exceed a combined limit of Five Thousand Dollars ($5,000.00) per day. Provided further, no field citation shall be valid unless reviewed for legal sufficiency within ten (10) days of issuance.

1. Any person to whom a field citation is issued may elect to pay the penalty assessment or to request an enforcement hearing. The assessment shall become final and payable unless the request for hearing is made in writing within fifteen (15) days of the citation. Upon such request, the Department shall promptly schedule the enforcement hearing before an administrative law judge for the Department and notify the respondent.

2. Payment of a penalty required by a field citation shall not be construed as an admission of liability or guilt and shall preclude further assessment of administrative penalties for the same violation. It shall not, however, be a defense to further enforcement by the Department for a subsequent violation or to an assessment of the statutory maximum penalty for criminal violations pursuant to other authority in the Oklahoma Clean Air Act.

3. In determining the amount of any penalty to be assessed pursuant to this section, the person issuing a field citation shall take into account the seriousness of the violation, any good faith efforts to comply with applicable requirements and other factors determined by rule to be relevant.

B. Qualifications of persons authorized to issue field citations shall be set by the Department, but shall include as a minimum:

1. Completion of a special course of study developed by the Department specifically for the training of persons for this purpose;

2. A minimum of three (3) years' experience in the air quality service enforcement program;

3. A job classification commensurate with the duties and responsibilities of the individual; and

4. Approval by the Executive Director.

Added by Laws 1992, c. 215, § 11, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 48, eff. July 1, 1993. Renumbered from § 1-1812 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 14, eff. July 1, 1993; Laws 2003, c. 118, § 9, emerg. eff. April 22, 2003.

§27A-2-5-112.1. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996.

§27A-2-5-112. Comprehensive permitting program - Issuance, denial or renewal.

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

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

1. Expeditiously issue, reissue, modify and reopen for cause, permits for new and existing sources for the emission of air contaminants, and to grant a reasonable measure of priority to the processing of applications for new construction or modifications. The Department may also revoke, suspend, deny, refuse to issue or to reissue a permit upon a determination that any permittee or applicant is in violation of any substantive provisions of the Oklahoma Clean Air Act, or any rule promulgated thereunder or any permit issued pursuant thereto;

2. Refrain from issuing a permit when issuance has been objected to by the Environmental Protection Agency in accordance with Title V of the Federal Clean Air Act;

3. Revise any permit for cause or automatically reopen it to incorporate newly applicable rules or requirements if the remaining permit term is greater than three (3) years; or incorporate insignificant changes into a permit without requiring a revision;

4. Establish and enforce reasonable permit conditions which may include, but not be limited to:

a. emission limitations for regulated air contaminants,
b. operating procedures when related to emissions,
c. performance standards,
d. provisions relating to entry and inspections, and
e. compliance plans and schedules;

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

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

6. 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, c. 215, § 12, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 49, eff. July 1, 1993. Renumbered from § 1-1813 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 16, eff. July 1, 1994; Laws 1995, c. 285, § 2, eff. July 1, 1996; Laws 1999, c. 284, § 1, emerg. eff. May

27, 1999; Laws 2000, c. 6, § 7, emerg. eff. March 20, 2000; Laws 2004, c. 83, § 1, emerg. eff. April 13, 2004; Laws 2004, c. 381, § 4, emerg. eff. June 3, 2004.
NOTE: Laws 1999, c. 131, § 2 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§27A-2-5-113. Permit fees - Department of Environmental Quality Revolving Fund subaccount.

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, c. 215, § 13, emerg. eff. May 15, 1992. Added by Laws 1993, c. 145, § 50, eff. July 1, 1993. Renumbered from Title 63, § 1-1814 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 15, eff. July 1, 1993.

§27A-2-5-114. Implementation and enforcement of federal emission standards - Oil and gas well and equipment emissions.

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, c. 215, § 14, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 51, eff. July 1, 1993. Renumbered from Title 63, § 1-1815 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-115. Small business technical and environmental compliance assistance - State Air Quality Ombudsman Office for Small Businesses.

A. The Department shall establish a small business stationary source technical and environmental compliance assistance program. The purpose of such program shall be to provide information to small businesses to assist them in achieving compliance with the requirements of the Oklahoma Clean Air Act and the Federal Clean Air Act. It shall be the duty of the Department to:

1. Develop, collect and coordinate information concerning compliance methods and technologies for small business stationary sources;

2. Assist small businesses with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution;

3. Develop a compliance assistance program for small business stationary sources to assist them in determining applicable requirements and in receiving permits in a timely manner;

4. Assure that small business stationary sources receive notice of their rights under the Oklahoma Clean Air Act and the Federal Clean Air Act, in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard;

5. Develop procedures for informing small business stationary sources of their obligations pursuant to the Oklahoma Clean Air Act, including mechanisms for referring such sources to qualified auditors in order that they may determine compliance with the Oklahoma Clean Air Act or the Federal Clean Air Act; and

6. Develop procedures for considering requests from small businesses for modification of work practices or technological compliance methods when in accordance with the Oklahoma Clean Air Act or the Federal Clean Air Act.

B. The Executive Director shall designate an employee within the Department to serve as the State Air Quality Ombudsman for Small Businesses. Such designee shall assume the responsibility for monitoring the small business stationary source technical and environmental compliance assistance program under this section. The Ombudsman shall:

1. Evaluate and report on all aspects of the small business stationary source technical and environmental compliance assistance program including, but not limited to:

   a. comments and recommendations to the Environmental Protection Agency and the state regarding development and implementation of regulations,
   b. the impact of the Oklahoma Clean Air Act and the Federal Clean Air Act on the state's economics, local economics and small businesses,
   c. review the work and services of the small business stationary source technical and environmental compliance assistance program with trade associations and small business representatives;

2. Interact with the state and small businesses to:

   a. facilitate small business participation in new regulation development,
   b. disseminate information,
   c. sponsor meetings, and
   d. refer small businesses to the appropriate areas of the small business stationary source technical and environmental compliance assistance program where they may obtain information on assistance or find affordable alternatives in controlling emissions and precluding accidental releases; and

3. Interface with:

   a. the Small Business Administration, the Department of Commerce and other state, local, regional and federal agencies which have programs to finally assist small businesses in compliance with environmental regulations, and
   b. private sector financial institutions in locating sources of funds to comply with state-local air pollution regulations.

C. There is hereby created a Compliance Advisory Panel with responsibilities consistent with the requirements in Title V of the Federal Clean Air Act. Panel members shall serve without compensation but shall be entitled to travel expenses according to

the provisions of the State Travel Reimbursement Act. Funds to cover the operational expenses of the panel shall be allocated and administered by the Department through the small business stationary source technical and environmental compliance assistance program. The panel shall consist of seven (7) members as follows:

1. Two members who are not owners, or representatives of owners, of small business stationary sources selected by the Governor to represent the general public;

2. Two members who are owners, or who represent owners, of small business stationary sources to be selected, one each, by the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

3. Two members who are owners, or who represent owners, of small business stationary sources to be selected, one each, by the minority leader of the Senate and the minority leader of the House of Representatives; and

4. One member selected by the Executive Director to represent the Department.

D. Each member of the Compliance Advisory Panel shall be appointed for a term of seven (7) years terminating on January 15, except the term of those first appointed shall expire as follows:

1. The first appointee of the Governor shall serve for one (1) year;

2. The appointee of the House minority leadership shall be for two (2) years;

3. The appointee of the House majority leadership shall be for three (3) years;

4. The appointee of the Senate minority leadership shall be for four (4) years;

5. The appointee of the Senate majority leadership shall be for five (5) years;

6. The second appointee of the Governor shall be for six (6) years; and

7. The appointee of the Executive Director shall be for seven (7) years.

E. The terms of all members shall continue until their successors shall have been duly appointed. If a vacancy occurs, the designated appointing official shall name a replacement for the remaining portion of the unexpired term created by the vacancy.

F. The Compliance Advisory Panel shall have the authority and the duty to:

1. Render advisory opinions on the effectiveness of the state small business stationary source technical and environmental compliance assistance program, difficulties encountered, and the degree and severity of enforcement;

2. Make periodic reports to the administrator of the Environmental Protection Agency concerning the compliance status of

the state small business stationary source technical and environmental compliance assistance program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; and

3. Review information for small business stationary sources to assure such information is understandable by the layperson.

Added by Laws 1992, c. 215, § 15, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 52, eff. July 1, 1993. Renumbered from Title 63, § 1-1816 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 16, eff. July 1, 1993.

§27A-2-5-116. Violations - Penalties.

A. Any person who knowingly and willfully:

1. Violates any applicable provision of the Oklahoma Clean Air Act or any rule or standard promulgated thereunder;

2. Violates any order issued or permit condition prescribed pursuant to the Oklahoma Clean Air Act;

3. Violates any emission limitation or any substantive provision or condition of any permit;

4. Makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan or other document, except for monitoring data, required pursuant to the Oklahoma Clean Air Act to be either filed or maintained;

5. Fails to notify or report as required by the Oklahoma Clean Air Act, rules promulgated thereunder or orders or permits issued pursuant thereto; or

6. Fails to install any monitoring device or method required to be maintained or followed pursuant to the Oklahoma Clean Air Act;

shall, upon conviction, be guilty of a misdemeanor and be punished by a fine not to exceed Twenty-five Thousand Dollars ($25,000.00) per day of violation or for not more than one (1) year imprisonment in the county jail, or both such fine and imprisonment.

B. Any person who knowingly and willfully:

1. Violates any applicable provision of the Oklahoma Clean Air Act or any rule promulgated thereunder, or any order of the Department or any emission limitation or substantive provision or condition of any permit, and who knows at the time that he thereby places another in danger of death or serious bodily injury;

2. Tampers with or renders inaccurate any monitoring device; or

3. Falsifies any monitoring information required to be maintained or submitted to the Department pursuant to the Oklahoma Clean Air Act;

shall, upon conviction, be guilty of a felony and subject to a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00) or

for not more than ten (10) years imprisonment, or both such fine and imprisonment.
Added by Laws 1992, c. 215, § 16, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 53, eff. July 1, 1993. Renumbered from Title 63, § 1-1817 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-117. Civil actions - Injunctions - Abatement - Civil penalties.

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, c. 215, § 17, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 54, eff. July 1, 1993. Renumbered from Title 63, § 1-1818 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-118. Repealed by Laws 2006, c. 182, § 14, emerg. eff. May 23, 2006.

§27A-2-5-130. Air curtain incinerators – Limitations on required use.

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 that are or have been designated nonattainment for a National Ambient Air Quality Standard or in metropolitan statistical areas with a population of

greater than nine hundred thousand (900,000) 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. For the purposes of this section, "metropolitan statistical area," means a core area containing a substantial population nucleus, together with adjacent communities having a high degree of economic and social integration with that core, as defined by the federal Office of Management and Budget.

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 that are or have been designated nonattainment for a National Ambient Air Quality Standard or in metropolitan statistical areas with a population of greater than nine hundred thousand (900,000) 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.

Added by Laws 2019, c. 230, § 1, eff. Nov. 1, 2019.

§27A-2-6-101. Definitions.

For purposes of this article:

1. "Aquifer storage and recovery (ASR)" means delivery of water into an aquifer for later recovery and use;

2. "Disposal system" means pipelines or conduits, pumping stations and force mains and all other devices, construction, appurtenances and facilities used for collecting, conducting or disposing of wastewater, including treatment systems;

3. "Drainage basin" means all of the water collection area adjacent to the highest water line of a reservoir which may be considered by the Department to be necessary to protect adequately the waters of the reservoir. The area may extend upstream on any watercourse to any point within six hundred (600) feet of the highest water line of the reservoir;

4. "Indirect discharge" means the introduction of pollutants to a publicly owned treatment works from a nondomestic source;

5. "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial,

municipal, and agribusiness waste discharged into waters of the state;

6. "Public water supply" means water supplied to the public for domestic or drinking purposes;

7. "Reservoir" means any reservoir, whether completed or in the process of construction, whether or not used as a water supply, and whether or not constructed by any recipient of water therefrom;

8. "Sludge" means nonhazardous solid, semi-solid, or liquid residue generated by the treatment of domestic sewage or wastewater by a treatment works, or water by a water supply system, or manure, or such residue, treated or untreated, which results from industrial, nonindustrial, commercial, or agribusiness activities or industrial or manufacturing processes and which is within the jurisdiction of the Department;

9. "Small public sewage system" means a nonindustrial wastewater treatment system which has an average flow of five thousand (5,000) gallons per day or less;

10. "Treatment works" means any facility used for the purpose of treating or stabilizing wastes or wastewater. "Treatment works" shall be synonymous with "wastewater works"; and

11. "Water supply system" means a water treatment plant, water wells, and all related pipelines or conduits, pumping stations and mains and all other appurtenances and devices used for distributing drinking water to the public and, as such, shall be synonymous with waterworks.

Added by Laws 1993, c. 145, § 56, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 19, eff. July 1, 1993; Laws 1994, c. 353, § 8, eff. July 1, 1994; Laws 1997, c. 217, § 2, eff. July 1, 1997; Laws 1999, c. 413, § 5, eff. Nov. 1, 1999; Laws 2002, c. 227, § 1, emerg. eff. May 9, 2002; Laws 2005, c. 138, § 1, eff. Nov. 1, 2005; Laws 2017, c. 318, § 1, emerg. eff. May 22, 2017.

§27A-2-6-102. Declaration of policy.

Whereas the pollution of the waters of this state constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas the problem of water pollution of this state is closely related to the problem of water pollution in adjoining states, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; to provide that no waste or pollutant be discharged into any waters of the state or otherwise placed in a location likely to affect such waters without first being given the degree of

treatment or taking such other measures as necessary to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing water pollution; and to cooperate with other agencies of this state, agencies of other states and the federal government in carrying out these objectives.
Added by Laws 1972, c. 242, § 2. Amended by Laws 1993, c. 145, § 57, eff. July 1, 1993. Renumbered from Title 82, § 926.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-103.1. Contracts for technical assistance programs.

The Department of Environmental Quality may, to the extent funds are available, contract with the Oklahoma Rural Water Association for technical assistance programs to rural water and wastewater system operators throughout the state. The Department may contract with other nonprofit entities in addition to the Oklahoma Rural Water Association for this purpose if the Department, in its discretion, determines that those entities can and will provide equally effective and efficient technical assistance services to rural water and wastewater system operators throughout the state.
Added by Laws 2016, c. 161, § 1, eff. July 1, 2016.

§27A-2-6-103. Powers and duties of Department, Board and Executive Director.

A. The Department of Environmental Quality shall have and is hereby authorized to exercise the power and duty to:

1. Develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of this state;

2. Encourage, participate in, or conduct studies, investigations, research and demonstrations relating to water pollution and causes, prevention, control and abatement thereof as it may deem advisable and necessary in the public interest for the discharge of its duties under this act;

3. Collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;

4. Require the submission of and review plans, specifications and other data relative to disposal or treatment systems or any part thereof in connection with the issuance of such permits as are required by this article;

5. Enforce the provisions of this article, rules promulgated thereunder, and permits, licenses, and certifications issued pursuant thereto and Oklahoma Water Quality Standards;

6. Establish, implement, amend and enforce the Water Quality Management Plan, the continuing planning process documents, and total maximum daily loads;

7. Require the submission of reports or laboratory analyses performed by certified laboratories or operators for purposes of

compliance monitoring and testing or other purposes for which laboratory reports or analyses are required pursuant to this article;

8. Coordinate the preparation of the continuing planning process documents and total maximum daily loads with other environmental agencies and natural resource agencies; and

9. Issue swimming and fishing advisories related to human and animal health hazards for waters of the state, based on available data.

B. 1. The Environmental Quality Board shall have the authority to promulgate such rules as may be necessary to implement the policies and duties set forth in this article including, but not limited to, rules pertaining to services, permits, licenses and certifications, including certifications under Section 401 of the Clean Water Act, and, pursuant to Section 2-3-402 of this title, fee schedules for such services, permits, licenses and certifications.

2. The Board may adopt by reference standards of quality of the waters of the state and classifications of such waters as are lawfully established by the Oklahoma Water Resources Board and the United States Environmental Protection Agency as Oklahoma's Water Quality Standards and promulgate other rules to protect, maintain and improve the best uses of waters in this state in the interest of the public under such conditions as may be necessary or appropriate for the prevention, control and abatement of pollution.

3. The Board shall promulgate rules which describe procedures for amending and updating the Water Quality Management Plan or which are otherwise consistent with the Continuing Planning Process and its components. Such rules shall:

a. be in substantial conformance with any applicable federal requirements and may incorporate appropriate U.S. Environmental Protection Agency regulations by reference, and

b. require public notice to be given of any major amendment and of any update of the Water Quality Management Plan and allow not less than a forty-five-day opportunity for public comment thereon. Such rules shall also authorize the Department, if it determines public interest in the proposed amendment or update is significant, to give notice of and conduct a public meeting on the proposals in accordance with federal requirements. The rules shall provide that the notice, comment period, and public meeting if any, related to an amendment or update proposed in conjunction with the issuance, modification or renewal of a discharge permit or permits, may be combined with the notice, comment period, and public meeting if any, held on the proposed permit action or actions.

C. The Executive Director may:

1. Issue, modify, or revoke orders:

a. prohibiting or abating pollution of the waters of the state,

b. requiring the construction of new disposal or treatment systems or any parts thereof or the modification, extension or alteration of existing disposal or treatment systems or any part thereof, or the adoption of other remedial measures to prevent, control or abate pollution, and

c. requiring other actions such as the Executive Director may deem necessary to enforce the provisions of this article and rules promulgated thereunder;

2. Issue, continue in effect, revoke, amend, modify or deny, renew, or refuse to renew under such conditions as the Department may prescribe, permits, licenses and certifications, including certifications under Section 401 of the Clean Water Act, to prevent, control or abate pollution of waters of the state; and

3. Exercise all incidental powers which are necessary and proper to carry out the purposes of this article.

Added by Laws 1972, c. 242, § 3. Amended by Laws 1980, c. 232, § 1, eff. May 21, 1980; Laws 1988, c. 46, § 1, emerg. eff. March 21, 1988; Laws 1993, c. 145, § 58, eff. July 1, 1993. Renumbered from Title 82, § 926.3 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 20, eff. July 1, 1993; Laws 1994, c. 353, § 9, eff. July 1, 1994; Laws 1997, c. 217, § 3, eff. July 1, 1997; Laws 1999, c. 380, § 1, emerg. eff. June 8, 1999.

§27A-2-6-104. Purpose and construction.

It is the purpose of this article to provide additional and cumulative remedies to prevent, abate and control the pollution of the waters of the state. Nothing herein contained shall be construed to abridge or alter rights of action or remedies under the common law or statutory law, criminal or civil; nor shall any provision of this article, or any act done by virtue thereof, be construed as estopping the state, or any municipality or person, as riparian owners or otherwise, in the exercise of their rights under the common law to suppress nuisances or to abate pollution.

Added by Laws 1972, c. 242, § 13. Amended by Laws 1993, c. 145, § 59, eff. July 1, 1993. Renumbered from Title 82, § 926.13 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-105. Pollution of state air, land or waters - Order to cease.

A. It shall be unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, land or

waters of the state. Any such action is hereby declared to be a public nuisance.

B. If the Executive Director finds that any of the air, land or waters of the state have been, or are being, polluted, the Executive Director shall make an order requiring such pollution to cease within a reasonable time, or requiring such manner of treatment or of disposition of the sewage or other polluting material as may in his judgment be necessary to prevent further pollution. It shall be the duty of the person to whom such order is directed to fully comply with the order of the Executive Director.

Added by Laws 1993, c. 145, § 60, eff. July 1, 1993.

§27A-2-6-106. Renumbered as § 2-3-302 of this title by Laws 1994, c. 353, § 45, eff. July 1, 1994.

§27A-2-6-107. Definition – Gray water.

A. "Gray water" means untreated household wastewater that has not come in contact with toilet waste and includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs and untreated municipal wastewater limited to wastewater captured from municipal splash pads and water used by fire departments for cleaning equipment and vehicles. Gray water shall not include wastewater from kitchen sinks, kitchen dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers.

B. The definition of gray water in subsection A of this section shall apply only in municipalities enacting ordinances regulating the use of gray water within the limits of their municipal boundaries.

C. The Department of Environmental Quality shall not require a permit for reusing captured wastewater from a splash pad for irrigation or land application, with or without intermediary storage units, if the splash pad is within the jurisdictional boundaries of a municipality or county that has enacted an ordinance or resolution regulating the management of wastewater from splash pads and the ordinance or resolution, at a minimum, includes the same conditions and restrictions as set forth in paragraphs 5, 8, 11, and 12 of subsection A of Section 2-6-108 of this title. For purposes of this subsection, the term "splash pad" shall also include facilities known as spray pools, spray pads, and spray grounds.

Added by Laws 2011, c. 210, § 1, eff. Nov. 1, 2011. Amended by Laws 2015, c. 260, § 1, emerg. eff. May 6, 2015.

§27A-2-6-108. Application of less than 250 gallons of private residential gray water - Permitting.

A. The Department of Environmental Quality shall not require a permit for applying less than two hundred fifty (250) gallons per day of private residential gray water originating from a residence for

the household gardening, composting or landscape irrigation of the resident if:

1. A constructed gray water distribution system provides for overflow into the sewer system or on-site wastewater treatment and disposal system;

2. A gray water storage tank is covered to restrict access and to eliminate habitat for mosquitoes or other vectors;

3. A gray water system is sited outside of a floodway;

4. Gray water is vertically separated at least five (5) feet above the groundwater table;

5. Gray water pressure piping is clearly identified as a nonpotable water conduit;

6. Gray water is used on the site where it is generated and does not run off the property lines;

7. Gray water is applied in a manner that minimizes the potential for contact with people or domestic pets;

8. Ponding is prohibited, application of gray water is managed to minimize standing water on the surface and to ensure that the hydraulic capacity of the soil is not exceeded;

9. Gray water is not sprayed;

10. Gray water is not discharged to a waterway;

11. Gray water use within municipalities or counties complies with all applicable municipal or county ordinances enacted pursuant to law; and

12. A gray water storage system which complies with the provisions of this section may allow for rainwater to be introduced into the system.

B. For purposes of this section, “gray water” shall be deferred as provided for in Section 2-6-107 of Title 27A of the Oklahoma Statutes.

Added by Laws 2012, c. 203, § 1, eff. Nov. 1, 2012.

§27A-2-6-109. Potable reuse of treated wastewater - Storage.

A. No later than August 31, 2012, the Department of Environmental Quality shall convene a working group including municipalities, consulting engineers, technical experts, and the general public to explore opportunities for water reuse and define the process for variances from the construction and operations standards relating to indirect potable reuse, Category 2, and Category 3 reuse waters.

B. No later than July 1, 2013, the Board of Environmental Quality shall promulgate rules for the indirect potable reuse of treated wastewater. The rules shall contain a variance process from the water reuse construction and operation standards.

C. No later than July 1, 2013, the Board shall promulgate rules to develop a variance process from the water reuse construction and operations standards for Category 2 and Category 3 reuse water to

authorize the storage of such waters within existing surface impoundments.

D. Rules promulgated pursuant to this section shall protect public health and the environment.

Added by Laws 2012, c. 50, § 1, emerg. eff. April 16, 2012.

§27A-2-6-110. Pilot projects for aquifer storage and recovery.

The Department of Environmental Quality is authorized to issue permits for limited-scale pilot projects for the purpose of aquifer storage and recovery. The applications for such projects shall be Tier II applications under the Oklahoma Uniform Environmental Permitting Act. The Department shall determine pilot project criteria and establish a process for the consideration of applications. Each permit shall include any permit conditions the Department deems necessary or appropriate for protection of the aquifer quality. At a minimum these permits must meet the provisions of paragraph 21 of subsection B of Section 1-3-101 of Title 27A of the Oklahoma Statutes.

Added by Laws 2017, c. 318, § 3, emerg. eff. May 22, 2017.

§27A-2-6-111. Moratorium on permitting of discharge to water emanating from sensitive sole source groundwater basins or subbasins.

A. For purposes of this section, a "subject mine" shall mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of the Oklahoma Statutes, proposed for a location overlying a sensitive sole source groundwater basin or subbasin, exclusive of any mine that meets at least one of the following conditions:

1. As of November 1, 2019, is engaged in the permitted extraction of minerals from natural deposits; or

2. Satisfies the criteria of paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of the Oklahoma Statutes; or

3. Is not to be permitted to operate for a period of more than five (5) years, with no extensions or renewals; or

4. The operation of which will not result in more than five (5) acre-feet per year of groundwater emanating from a sensitive sole source groundwater basin or subbasin to infiltrate its pit, as that term is defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes.

B. Due to the inadequacy of existing technical resources, analytic tools and regulatory systems for purposes of the effective implementation of statutes relating to the operation of mines that overlies a sensitive sole source groundwater basin or subbasin, the Legislature hereby declares and establishes a moratorium on the Department of Environmental Quality permitting of any discharge from a subject mine to streams fed or supported by water emanating from sensitive sole source groundwater basins or subbasins.

C. The moratorium shall remain in effect until such time as:

1. The conditions of subsection C of Section 3 of this act have been satisfied; and

2. The Department of Environmental Quality promulgates final rules to provide for effective interagency consultation and coordination of activities among the Department, the Oklahoma Water Resources Board and the Department of Mines on all administrative matters relating to the operation of mines at locations that overlie a sensitive sole source groundwater basin or subbasin.

D. Notwithstanding the moratorium, the Department of Environmental Quality may issue any new permits, permit modifications, permit amendments, permit revisions or permit renewals necessary to maintain compliance or remedy identified compliance issues pursuant to Title 27A of the Oklahoma Statutes to operators of any mines lawfully engaged in mining, as defined in paragraph 3 of Section 723 of Title 45 of the Oklahoma Statutes.

E. The Department of Environmental Quality is hereby authorized and instructed to promulgate rules to implement the provisions of this section.

F. The Department of Environmental Quality is hereby authorized to cooperate with federal, tribal and any other agency in this state in performing its responsibilities under this section.

Added by Laws 2019, c. 349, § 1, eff. Nov. 1, 2019.

§27A-2-6-201. Short title - Construction and application.

A. This part shall be known and may be cited as the "Oklahoma Pollutant Discharge Elimination System Act".

B. Nothing contained in the Oklahoma Pollutant Discharge Elimination System Act shall expand the authority of the Department of Environmental Quality beyond jurisdictional areas specified in the Oklahoma Environmental Quality Act. Agricultural and oil and gas activities shall not be subject to the Oklahoma Pollutant Discharge Elimination System Act except as specifically provided in Section 1-3-101 of this title.

Added by Laws 1992, c. 398, § 13, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 62, eff. July 1, 1993. Renumbered from § 1001 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2007, c. 146, § 5, eff. July 1, 2007.

§27A-2-6-202. Definitions.

For purposes of the Oklahoma Pollutant Discharge Elimination System Act:

1. "Discharge" includes but is not limited to a discharge of a pollutant or pollutants, and means any addition of any pollutant to waters of the state from any point source regulated by the Department of Environmental Quality;

2. "Effluent limitation" means any established restriction on quantities, rates, and concentrations of chemical, physical,

biological, and other constituents which are discharged from point sources into waters of the state, including schedules of compliance;

3. "Organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons;

4. "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants or wastes are or may be discharged. The term "point source" does not include agricultural stormwater discharges and return flows from irrigated agriculture;

5. "Pretreatment" means the reduction of the amount of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing into a treatment works;

6. "Schedule of compliance" means a schedule of remedial measures including but not limited to an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

7. "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

8. "Storm water" means rain water runoff, snow melt runoff, and surface runoff and drainage.

Added by Laws 1992, c. 398, § 14, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 63, eff. July 1, 1993. Renumbered from § 1002 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-203. Powers and duties of Board - Authority of Department.

A. The Board shall have the power and duty to promulgate rules implementing or effectuating the Oklahoma Pollutant Discharge Elimination System Act. Such rules may incorporate by reference any applicable rules, regulations and policies of the United States Environmental Protection Agency adopted under the Clean Water Act. Any such rules shall be in reasonable accord with the United States Environmental Protection Agency regulations and policies, including but not limited to rules which:

1. Allow the inclusion of technology-based effluent limitations and require water-quality-related effluent limitations in discharge permits to the extent necessary to protect the designated and existing beneficial uses of the waters of the state and to comply with the requirements of the Clean Water Act;

2. Establish pretreatment standards and standards for the removal of toxic materials and pollutants from effluent discharges and establish procedures and programs necessary to implement and enforce such standards and ensure compliance with applicable federal regulations;

3. Apply applicable national standards of performance promulgated pursuant to Section 306 of the Clean Water Act in establishing terms and conditions of Executive Director issued permits;

4. Prohibit or control the discharge of pollutants into wells within the jurisdiction of the Department of Environmental Quality;

5. Develop or assist in development of any effluent limitation or other limitation, prohibition, or effluent regulation;

6. Establish procedures, including, but not limited to, notice and opportunity for public hearing, which provide that whenever the owner or operator of any point source discharge can demonstrate to the satisfaction of the Executive Director that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made, the Executive Director may impose an effluent limitation for such discharge, taking into account the interaction of such thermal component with other pollutants, that will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on that body of water;

7. Ensure that the public and any other state, the waters of which may be affected, receive notice of each application for a discharge permit;

8. Ensure that any other state, the waters of which may be affected by the activities allowed by a proposed permit, may submit written recommendations on the application to the Department. The rules shall provide that if such recommendations or any parts thereof are not adopted, the Department will notify the affected state in writing and shall provide the reasons therefor;

9. Establish a fee schedule to implement the provisions of the Oklahoma Pollutant Discharge Elimination System Act; and

10. Establish management standards for sludge which are no less stringent than applicable federal regulations and establish procedures and requirements necessary to ensure compliance with applicable federal laws.

B. The Department shall have authority to:

1. Require the owner or operator of any system for the treatment, storage, discharge or transport of pollutants to establish, maintain and submit plans, specifications, records, and other data relative to disposal systems or any part thereof, in

connection with the issuance of discharge permits or in connection with any permit, purposes or requirements of the Oklahoma Pollutant Discharge Elimination System Act, to make reports, to install, calibrate, use and maintain monitoring equipment or methods including biological monitoring methods, take samples of effluents in such manner as may be prescribed, and provide such other information as may be reasonably required;

2. Take all actions which may be necessary or incidental to implement and maintain a pollutant discharge permit program and sludge program, including the authority to assume and obtain authorization to implement and maintain a portion of the National Pollutant Discharge Elimination System state permit program and a state sludge program pursuant to Section 402 and other provisions of the Clean Water Act and other applicable federal law. The Executive Director shall issue permits for the discharge of pollutants and storm water from facilities and activities within its areas of environmental jurisdiction specified in Section 1-3-101 of this title;

3. Take necessary and appropriate actions to revoke and reissue, modify, suspend, or otherwise administer and enforce discharge permits and sludge permits issued by the United States Environmental Protection Agency which are transferred to the Department upon federal authorization of the Department's program; and

4. Exercise all necessary incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Pollutant Discharge Elimination System Act and to comply with the requirements of the Clean Water Act and the requirements of the United States Environmental Protection Agency regulations promulgated thereunder.

Added by Laws 1992, c. 398, § 15, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 64, eff. July 1, 1993. Renumbered from § 1003 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 21, eff. July 1, 1993; Laws 1994, c. 353, § 11, eff. July 1, 1994.

§27A-2-6-204. Authority of Executive Director - Issuance of discharge permits, conditions - Availability of records, reports or other information.

A. Pollutant discharge permits issued by the Executive Director may include schedules of compliance and such conditions as the Executive Director may prescribe which:

1. Prevent, control or abate pollution, including such water-quality-related and technology-based effluent limitations as are necessary to protect the water quality and existing and designated beneficial uses of the waters of the state;

2. Require application of best practicable control technology currently available, best conventional pollutant control technology,

or best available technology economically achievable or such other limitations as the Executive Director may prescribe;

3. Require compliance with national standards of performance, toxic and pretreatment effluent standards;

4. Set limitations or prohibitions designed to prohibit the discharge of toxic pollutants in toxic amounts or to require pretreatment of pollutants;

5. Set interim compliance dates which are enforceable without otherwise showing a violation of an effluent limitation or harm to water quality;

6. Set terms and conditions for sludge and land application of wastewater and for impoundments in accordance with rules promulgated by the Board; and

7. Comply with the provisions of the Oklahoma Pollutant Discharge Elimination System Act and the requirements of the Clean Water Act.

B. The Executive Director shall:

1. Have authority to issue individual permits and authorizations under general discharge permits for pollutants and stormwater and sludge as authorized by the Oklahoma Pollutant Discharge Elimination System Act;

2. Issue permits for fixed terms not to exceed five (5) years;

3. Have the authority to require in permits issued to publicly or privately owned treatment works conditions requiring the permittee to give notice to the Department of new introductions into such works of pollutants from any source which would be a new source as defined in Section 306 of the Clean Water Act or from a source which would be a point source subject to Section 301 of the Clean Water Act if it were discharging directly to waters of the state, a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit, or such other conditions as may be required under the Clean Water Act or state law;

4. Have the authority to ensure compliance with Sections 204(b), 307, and 308 and other provisions of the Clean Water Act and with other applicable federal law;

5. Have all necessary and incidental authority to comply with the requirements of the Clean Water Act and requirements of the United States Environmental Protection Agency set forth in duly promulgated federal regulations adopted under the Clean Water Act;

6. Have the authority to terminate or modify permits issued by the Executive Director for cause, including but not limited to:

a. violation of any condition of the permit, including but not limited to conditions related to monitoring requirements, entry and inspections,

b. obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts, or

c. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

7. Have all necessary authority to implement and enforce Department programs and requirements established by the Environmental Quality Board in duly promulgated rules, including but not limited to the authority to implement and enforce a statewide pretreatment program required under federal law and regulations and to implement and enforce requirements applicable to dischargers into municipal separate storm sewer systems;

8. Have all necessary or incidental authority to investigate and abate violations of permits issued by the Executive Director, violations of administrative orders, violations of duly promulgated rules, and violations of the Oklahoma Pollutant Discharge Elimination System Act, and shall have all necessary and incidental authority to apply sanctions through administrative proceedings for violations, including but not limited to violations of requirements to obtain permits, terms and conditions of permits, effluent standards and limitations and water quality standards, and violations of requirements for recording, reporting, monitoring, entry, inspection and sampling; and

9. Have authority to require permits for indirect discharges or other introductions of pollutants to publicly owned treatment works, impose pretreatment standards and other requirements upon users of such treatment works, and to enforce such permits and requirements pursuant to Section 2-6-206 of this title.

C. Authorized employees or representatives of the Department shall, upon presentation of credentials, have:

1. A right of entry to, upon, or through any private or public premises upon which an effluent or sludge source is or may be located or in which any records are required to be maintained;

2. Access to at any reasonable time for the purposes of reviewing and copying any records required to be maintained;

3. Authority to inspect any monitoring equipment, methods, disposal systems or other facilities or equipment which may be required; and

4. Access for the purpose of inspecting and sampling any effluent streams or any discharge of pollutants to waters of the state or to treatment systems discharging into waters of the state or for inspection and sampling of any sludge source, storage, beneficial use, reuse or disposal site.

D. The Executive Director shall not issue a discharge permit if the permit:

1. Would authorize the discharge of a radiological, chemical or biological warfare agent, or high-level radioactive waste;

2. Would, in the judgment of the Secretary of the Army acting through the Chief of Engineers, result in the substantial impairment

of anchorage and navigation of any waters of the United States as those waters are defined in the Clean Water Act;

3. Is objected to in writing by the Administrator of the United States Environmental Protection Agency or his designee, pursuant to any right to object which is granted to the Administrator under Section 402(d) of the Clean Water Act; or

4. Would authorize a discharge from a point source which is in conflict with a plan approved under Section 208(b) of the Clean Water Act.

E. Copies of records, plans, reports or other information required by the Department shall be submitted upon request and shall be subject to and made available for inspection at reasonable times to any authorized representative of the Department of Environmental Quality upon showing of proper credentials. Any authorized representative of the Department may examine any records or memoranda pertaining to discharges, treatment, or other limitations set by permit, order or duly promulgated rules of the Board.

F. Any records, reports, or information obtained pursuant to this section shall be available to the public, except that upon submission of sufficient evidence showing that records, reports, or information, or particular parts thereof, other than effluent data, if made public would divulge methods or processes entitled to protection as trade secrets of such person, such record, report, or information, or particular portion thereof shall be considered confidential in accordance with the purposes of the Uniform Trade Secrets Act. Nothing in this subsection shall prohibit the Department or an authorized representative of the Department, including, but not limited to, any authorized contractor, from disclosing records, reports, or information to other officers, employees, or authorized representatives of the State of Oklahoma or the United States concerned with carrying out provisions of state or federal law under their respective jurisdictions or within their respective authorities.

G. The Executive Director and any person designated by him to approve all or portions of permits, or to modify, revoke or reissue permits or to make any final decisions in the first instance or on appeal relating to permits or enforcement actions related thereto, shall be required to meet all requirements of Section 304 of the Clean Water Act and federal regulations promulgated thereunder.

Added by Laws 1992, c. 398, § 16, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 65, eff. July 1, 1993. Renumbered from § 1004 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 22, eff. July 1, 1993; Laws 1994, c. 353, § 12, eff. July 1, 1994.

§27A-2-6-205.1. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996.

§27A-2-6-205.2. Repealed by Laws 1995, c. 285, § 26, eff. July 1, 1995.

§27A-2-6-205. Unlawful discharge - Permit requirements - Authority of Department.

A. Except as otherwise provided in subsection B of this section, it shall be unlawful for any facility, activity or entity regulated by the Department of Environmental Quality pursuant to the Oklahoma Pollutant Discharge Elimination System Act to discharge any pollutant into waters of the state or elsewhere without first obtaining a permit from the Executive Director.

B. The Environmental Quality Board shall promulgate rules which prescribe permit requirements applicable to discharges composed entirely of stormwater. The rules may require permits on a case-by-case basis, exempt categories of discharges, or provide a schedule for obtaining a permit. No later than the date that the Department is to receive authorization to administer a state National Pollutant Discharge Elimination Systems program, the Board shall have promulgated rules for stormwater discharges which comply with Environmental Protection Agency requirements for approval of the state National Pollutant Discharge Elimination Systems program.

C. The Department of Environmental Quality shall have the authority to determine whether a facility, activity or entity regulated by the Department pursuant to the Oklahoma Pollutant Discharge Elimination System Act is required to obtain a stormwater permit. No other state agency shall condition any license, permit or other form of authorization issued by that agency upon the applicant obtaining a stormwater permit from the Department if the applicant is not required to obtain a stormwater permit pursuant to Department statutes and rules promulgated by the Board.

Added by Laws 1992, c. 398, § 17, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 66, eff. July 1, 1993. Renumbered from § 1005 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2007, c. 146, § 6, eff. July 1, 2007.

§27A-2-6-206. Violations - Enforcement procedures - Penalties.

A. Whenever there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Pollutant Discharge Elimination System Act, any permit, any rule, or any order of the Executive Director, the Executive Director shall have the authority and powers to proceed as specified in the Administrative Procedures Act unless otherwise provided herein. Provided, however, that provisions of this section for written notice, enforcement hearing, and administrative orders shall not be conditions precedent for the Department to seek action in the

district court as provided by the Oklahoma Pollutant Discharge Elimination System Act or other applicable provisions of law.

B. The Oklahoma Pollutant Discharge Elimination System Act shall not in any way impair or in any way affect a person's right to recover damages for pollution in a court of competent jurisdiction. Any person having any interest connected with the geographic area or waters or water system affected, including but not limited to any aesthetic, recreational, health, environmental, pecuniary or property interest, which interest is or may be adversely affected, shall have the right to intervene as a party in any administrative proceeding before the Department, or in any civil proceeding, relating to violations of the Oklahoma Pollutant Discharge Elimination System Act or rules, permits or orders issued hereunder.

C. Whenever on the basis of any information available, the Department finds that any person or entity regulated by the Department is in violation of any act, rule, order, permit, condition or limitation implementing the Oklahoma Pollutant Discharge Elimination System Act, or any previously issued discharge permit, the Executive Director shall issue an order requiring such person or entity to comply with such provision or requirement, commence appropriate administrative enforcement proceedings, or bring a civil action. Provided, however, the issuance of a compliance order or suspension or revocation of a permit shall not be considered a condition precedent to the accrual or imposition of penalties or fines in any administrative, civil or criminal proceeding.

D. A copy of any order issued pursuant to this section shall be sent immediately to the violator. In any case in which an order or notice to a violator is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty (30) days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a reasonable time in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Any order or notice issued by the Executive Director may be served in any manner allowed by Oklahoma Rules of Civil Procedures applicable to a civil summons.

E. Whenever on the basis of any information available the Executive Director finds that any person regulated by the Department has violated any of the provisions of the Oklahoma Pollutant Discharge Elimination System Act, or any permit, rule, order or condition or limitation implementing any of such sections, or previously issued discharge permit or related order, the Executive Director may, after providing notice and opportunity for an enforcement hearing to the alleged violator, assess an administrative

fine of not more than Ten Thousand Dollars ($10,000.00) per day of violation, for each day during which the violation continues. The total amount of such fine shall not exceed One Hundred Twenty-five Thousand Dollars ($125,000.00) per violation. In determining the amount of any penalty assessed under this subsection, the Executive Director shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit savings, if any, resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. Enforcement hearings shall be conducted in accordance with the procedures set out in the Administrative Procedures Act.

F. 1. The Executive Director is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection C of this section.

2. Any person who violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any permit condition or limitation implementing any of such provisions in a permit issued under the Oklahoma Pollutant Discharge Elimination System Act, or any requirement imposed in a pretreatment program approved under the Oklahoma Pollutant Discharge Elimination System Act, and any person who violates any order issued by the Executive Director under subsection C of this section, shall be subject to a civil penalty not to exceed Ten Thousand Dollars ($10,000.00) per day for each violation. In determining the amount of the civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

3. Any action pursuant to this subsection may be brought in the district court for the district in which the property or defendant is located or defendant resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

4. The prior revocation of a permit shall not be a condition precedent to the filing of a civil action under the Oklahoma Pollutant Discharge Elimination System Act.

G. 1. Any person who:

a. negligently violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any order issued by the Executive Director hereunder, or any permit condition or limitation in a permit issued or any requirement imposed in a pretreatment program authorized pursuant to the Oklahoma Pollutant Discharge Elimination System Act, or

b. negligently introduces into the waters of the state or a treatment works discharging into the waters of the state any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works pursuant to the Oklahoma Pollutant Discharge Elimination System Act,

shall be punished by a fine of not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Twenty-five Thousand Dollars ($25,000.00) per day of violation, or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than Fifty Thousand Dollars ($50,000.00) per day of violation, or by imprisonment in the State Penitentiary for not more than two (2) years, or by both.

2. Any person who:

a. knowingly violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any order issued by the Executive Director hereunder, or any permit condition or limitation in a permit issued or any requirement imposed in a pretreatment program authorized pursuant to the Oklahoma Pollutant Discharge Elimination System Act, or

b. knowingly introduces into the waters of the state or a treatment works discharging into the waters of the state any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works under the Oklahoma Pollutant Discharge Elimination System Act,

shall be punished by a fine of not less than Five Thousand Dollars ($5,000.00) nor more than Fifty Thousand Dollars ($50,000.00) per day of violation, or by imprisonment in the county jail for not more than

one (1) year or in the State Penitentiary for not more than three (3) years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than One Hundred Thousand Dollars ($100,000.00) per day of violation, or by imprisonment in the State Penitentiary for not more than six (6) years, or by both.

3. a. Any person who knowingly violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any permit condition or limitation in a permit issued hereunder by the Executive Director, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall upon conviction be subject to a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00) or imprisonment in the State Penitentiary for not more than fifteen (15) years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than One Million Dollars ($1,000,000.00). If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

b. For the purpose of subparagraph a of this paragraph:

(1) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury, a person shall be responsible only for actual awareness or actual belief that he possessed, and knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant; provided however that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information,

(2) it is an affirmative defense to prosecution under this subsection that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of an occupation, business, profession or of a medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved

prior to giving consent, and such defense may be established under this subparagraph by a preponderance of the evidence.

4. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Oklahoma Pollutant Discharge Elimination System Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Oklahoma Pollutant Discharge Elimination System Act, shall upon conviction be punished by a fine of not more than Ten Thousand Dollars ($10,000.00), or by imprisonment for not more than two (2) years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than Twenty Thousand Dollars ($20,000.00) per day of violation, or by imprisonment for not more than four (4) years, or by both.

5. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

H. Whenever, on the basis of information available to him, the Department finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of the Oklahoma Pollutant Discharge Elimination System Act or any requirement, rule, permit or order issued under the Oklahoma Pollutant Discharge Elimination System Act, the Department shall notify the owner or operator of such treatment works of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within thirty (30) days of the date of such notification, the Department may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Department shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court in the county in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with the Oklahoma Pollutant Discharge Elimination System Act. Nothing in this subsection shall be construed to limit or prohibit any other authority the Department may have under this section.

I. 1. Any person against whom an administrative compliance or penalty order is issued under this section may obtain review of such order by filing a petition for review in district court pursuant to the Administrative Procedures Act. Such court shall not set aside or

remand such order unless there is not substantial evidence in the administrative record, taken as a whole, to support the finding of a violation or unless the assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the assessment of the penalty constitutes an abuse of discretion. No stay of an administrative penalty order shall be granted until the amount of penalty assessed has been deposited with the reviewing district court pending resolution of the petition for review.

2. If any person fails to pay an assessment of an administrative penalty:

a. after the order making the assessment has become final, or

b. after a court in an action brought under paragraph 1 of this subsection has entered a final judgment in favor of the Department, as the case may be,

the Department may commence or may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

3. Any person who fails to pay on a timely basis the amount of an assessment of an administrative or civil penalty shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceeding and quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

Added by Laws 1992, c. 398, § 18, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 67, eff. July 1, 1993. Renumbered from § 1006 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 24, eff. July 1, 1993; Laws 2002, c. 227, § 2, emerg. eff. May 9, 2002.

§27A-2-6-301. Oklahoma Water Supply Systems Act - Short title.

This part shall be known and may be cited as the "Oklahoma Water Supply Systems Act".

Added by Laws 1993, c. 145, § 68, eff. July 1, 1993.

§27A-2-6-302. Cooperation with federal agencies.

A. The Department of Environmental Quality shall be the official agency of the State of Oklahoma to cooperate with federal agencies in all matters affecting public water supplies.

B. The Department shall administer the wellhead protection program and the Public Water Supply Supervision program for the State of Oklahoma pursuant to the federal Safe Drinking Water Act.

Added by Laws 1963, c. 325, art. 9, § 911, operative July 1, 1963. Amended by Laws 1993, c. 145, § 69, eff. July 1, 1993. Renumbered from Title 63, § 1-911 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-303. Rules and standards.

A. The Board shall promulgate rules as may be necessary to implement the provisions of this part pertaining to water supply systems and the treatment and distribution of water to the public, including but not limited to rules for:

1. The construction and extension of such systems;

2. Specifications and directions as to the source, manner of storage, purification, treatment and distribution of water supplied to the public;

3. Requirements for control tests, laboratory checks, operating records and reports, including the submission of water samples for testing or sample analyses as prescribed by the federal Safe Drinking Water Act and this Code; and

4. Permitting requirements.

B. The Department of Environmental Quality shall recommend standards to the public for individual water supplies.

C. Such rules may provide for the exemption, and conditions therefor, of specified categories of water supply systems from any of the requirements thereof, except for wastewater discharges, if the public health will not thereby be endangered.

Added by Laws 1963, c. 325, art. 9, § 904, operative July 1, 1963. Amended by Laws 1981, c. 277, § 2, emerg. eff. June 26, 1981; Laws 1993, c. 145, § 70, eff. July 1, 1993. Renumbered from Title 63, § 1-904 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-304. Public water supply - Permit required - Exceptions - Application.

A. Except as otherwise provided for in this section, no person shall supply water, or do any construction work of any nature for supplying water, to the public from or by a public water supply system by means of any waterworks without a written permit to construct issued by the Executive Director of the Department of Environmental Quality.

B. 1. The Department of Environmental Quality may grant an exception to a public water supply system from the review and permit requirement for construction of a water line extension.

2. The Board shall promulgate rules setting forth conditions for the exceptions including but not limited to a certification by the system, upon application for an exception, that the proposed design

and construction of the extension meets or exceeds Board standards and, after the completion of construction but prior to the commencement of service by the extension, a sufficiency certification by a professional engineer licensed to practice in the State of Oklahoma, that the extension as constructed meets or exceeds Board standards. The certifications shall provide assurances, respectively, that the integrity and capacity of the existing system will not or have not been compromised. The rules shall allow a rural water district or nonprofit rural water corporation to submit in lieu of a sufficiency certification by a professional engineer, certification by a certified waterworks operator employed by the district, provided that the line extension is not larger than the existing line, that no part of the existing water line was previously extended pursuant to this paragraph, that the extension does not add more than one (1) service connection to the existing line, and that the line has not been extended through, over or under any stream, lake, pond or marsh or any existing sewage or wastewater collection lines.

3. The Department may disallow any exception application which does not comply with this section or rules promulgated by the Board, or which does not assure protection of the existing system or public health and the environment.

4. Failure of a system to meet the terms of a granted exception may result in the termination of the exception, the denial of future exceptions or the imposition of permit or corrective action requirements by the Department, or a combination thereof. No exception shall be terminated until the Department has advised the owner or operator of the excepted system and are given an opportunity to show compliance with all exception requirements.

C. An application for a permit to construct shall be accompanied by maps, plans and specifications, prepared by a professional engineer registered in the State of Oklahoma. The application shall include but not be limited to:

1. A description of the design of the system;

2. Identification of the system's source;

3. A description of the manner of storage and distribution and purification of the water proposed for the supply previous to its delivery to consumers; and

4. Any other data and information required by the Department.

D. Any person serving water to the public from a system that was constructed without a permit to construct and was being used to serve water to the public prior to June 1, 2011, may meet the requirements of subsection A of this section by obtaining a permit to supply issued by the Executive Director. Applications for the permits shall be accepted only if they are complete. The Department may deny any application that fails to establish that the water supply meets and

can continue to meet the drinking water standards. In order to be considered complete, applications shall include, at a minimum:

1. A description of the design of the system;

2. The identification of the source of water for the system;

3. A description of the manner of storage, distribution and purification of the water prior to delivery to consumers;

4. A description of the additional testing and source water protection measures the system will implement to assure continued compliance with drinking water standards; and

5. Any other data and information requested by the Department.

E. Permits issued under subsection D of this section:

1. Shall be classified as Tier 1 permits pursuant to the Oklahoma Uniform Environmental Permitting Act;

2. Shall be subject to additional monitoring requirements when determined necessary by the Department; and

3. May include other permit conditions necessary to assure continued compliance with drinking water standards.

Added by Laws 1963, c. 325, art. 9, § 907, operative July 1, 1963. Amended by Laws 1993, c. 145, § 71, eff. July 1, 1993. Renumbered from § 1-907 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 28, eff. July 1, 1993; Laws 2011, c. 159, § 1, emerg. eff. May 3, 2011; Laws 2013, c. 12, § 1, emerg. eff. April 8, 2013.

NOTE: Laws 1993, c. 163, § 2 repealed by Laws 1993, c. 324, § 58, eff. July 1, 1993.

§27A-2-6-305. Waterworks - Filing of plans and surveys.

Every person supplying or authorized to supply water to the public shall file with the Department a certified copy of the plans and surveys of the waterworks, with a description of the source from which the water supply is derived. No additional source of supply or well shall thereafter be used without a written permit from the Department.

Added by Laws 1963, c. 325, art. 9, § 906, operative July 1, 1963. Amended by Laws 1993, c. 145, § 72, eff. July 1, 1993. Renumbered from Title 63, § 1-906 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-306. Annual service fee - Laboratory analyses.

A. 1. The Board shall establish an annual fee for public water supply system regulatory services based on the size and type of the system and the resultant regulatory cost of the services to the state. Such annual fee shall not result in an increase of more than thirty cents ($0.30) per month per residential user of the public water supply systems per year. With the exception of state, federal, and nontransient noncommunity public water systems which shall pay actual costs of public water supply system regulatory services, no

system shall pay less than four cents ($0.04) per service connection per month.

2. The Board may assess an annual minimum fee charged for:

a. purchase water systems, Fifty Dollars ($50.00),

b. groundwater systems, Seventy-five Dollars ($75.00), and

c. surface water systems, One Hundred Fifty Dollars ($150.00).

3. Any state funds appropriated for public water supply system regulatory services shall be used to offset the increased costs of regulatory services to the smaller public water supply systems with a population of up to two thousand (2,000) people.

B. A water supply system, required by state or federal law to submit laboratory analyses to the Department, may submit analyses which have been performed by a laboratory certified by the Department pursuant to this Code in lieu of analyses performed by the Department. In such case, the cost of the submitted certified laboratory analyses shall be deducted from the portion of the system's annual fee that is applicable to laboratory tests.

Added by Laws 1993, c. 145, § 73, eff. July 1, 1993.

§27A-2-6-307. Investigations of sanitary quality of water.

A. The Department may, of its own accord, investigate the sanitary quality of water supplied to the public if the Department has reason to believe that such water supply is prejudicial to the public health or environment. Such investigation shall be made whenever a complaint is made to the Department by the mayor of any city, the president of the board of trustees of any incorporated town or any other public entity including a public works authority, or a rural water or sewage district, or by the Department's local representative, about the sanitary quality of water supply within their respective counties.

B. During such investigation, the person in charge of the water supply shall furnish the Department all the information requested by it relative to the source or sources from which the supply of water is derived, and the manner of storage, distribution and purification or treatment necessary or desirable for the determination of its sanitary quality.

Added by Laws 1993, c. 145, § 74, eff. July 1, 1993.

§27A-2-6-308. Orders.

A. The Department may issue an order to a respondent requiring compliance with the Oklahoma Water Supply Systems Act, rules of the Board, and orders previously issued to such respondent. Such orders may require a change in the source or sources of a public water supply, or in the manner of storage, distribution, purification or treatment of the supply before delivery to consumers, as may be necessary to safeguard the public health or environment. Such orders

shall be issued pursuant to the Administrative Procedures Act, this Code and rules promulgated thereunder.

B. The Department may issue an emergency order to any public water supply system requiring change in the source of the water supply or in the manner of storage, distribution, purification or treatment of the supply before delivery to consumers, or any other action which, in the Executive Director's judgment, is necessary to safeguard the health of the consumers or the environment.

1. The order may require public water supply systems to notify consumers of the problem with the supply and the action required by order of the Executive Director.

2. Any respondent to whom such an order is directed and who considers the requirements of the order to be illegal, unjust or unreasonable may request an administrative hearing within ten (10) days after the order is served. Such hearing shall be subject to the Administrative Procedures Act, rules promulgated by the Board and this Code.

3. The order shall remain in full effect until it is rescinded by the Executive Director.

Added by Laws 1993, c. 145, § 75, eff. July 1, 1993.

§27A-2-6-310.1. Legislative findings and declaration.

A. The Oklahoma Legislature finds that a safe public groundwater supply is one of the most valuable natural resources in this state.

B. The Legislature recognizes and declares that the management, funding, protection and conservation of public groundwater supplies and the beneficial uses thereof are essential to the economic prosperity and future well-being of the state. As such, the public interest demands procedures for the development and implementation of management practices to conserve and protect public groundwater supplies.

Added by Laws 1997, c. 241, § 1, eff. July 1, 1997. Amended by Laws 2019, c. 34, § 1, eff. Nov. 1, 2019.

§27A-2-6-310.2. Promulgation of rules - Wellhead protection program.

A. The Environmental Quality Board shall promulgate rules necessary to safeguard public health and welfare and prevent pollution of public water supply systems pursuant to the Oklahoma Water Supply Systems Act.

B. The Department of Environmental Quality shall develop an Oklahoma wellhead protection program to assist municipalities, rural water districts, nonprofit water corporations and other public groundwater suppliers in the conservation and protection of their public groundwater supplies which will specify the following:

1. Guidelines specifying the duties of the Department in developing a wellhead protection program;

2. Guidelines specifying the duties of local governments in developing and implementing the wellhead protection program;

3. Guidelines for determining all potential and actual pollution sources which may have an adverse effect on public health;

4. Guidelines for taking into consideration potential sources of pollution when siting new wells for public water supplies;

5. Guidelines for developing contingency plans for pollution release containment, cleanup and the provision of alternative drinking water supplies for each public water system in the event of groundwater well or groundwater wellfield pollution; and

6. Guidelines including such other information or assistance as deemed necessary by the Department.

Added by Laws 1997, c. 241, § 2, eff. July 1, 1997.

§27A-2-6-310.3. Groundwater protection education program.

A. The Department of Environmental Quality shall develop and implement a groundwater protection education program. In developing such program, the Department shall consult with public health agencies, water utilities, state educational and research institutions, nonprofit environmental organizations and any other person or agency the Department deems necessary.

B. The Department shall develop a program to provide public recognition of users of land located within a public groundwater supply wellhead protection area who demonstrate successful and committed efforts to protect drinking water supplies by implementing innovative approaches to groundwater protection. Such program shall also promote groundwater protection through education of members of businesses and industry and the public.

Added by Laws 1997, c. 241, § 3, eff. July 1, 1997.

§27A-2-6-310.4. Act not to affect certain agencies' powers and duties.

No provision of this act shall affect the powers and duties of any state agency or any agency of any political subdivision of the state which is charged with responsibility for water control or water management.

Added by Laws 1997, c. 241, § 4, eff. July 1, 1997.

§27A-2-6-401. Construction of treatment or sewer systems or changes in treatment, storage, use or disposal of sludge - Permit required, application - Plans and specifications - Innovative treatment techniques.

A. No person shall begin any construction work of any nature for a municipal treatment works, nonindustrial wastewater treatment system, sanitary sewer system or other sewage treatment works, or for any extension thereof, or make any change in the manner of nonindustrial wastewater treatment or make any change in the

treatment, storage, use or disposal of sewage sludge without a written permit to construct issued by the Executive Director of the Department of Environmental Quality. Such permit may only be issued to a public entity unless all components of the proposed system, including the service lines, are or will be located on property that is owned by the owner of the system or dedicated to the owner of the system in a recorded easement for the installation and operation of the system.

The requirements of subsections B, C and D of this section shall not apply to individual and small public sewage treatment systems that are constructed or modified in accordance with the requirements of Section 2-6-403 of this title.

B. An application for such permit shall include but not be limited to:

1. An engineering report, prepared by a professional engineer registered in the State of Oklahoma, which includes a complete description of the existing and proposed system or treatment works and the wastewater outfall, if any, and any other data or information required by the Department;

2. A legal description of the site where the treatment works or the wastewater treatment system is or is proposed to be located; and

3. A legal description of the site where any discharge point is or is proposed to be located.

C. Upon the Department's approval of the engineering report, the applicant shall submit plans and specifications for the proposed system or the proposed extension or change of an existing system to the Department for review. Such plans and specifications shall be prepared by a professional engineer registered in the State of Oklahoma.

D. Any facility within the jurisdiction of the Department and required to obtain a permit by subsection A of this section may elect to utilize an innovative treatment technique in accordance with this subsection. An innovative treatment technique is a treatment technique not currently recognized by the Department nor found in the regulations governing construction of such facilities. Upon compliance with the requirements of this subsection the requirements in subsection A will not apply. A facility that elects to utilize an innovative treatment technique shall first submit the following documentation to the Department:

1. An engineering report, prepared by a professional engineer registered in the State of Oklahoma, which includes a complete description of the proposed innovative treatment technique;

2. A certification from a professional engineer registered in the State of Oklahoma that the innovative treatment technique will allow the facility to meet applicable federal and state discharge and land application requirements; and

3. A statement from the owner of the facility that should the facility subsequently fail to meet any federal or state discharge or land application requirement that the owner of the facility will immediately take all necessary action to install a recognized treatment technique.

Added by Laws 1963, c. 325, art. 9, § 908, operative July 1, 1963. Amended by Laws 1971, c. 234, § 1; Laws 1981, c. 277, § 3, emerg. eff. June 26, 1981; Laws 1993, c. 145, § 76, eff. July 1, 1993. Renumbered from § 1-908 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 14, eff. July 1, 1994; Laws 1997, c. 131, § 1, eff. Nov. 1, 1997; Laws 2010, c. 143, § 1, emerg. eff. April 19, 2010; Laws 2017, c. 318, § 2, emerg. eff. May 22, 2017.

§27A-2-6-402. Rules - Exemptions.

A. The Board shall promulgate rules as necessary to implement the provisions of this part pertaining to the treatment of nonindustrial wastewater, and the treatment, storage, use and disposal of sewage sludge and other waste by wastewater treatment systems or treatment works. Such rules shall include but are not limited to requirements for:

1. The construction, operation and extension of municipal, public, private and other nonindustrial wastewater treatment systems or treatment works, including the construction or use of surface impoundments and lagoons;

2. Pretreatment;

3. Control tests, laboratory checks, monitoring or operating records and reports;

4. Applications, plans and specifications, permitting and other authorizations;

5. The monitoring, maintenance and closure of wastewater treatment systems; and

6. Treatment, sampling, record keeping, reporting and other requirements for sewage sludge consistent with federal regulations.

B. Such rules may provide for the exemption, and conditions therefor, of specified categories of wastewater treatment systems or treatment works for small public sewage systems from any of the requirements thereof if the public health or the environment will not thereby be endangered. Provided, no exemption shall be allowed which is inconsistent with applicable minimum federal requirements for discharges or use, transportation or disposal of sludge.

Added by Laws 1993, c. 145, § 77, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 15, eff. July 1, 1994.

§27A-2-6-403.1. Inspections of existing sewage disposal systems.

The Department of Environmental Quality shall not require a departmental inspection of an existing individual sewage disposal system prior to a service connection to a public water supply system.
Added by Laws 1997, c. 131, § 2, eff. Nov. 1, 1997.

§27A-2-6-403. Requirements of construction or operation of sewage treatment systems - Planning residential development sewage treatment - Plats.

A. No small public sewage treatment system or individual sewage treatment system shall be constructed or operated unless such system, when constructed, complies with requirements prescribed by the Environmental Quality Board as determined by an inspection performed by the Department of Environmental Quality or a person authorized by the Department.

1. It shall be the duty of the person contracting with an installer who is modifying or installing an on-site sewage treatment system for a residence or business to certify the number of bedrooms in the residence or the water usage of the business that will be served by the sewage treatment system so that the system can be properly sized.

2. Upon reinspection of an approved system, performed at the request of the lot owner, the Department or a person authorized by the Department shall not require that the system be uncovered unless there is evidence that the system has not functioned properly.

B. Any person, corporation or other legal entity which creates or intends to create a residential development outside the corporate limits of a city or town shall file a plat describing the methods of sewage treatment for such residential development with the Department. Approval of the plat shall be obtained prior to recording the plat, offering a lot or lots for sale or beginning construction within such residential development.

1. The plat shall include:

a. a description of the methods for providing water supply and sewage treatment. If a public water supply or public sewage is to be used, then verification of the preliminary approval from the Department shall be submitted along with the plat,

b. the actual lot size of each lot in square feet, acres or fractions of acres, and

c. the location of any public water supply source, including wells and surface water supplies, within three hundred (300) feet of the residential development.

2. Upon approval by the Department, the plat of the residential development shall be imprinted with the stamp of the Department bearing the word "approved", restrictions, if any, signature of the Department or the Department's local representative and the date.

Approval of the plat shall be made effective thirty (30) days after the plat is filed with the Department unless specifically rejected prior to the expiration of the said thirty-day period of time.

3. The office of county clerk shall not record a plat containing any lot of less than two and one-half (2 1/2) acres situated outside the corporate limits of a municipality unless said instrument bears the "approved" stamp of the Department. The Department shall have no authority to disapprove and shall approve plats of tracts that are being developed for individual residence in which no single tract is less than two and one-half (2 1/2) acres, provided that none of the lots are within three hundred (300) feet of a public water supply source.

C. Persons creating or intending to create a residential development, after receiving the stamp of approval from the Department or the Department's local representative, shall file such plat in the land records of the county where the residential development is to be situated.

D. For purposes of this section, “subdivision of land for purposes of a residential development” shall have the same meaning as “subdivision” as defined in Section 863.9 of Title 19 of the Oklahoma Statutes.

E. Any person who knowingly creates a residential development without receiving the approval of the Department or the Department's local representative of a plat or without filing of record a plat in violation of this section, or who installs a private sewage treatment system on a lot for which disapproval of a private sewage treatment system has previously been filed of record shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) for each violation.

F. The Department is authorized to use monies other than fees or appropriated funds as such monies may be available to the Department to offer financial assistance to indigent citizens of the State of Oklahoma to reduce the incidence of surfacing sewage in the State of Oklahoma.

Added by Laws 1963, c. 325, art. 9, § 910, operative July 1, 1963. Amended by Laws 1973, c. 230, § 1, eff. Oct. 1, 1973; Laws 1979, c. 138, § 1; Laws 1981, c. 277, § 7, emerg. eff. June 26, 1981; Laws 1985, c. 272, § 1, eff. Nov. 1, 1985; Laws 1986, c. 318, § 1, eff. Nov. 1, 1986; Laws 1993, c. 145, § 78, eff. July 1, 1993. Renumbered from Title 63, § 1-910 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 16, eff. July 1, 1994; Laws 1999, c. 284, § 2, emerg. eff. May 27, 1999; Laws 2010, c. 164, § 1, emerg. eff. April 22, 2010.

§27A-2-6-501.1. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996.

§27A-2-6-501.2. Sludge management land application plan.

A. Any permit application received by the Department on or after July 1, 1993, for a discharge permit, a municipal or industrial wastewater construction or treatment permit or a public water supply permit shall include or provide for a sludge management plan if the applicant proposes the beneficial use of such sludge or wastewater through land application.

B. Any permittee proposing the land application of wastewater or sludge under the terms of an existing Department issued municipal or industrial construction or wastewater treatment permit, a discharge permit or a water supply permit, must receive the Department's approval on a sludge management plan. Adding a sludge management land application plan to an existing individual industrial discharge permit or an industrial wastewater treatment permit issued by the Department shall require the major modification of the existing permit. For purposes of this section, permits issued by the Oklahoma Water Resources Board and the State Department of Health prior to June 30, 1993 shall be deemed issued by the Department upon the transfer of such permits to the Department effective July 1, 1993.

C. Sludge management plans for the land application of sludge or wastewater which have been approved by the Department may be modified or amended by the Department pursuant to rules promulgated by the Board.

D. Any use or final disposition of sludge other than land application shall require the approval of the Department pursuant to rules promulgated by the Board.

Added by Laws 1993, c. 324, § 27, eff. July 1, 1993.

§27A-2-6-501.3. Promulgation of rules.

The Board shall promulgate rules which shall include, but not be limited to, the following:

1. Prohibiting the practice of plowing sludge that contains heavy metal concentrations significantly above concentrations normal to sludges with demonstrated effectiveness on Oklahoma soils prior to completion of a comprehensive study of all potential adverse effects by a qualified research institute familiar with the crops and soils of the State of Oklahoma, into or onto the soil surface;

2. Requiring that each load of sludge generated outside the State of Oklahoma be sampled at the location at which it is generated and have appropriate analysis performed by an independent laboratory certified by the Department with random quality assurance samples taken by the Department to assure that the sludge falls within the requirements established by the Board; and

3. Requiring the generators to submit the following information: Dates of shipment and application of sludge; weather conditions upon delivery and application; location of sludge application site; area

to be used for land application; amount of sludge delivered or applied; a copy of the test results showing the quality of the sludge; and a copy of the sludge use agreement. Such records shall be retained by the Department for a period of five (5) years after any land application of sludge and shall be made available to the public for inspection.

Added by Laws 1992, c. 361, § 3, emerg. eff. June 4, 1992. Amended by Laws 1993, c. 145, § 154, eff. July 1, 1993. Renumbered from Title 63, § 1-2308 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 39, eff. July 1, 1993. Renumbered from § 2-10-403 of this title by Laws 1994, c. 353, § 42, eff. July 1, 1994.

§27A-2-6-501.4. Sludge containing heavy metal concentrations significantly above normal ranges - Soil and crop studies - Municipal corrective action plans - Comprehensive study.

A. 1. The Department shall not approve any sludge management plan or issue any permit for the land application of sludge which contains heavy metal concentrations significantly above concentration ranges normal to sludges with demonstrated effectiveness on Oklahoma soils as determined by the Department. Rules promulgated by the Board for applications for sludge management plans and permits shall require a study of the effects of the sludge on the various types of soils and crops found at the location of the proposed sludge application site. Such study shall encompass the effects of the sludge on the soils and crops during four (4) growing seasons.

2. Any municipality having a sludge management plan approved prior to May 25, 1992, for the land application of sludge containing heavy metal concentrations significantly above acceptable concentration ranges may discontinue such land application of the sludge or shall develop a corrective action plan containing a schedule of compliance for reducing the heavy metal concentration to an acceptable range. The municipality shall submit the corrective action plan to the Department for approval. If the Department disapproves of the plan or the municipality fails to comply with the plan so approved, the Department may require that any such land applications of sludge by the municipality be discontinued pursuant to Article II of the Administrative Procedures Act.

B. For developing statewide criteria for application of sludge which contains heavy metal concentrations significantly above concentration ranges normal to sludge, the Department shall utilize a comprehensive study of the potential adverse effects of such sludge on the soils of this state completed by a qualified research institute familiar with the crops and soils of this state. Such study shall be completed by September 1, 1996, and a report of the findings shall be delivered to the Governor, the President Pro

Tempore of the Senate, the Speaker of the House of Representatives and the Executive Director no later than September 1, 1996.
Added by Laws 1992, c. 267, § 1, emerg. eff. May 25, 1992. Amended by Laws 1993, c. 145, § 155, eff. July 1, 1993. Renumbered from Title 63, § 1-2304.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 40, eff. July 1, 1993. Renumbered from § 2-10-404 of this title by Laws 1994, c. 353, § 43, eff. July 1, 1994.

§27A-2-6-501.5. Agricultural use of sludge.

Sludge shall only be used on agricultural land at agronomic rates, as determined by the Department, provided the application is performed in accordance with an approved sludge management plan or permit and the rules promulgated by the Board which shall include, but shall not be limited to, the following:

1. Annual land application of sludge shall not exceed nitrogen and phosphorous fertilization rates for the crop grown and shall not be applied at rates that result in phytotoxicity;

2. Sludge applied to land shall be incorporated into the soil before the end of each working day;

3. Sludge shall not be applied within two (2) feet of the highest seasonal water table nor applied to the land within one hundred (100) feet of a stream or body of water; and

4. Sludge shall not be applied within two hundred fifty (250) feet of a public or private water supply.

Added by Laws 1992, c. 361, § 4, emerg. eff. June 4, 1992. Amended by Laws 1993, c. 145, § 156, eff. July 1, 1993. Renumbered from Title 63, § 1-2309 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Renumbered from § 2-10-405 of this title by Laws 1994, c. 353, § 44, eff. July 1, 1994.

§27A-2-6-501.6. Distribution of municipal sludge.

In addition to the requirements imposed by Section 2-6-501 et seq. of Title 27A of the Oklahoma Statutes, municipal sludge shall be distributed by a municipality in accordance with an approved sludge management plan. Such plan shall authorize the municipality to award such sludge to any qualified recipient for land application if such recipients meet the requirements of Section 2-6-501.5 of Title 27A of the Oklahoma Statutes. Municipalities are authorized to adopt any method they choose for selecting qualified recipients for land application of sludge including, but not limited to, accepting monetary bids.

Added by Laws 2005, c. 105, § 1, emerg. eff. April 26, 2005.

§27A-2-6-501. Activities requiring water quality permit - Facility changes, discharge of sewage - Rules.

A. It shall be unlawful for any person to carry on any of the following activities with regard to wastewater or sludge without first securing a water quality permit from the Department of Environmental Quality unless such activity is approved in a permit issued by the Executive Director under Part 2, Article VI, Chapter 2 of this Code:

1. The construction, installation, operation and closure of any industrial surface impoundment, industrial septic tank or treatment system, or the use of any existing unpermitted surface impoundment, septic tank or treatment system that is within the jurisdiction of the Department and which is proposed to be used for the containment or treatment of industrial wastewater or sludge;

2. The construction, installation or operation of any industrial or commercial facility subject to the permitting authority of the Department, the operation of which would cause an increase in the discharge of waste into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized;

3. The construction or use of any new outfall for the discharge of any waste or pollutants into the waters of the state; or

4. The land application of any nonindustrial or industrial wastewater and the land application of sludge.

B. Any major addition, extension, operational change or other change proposed for a facility permitted pursuant to subsection A of this section shall require the approval of the Department through the major modification of the facility's permit prior to construction or implementation of such addition, extension or change.

C. A permit for activities specified in paragraph A of this section shall be issued by the Executive Director for no more than five (5) years and may be renewed pursuant to rules of the Environmental Quality Board.

D. The discharge of domestic sewage except to a public or private disposal system approved or authorized by the Department or the surfacing of effluent from any domestic septic system shall be deemed pollution for purposes of the provisions of Section 2-6-105 of this title.

E. The Board may promulgate rules for the implementation of this part, including but not limited to the submission of applications, plans, specifications and other necessary information, and requirements for monitoring, reporting, operation and maintenance, corrective action, construction and closure. Such rules may incorporate by reference any applicable federal regulations.

F. Except for closure standards, industrial wastewater system rules of the Department of Environmental Quality shall not apply to facilities governed by the Oklahoma Funeral Board.

1. Such facilities shall:

a. report to the Department of Environmental Quality any spill, leak or other release of industrial wastewater from the facility by telephone within twenty-four (24) hours of the spill, leak or release in writing within seven (7) days of the spill, leak or release,

b. take immediate action to contain and remediate the spill, leak or release to prevent risk to human health or the environment, including surface water or groundwater, and

c. notify adjacent landowners of the spill, leak or release as soon as reasonably possible;

2. Nothing in this subsection shall be construed to relieve such facilities from any requirements of federal law; and

3. Failure of such a facility to comply with the requirements of paragraph 1 of this subsection shall cause the spill, leak or release to be deemed a public nuisance within the meaning of Section 2-6-105 of this title.

Added by Laws 1972, c. 242, § 4. Amended by Laws 1993, c. 145, § 79, eff. July 1, 1993. Renumbered from § 926.4 of Title 82 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 25, eff. July 1, 1993; Laws 1994, c. 353, § 17, eff. July 1, 1994; Laws 2019, c. 238, § 1, eff. Nov. 1, 2019.

§27A-2-6-601. Rules - Application - Authority of Department.

A. The Board shall have authority to make rules for the control of sanitation on all property located within any reservoir or drainage basin, which shall include but not be limited to rules:

1. Relating to the collection and disposal of domestic and industrial wastes within any reservoir or drainage basin;

2. Prohibiting the dumping of garbage, trash or other wastes or contaminated material within any reservoir or drainage basin; and

3. Providing that all wastes originating within any reservoir or drainage basin shall be disposed of in a manner approved by the Board, and that the plans and specifications for any disposal system shall be approved by the Department prior to the construction of any such system.

B. The provisions of this section shall not apply to:

1. Any lake, body of water, or reservoir owned or controlled by any city, town or municipality of this state, unless such city, town or municipality shall, by duly enacted ordinance, elect to come under the provisions of this section; and

2. Impounded water on privately owned land not open to public use.

C. The Department is hereby authorized to:

1. Conduct research, studies, demonstrations and investigations relating to the use and reuse of wastewater;

2. Accept, use, disburse and administer grants, allotments, gifts, devises, bequests, appropriations and other monies, equipment or property furnished or given to the Department, for the purposes and intent of this article and enter into contracts therefor; and

3. Utilize such personnel, equipment, laboratories and other resources which it has or which may become available through state-appropriated funds, federal grants or from other sources for such purpose.

Laws 1963, c. 325, art. 9, § 912, operative July 1, 1963; Laws 1993, c. 145, § 80, eff. July 1, 1993. Renumbered from Title 63, § 1-912 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-6-701. Underground injection of hazardous and nonhazardous liquids - Permit required - Water wells and holes to be constructed or sealed to avoid pollution.

A. A permit issued by the Executive Director of the Department of Environmental Quality shall be required for Class I, III, IV and V injection wells pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, inclusive, except for:

1. Class V injection wells utilized in the remediation of groundwater associated with underground and aboveground storage tanks regulated by the Corporation Commission; and

2. Wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act regulated by the Corporation Commission.

B. All water wells, monitoring wells, unused water test wells and water test holes used or capable of being used as sources of domestic or public water supply shall be constructed, sealed or plugged as required by the Department in a manner to avoid pollution of water-bearing strata.

Added by Laws 1963, c. 325, art. 9, § 902, operative July 1, 1963. Amended by Laws 1993, c. 145, § 81, eff. July 1, 1993. Renumbered from Title 63, § 1-902 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2000, c. 364, § 4, emerg. eff. June 6, 2000.

§27A-2-6-801. Licenses required - Rules and regulations.

A. All persons before engaging in the cleaning or pumping of septic tanks or holding tanks and disposing of sewage or septage taken therefrom shall first obtain a license which shall be issued by the Department under such rules as may be promulgated by the Board. Such license shall be issued and may be revoked contingent upon compliance or failure to comply with the provisions of this section and rules promulgated pursuant thereto. The rules shall include but not be limited to the following:

1. A requirement that an annual fee as set by the Board pursuant to Section 2-3-402 of this title be paid to the Department for each license;

2. A requirement that each vehicle shall include an enclosed watertight tank with adequate pump and hose facilities in such condition that no sewage may spill or leak while in transit;

3. The registration of each vehicle used in the business by model, make, owner and license number;

4. A requirement that a permit or written approval shall be secured by the license holder from the appropriate city or town or from the Department's local representative in the area of operation, which designates the place and method of final disposal of the sewage or septage;

5. A requirement that no license shall be issued or renewed under the provisions of this section until said applicant complies with the rules of the Board regarding the cleaning and pumping of septic tanks and holding tanks and the disposal of sewage or septage taken therefrom; and

6. Requirements and standards for the beneficial use or disposal of the sewage or septage and provisions necessary to implement any applicable federal requirements.

B. Nothing in this section shall limit the authority of a city or town to prescribe regulations to collect additional fees related to the cleaning of septic tanks or holding tanks and the disposal of sewage or septage therefrom.

Added by Laws 1963, c. 325, art. 10, § 1009, operative July 1, 1963. Amended by Laws 1969, c. 272, § 1, emerg. eff. April 24, 1969; Laws 1993, c. 145, § 82, eff. July 1, 1993. Renumbered from Title 63, § 1-1009 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 18, eff. July 1, 1994.

§27A-2-6-901. Penalties - Misdemeanor - Injunctions - Assessment of civil penalties.

A. In addition to other penalties as may be imposed by law, any person who shall violate any of the provisions of, or who fails to perform any duty imposed by this article, or who violates any rule promulgated thereunder, or the terms of any order, permit, license or certification issued thereunder, shall, upon conviction, be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violation. In addition to other penalties or liabilities as may be imposed by law, violations may be punishable in civil proceedings by assessment of a civil penalty of not more than Ten Thousand Dollars ($10,000.00) for each violation or, in criminal proceedings, by a fine of not less than Two Hundred Dollars ($200.00) 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. Each day upon which such violation occurs shall constitute a separate violation.

B. Part 5 of Article III of Chapter 2 of this act shall apply to violations under this article except when inconsistent with the

provisions of the Oklahoma Pollutant Discharge Elimination System Act.

C. The provisions of subsection A of this section shall not apply to the Oklahoma Pollutant Discharge Elimination System Act or hazardous waste injection wells.

Added by Laws 1993, c. 145, § 83, eff. July 1, 1993.

§27A-2-7-101. Short title.

This article shall be known and may be cited as the "Oklahoma Hazardous Waste Management Act".

Laws 1976, c. 251, § 1. Renumbered from § 2751 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1992, c. 403, § 4, eff. Sept. 1, 1992; Laws 1993, c. 145, § 84, eff. July 1, 1993. Renumbered from Title 63, § 1-2001 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-102. Hazardous waste - Regulation and control by this act.

Hazardous waste shall be subject to the provisions of the "Oklahoma Hazardous Waste Management Act" and shall not be subject to the provisions of the "Oklahoma Solid Waste Management Act".

Laws 1990, c. 196, § 8, emerg. eff. May 10, 1990; Laws 1992, c. 403, § 5, eff. Sept. 1, 1992; Laws 1993, c. 145, § 85, eff. July 1, 1993. Renumbered from Title 63, § 1-2001.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-103. Definitions.

As used in the Oklahoma Hazardous Waste Management Act:

1. "Affected property owners" means all real property owners within one (1) mile of the outer perimeter of a proposed hazardous waste site;

2. "Affiliated person" means:
   a. any officer, director or partner of the applicant,
   b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and
   c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

3. "Council" means the Hazardous Waste Management Advisory Council;

4. "Demonstrated pattern of prohibited conduct" means a series of conduct of the same or like character in violation of state or federal environmental laws which, as a result of the applicant's or affiliated person's reckless disregard thereof, actually endangers, or reasonably has the potential to endanger, human health or the environment;

5. "Disclosure statement" means a written statement by the applicant which contains:

a. the full name, business address, and social security number of the applicant, and all affiliated persons,

b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,

c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,

d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "hazardous waste" as defined by the Oklahoma Hazardous Waste Management Act or by the United States Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and

e. a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;

6. "Disposal" means the final disposition of hazardous waste;

7. "Disposal site" means the location where any final disposition of hazardous waste occurs. Disposal sites include but are not limited to injection wells and surface disposal sites;

8. "Guarantor" means any person other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to the Oklahoma Hazardous Waste Management Act;

9. "Hazardous waste" means waste materials and byproducts, either solid or liquid or containerized gas, which are:

a. to be discarded by the generator or recycled,

b. toxic to human, animal, aquatic or plant life, and

c. generated in such quantity that they cannot be safely disposed of in properly operated, state-approved solid

waste landfills or waste, sewage or wastewater treatment facilities.

The term "hazardous waste" may include but is not limited to explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludges, tank bottoms containing heavy metallic ions, toxic organic chemicals, and materials such as paper, metal, cloth or wood which are contaminated with hazardous waste. The term "hazardous waste" shall not include domestic sewage;

10. "Hazardous waste facility" means and includes storage and treatment facilities and disposal sites;

11. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in endangerment to human health or the environment if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;

12. "Multi-user on-site treatment facility" means a treatment facility for hazardous waste generated by the co-owners of the facility and which meets the criteria specified by the Oklahoma Hazardous Waste Management Act;

13. "Off-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a hazardous waste facility of hazardous waste not generated by the owner of the facility;

14. "On-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a hazardous waste facility of hazardous waste generated by the owner of the facility;

15. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized;

16. "Recycling" means the reuse, processing, treating, neutralizing or rerefining of hazardous waste into a product which is being reused or which has been sold for beneficial use. Hazardous waste which is intended for fuel is not deemed to be recycled until it is actually burned;

17. "Regeneration" or "regenerated" means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith;

18. "Site" or "proposed site" means the surface area of a disposal site, or other hazardous waste facility, as applied for in the application for a permit for the facility;

19. "Storage facility" means any location where the temporary holding of hazardous waste occurs, including any tank, pit, lagoon, pond, or other specific place or area;

20. "Treatment" means the detoxification, neutralization, incineration or biodegradation of hazardous waste in order to remove or reduce its harmful properties or characteristics; and

21. "Treatment facility" means any location where treating or recycling of hazardous waste occurs.

Laws 1976, c. 251, § 2; Laws 1978, c. 260, § 1, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 1, eff. July 1, 1981. Renumbered from § 2752 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1987, c. 51, § 1, emerg. eff. April 29, 1987; Laws 1988, c. 54, § 1, eff. Nov. 1, 1988; Laws 1990, c. 296, § 1, operative July 1, 1990; Laws 1991, c. 173, § 1; Laws 1992, c. 201, § 1, eff. July 1, 1992; Laws 1992, c. 403, § 6, eff. Sept. 1, 1992; Laws 1993, c. 145, § 86, eff. July 1, 1993. Renumbered from Title 63, § 1-2002 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2005, c. 20, § 2, emerg. eff. April 5, 2005.

§27A-2-7-104. Hazardous waste management program - Personnel.

A hazardous waste management program responsible for the regulation and management of hazardous waste shall be maintained within the Department. The hazardous waste management program shall consist of a director, who shall be hired by the Executive Director, and additional employees as the Executive Director deems are necessary and duly qualified to carry out the provisions of the Oklahoma Hazardous Waste Management Act. As a prerequisite for employment as the director of the hazardous waste management program, the applicant shall have expertise and at least two (2) years' experience in waste management. The director and all employees of the hazardous waste management program shall be subject to the Merit System of Personnel Administration.

Laws 1976, c. 251, § 3; Laws 1978, c. 260, § 2, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 2, eff. July 1, 1981. Renumbered from Title 63, § 2753 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1991, c. 173, § 2; Laws 1992, c. 403, § 7, eff. Sept. 1, 1992; Laws 1993, c. 145, § 87, eff. July 1, 1993. Renumbered from Title 63, § 1-2003 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-105. Powers and duties of Department of Environmental Quality.

The Department shall have the power and duty to:

1. Issue permits for the construction and operation and for the post-closure, maintenance and monitoring of hazardous waste facilities;

2. Provide the owner or operator of a hazardous waste facility a list of all materials which the Department deems acceptable for treatment, recycling, storage, and disposal at the facility;

3. Make periodic inspections of hazardous waste facilities and recycling, transporting, and generating facilities to determine the

extent of compliance with the Oklahoma Hazardous Waste Management Act and rules promulgated thereunder, and orders, permits and licenses issued pursuant thereto;

4. Develop, maintain, and monitor public records of the source and amount of hazardous waste generated in Oklahoma and the methods used to dispose of, recycle, or treat said waste or material;

5. Require and prescribe manifest forms to all persons generating and transporting hazardous waste off-site for storage, recycling, treatment, or disposal;

6. Require and approve or disapprove disposal plans from all persons generating hazardous waste or shipping hazardous waste within, from, or into Oklahoma indicating the amount of hazardous waste generated, the handling, storage, treatment, and disposal methods, and the hazardous waste facilities used. The disposal plans shall be kept current by the persons generating or shipping hazardous waste and the Department shall be advised within five (5) working days of any changes in the disposal plans;

7. Require reports from all persons generating hazardous waste, indicating the amount generated, the treatment and disposal methods, and the treatment, disposal, and recycling sites used. Such reports are to be made on at least a quarterly basis;

8. Require periodic reports or manifest certifications regarding such programs and efforts to reduce the volume or quantity and toxicity of such hazardous waste as may be required by or pursuant to authority of the Oklahoma Hazardous Waste Management Act;

9. Require reports from all operators of hazardous waste facilities who receive hazardous waste for treatment or storage or disposal, listing the amount, transporter, and generator of all hazardous waste received. Such reports are to be made on at least a monthly or quarterly basis, as designated by the Department;

10. Approve or disapprove methods of disposal of hazardous waste, and may prohibit certain specific disposal practices including, but not limited to, any type of land disposal of any form of such waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves;

11. Inform persons generating hazardous waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans;

12. Develop a system to provide information on recyclable wastes to potential users of such materials. Such information shall not include any information which the Department deems confidential or private in nature;

13. Cooperate and share information with the U.S. Environmental Protection Agency;

14. Prepare an emergency response plan for spills of hazardous waste and for spills of hazardous materials;

15. Make information obtained by the Department regarding hazardous waste facilities and sites available to the public in substantially the same manner, and to the same degree, as would be the case if the hazardous waste program in this state were being carried out by the U.S. Environmental Protection Agency;

16. Develop rules with respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which the Department determines hazardous waste may migrate into groundwater, impose such requirements, including but not limited to double liners and leachate detection and collection systems, as may be necessary to protect human health and the environment;

17. Prohibit or restrict the use of any specific disposal methods or practices for specific hazardous waste material, substances or classes, as may be necessary to protect human health and the environment;

18. Identify areas within the state which are unsuitable for specific hazardous waste disposal methods, and deny permits for such disposal methods in such areas;

19. Issue a one-year research development and demonstration permit for any treatment facility which proposes an innovative and experimental hazardous waste treatment technology or process not yet regulated. Permits may be renewed no more than three times. No renewal may exceed one (1) year;

20. Waive or modify general permit application and issuance requirements for research and development permits, except for financial responsibility and public participation requirements;

21. Terminate experimental activity if necessary to protect human health and the environment;

22. Require oil recycling facilities using hazardous waste to have a hazardous waste facility permit;

23. Issue permits containing any conditions necessary to protect human health and the environment;

24. Issue permits for the storage of hazardous waste in underground tanks;

25. Require groundwater monitoring for any landfill, surface impoundment, land treatment site or pile;

26. Determine and enforce penalties for violations of the Oklahoma Hazardous Waste Management Act and rules promulgated thereunder;

27. Evaluate the benefit of rules governing labeling practices for any containers used for the disposal, storage, or transportation of hazardous waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government;

28. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of hazardous waste;

29. Cooperate with existing technical reference centers on hazardous waste disposal, recycling practices, and related information for public and private use;

30. Monitor research in the technical and managerial aspects of management and use of hazardous waste and recycling and recovery of resources from hazardous wastes;

31. Determine existing rates of production of hazardous waste;

32. Promote recycling and recovery of resources from hazardous wastes;

33. Encourage the reduction or exchange, or both, of hazardous waste; and

34. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. Every generator of hazardous waste shall supply the Department with information for the clearinghouse. Each generator shall not be required to supply any more information than is required by the manifests. The Department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

Added by Laws 1976, c. 251, § 4. Amended by Laws 1978, c. 260, § 3, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 4, eff. July 1, 1981. Renumbered from Title 63, § 2754 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1986, c. 180, § 1, emerg. eff. May 15, 1986; Laws 1990, c. 296, § 2, operative July 1, 1990; Laws 1991, c. 173, § 3; Laws 1992, c. 403, § 9, eff. Sept. 1, 1992; Laws 1993, c. 145, § 88, eff. July 1, 1993. Renumbered from Title 63, § 1-2004 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 17, eff. July 1, 1994.

§27A-2-7-106. Rules and regulations - Hearings - Consultation and advice.

The Council, with at least five members concurring, shall submit recommended rules to the Board concerning the listing and characterization of hazardous waste, the construction and operation of hazardous waste facilities, specific disposal practices for specified wastes, the transportation and storage of hazardous waste, and the recycling, storage and transportation of recyclable materials. The Council shall consult with and advise the Department on matters relating to hazardous waste management.

Laws 1981, c. 322, § 5, eff. July 1, 1981; Laws 1992, c. 403, § 10, eff. Sept. 1, 1992; Laws 1993, c. 145, § 89, eff. July 1, 1993. Renumbered from Title 63, § 1-2004.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-107. Rules - Regulation of radioactive waste - Federal preemption.

A. In addition to other powers and duties specified by law, the Board shall promulgate rules to:

1. Prohibit the placement of any liquid which is not a hazardous waste in a landfill for which a permit is required or which is operating under interim status;

2. Prohibit or restrict the storage of hazardous waste for which land disposal is prohibited, except to the extent that such storage is solely for the purpose of accumulation of such quantities of hazardous wastes as are necessary to facilitate proper recovery, treatment, or disposal;

3. Prohibit or restrict the use of waste or used oil or other material used for dust suppression or road treatment, which is contaminated or mixed with dioxin or any other waste identified or listed by rules of the Board as a hazardous waste except a waste identified solely on the basis of ignitability;

4. Require such monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities, including but not limited to open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment;

5. Regulate the production, burning, distribution, and marketing of fuel containing hazardous waste, and the commercial collection, storage, transportation, marketing, management, burning and disposal of used oil as may be necessary to protect human health and the environment including, but not limited to, labeling and recordkeeping requirements;

6. Control the listed or identified hazardous wastes which discharge through a sewer system to a publicly owned treatment works for the protection of human health and the environment;

7. Provide in accordance with Sections 3005(c) and 3005(e) of the Resource Conservation and Recovery Act for the automatic termination of interim status for hazardous waste units failing to comply with applicable requirements for the submission of part B permit applications and certification of groundwater monitoring and financial responsibility compliance;

8. Require from applicants for and owners and operators of hazardous waste facilities evidence of financial responsibility for corrective action as may be required or ordered under the authority of the Oklahoma Hazardous Waste Management Act;

9. Require that generators of hazardous waste establish and implement programs to reduce the volume or quantity and toxicity of such waste to the extent economically practicable; and

10. Specify levels or methods of treatment which substantially diminish the toxicity of the waste or likelihood of its migration so as to minimize threats to human health and the environment.

B. The hazardous waste component of mixed waste and radioactive waste shall be regulated as hazardous waste. The radioactive waste component shall be regulated as radioactive waste. Both the hazardous waste requirements and the radioactive waste requirements shall apply if physical separation of the two components is not accomplished. If a conflict exists between the two requirements, the requirement most protective of human health and the environment shall take precedence.

C. Rules pertaining to standards for the transportation of hazardous waste and recyclable materials shall not be more stringent than those of the U.S. Department of Transportation, unless a waiver of preemption is granted pursuant to federal statutes and rules promulgated thereunder.

Added by Laws 1986, c. 180, § 2, emerg. eff. May 15, 1986. Amended by Laws 1988, c. 42, § 1, emerg. eff. March 21, 1988; Laws 1990, c. 196, § 3, emerg. eff. May 10, 1990; Laws 1992, c. 403, § 11, eff. Sept. 1, 1992; Laws 1993, c. 145, § 90, eff. July 1, 1993. Renumbered from Title 63, § 1-2004.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 19, eff. July 1, 1994.

§27A-2-7-108. Hazardous waste facilities - Permit for storage, treatment or disposal - Operation of recycling facilities not required to be permitted.

A. Except as otherwise provided by subsection B of this section or any rules of the Environmental Quality Board with respect to short-term storage, no person shall store, treat or dispose of hazardous waste materials or commence construction of or own or operate any premises or facility engaged in the operation of storing, treating or disposing of hazardous waste or storing recyclable materials, who does not possess a valid and appropriate hazardous waste facility permit. The provisions of this subsection shall not include remediation activities under an order of the Department of Environmental Quality which would not require a federal hazardous waste permit from the Environmental Protection Agency if conducted pursuant to a federal order.

B. 1. Any person who owned or operated a hazardous waste facility which was operating or under construction on November 19, 1980, and who has submitted notice and permit application to the U.S. Environmental Protection Agency or to the Department, and whose facility complies with the rules of the Board, may continue operation until such time as the permit application is determined.

2. The Board may by rule provide for continued operation on an interim basis pending permit determination of a facility in existence on the effective date of any statutory or regulatory amendments that would subject the facility to a permit requirement pursuant to the Oklahoma Hazardous Waste Management Act.

3. The provisions for the allowance of continued operation on an interim basis under paragraphs 1 and 2 of this subsection shall not apply in the case of a facility for which a permit, under the Oklahoma Hazardous Waste Management Act, has been previously denied or for which authority to operate has been terminated.

C. Facilities engaged in recycling which are not required to be permitted pursuant to the provisions of the Oklahoma Hazardous Waste Management Act shall operate in an environmentally acceptable manner and in accordance with the rules regarding the manifest, transportation and treatment, storage and disposal standards, and generators in the event a hazardous waste is generated therefrom.

Added by Laws 1981, c. 322, § 10, eff. July 1, 1981. Amended by Laws 1990, c. 196, § 6, emerg. eff. May 10, 1990; Laws 1990, c. 296, § 3, operative July 1, 1990; Laws 1991, c. 173, § 8; Laws 1992, c. 403, § 25, eff. Sept. 1, 1992; Laws 1993, c. 145, § 91, eff. July 1, 1993. Renumbered from Title 63, § 1-2009.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 20, eff. July 1, 1994; Laws 1999, c. 284, § 3, emerg. eff. May 27, 1999.

§27A-2-7-109. Limitation on persons eligible for issuance, renewal or transfer of permit - Disclosure of information - Applicability.

A. In order to protect the public health and safety and the environment of this state, the Department, pursuant to the Oklahoma Hazardous Waste Management Act, shall not issue, renew, or transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act;

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

3. Has as an affiliated person any person who is described by paragraph 1 or 2 of this subsection.

B. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, renewal or transfer of any hazardous waste permit, license, certification or operational authority issued by the Department shall file a disclosure statement with their applications.

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a

wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other relevant information as the Department may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

C. The Department is authorized to revoke, or to refuse to issue, to renew, or to transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by the Department issued pursuant to the provisions of the Oklahoma Hazardous Waste Management Act;

2. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act;

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal environmental laws, including without limitation the rules of the Department or the United States Environmental Protection Agency regarding the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act; or

4. Has as an affiliated person any person who is described by paragraphs 1, 2 or 3 of this subsection.

D. 1. An application for a permit for a hazardous waste facility for treatment, storage, recycling or disposal or a renewal thereof shall be signed under oath by the applicant.

2. The Department may refuse to renew, or may suspend or revoke, a permit issued pursuant to the Oklahoma Hazardous Waste Management Act for a hazardous waste facility for treatment, storage, recycling or disposal to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section. Any person who willfully fails to disclose or states

falsely any such information, upon conviction, shall be guilty of a felony and may be punished by imprisonment for not more than five (5) years or fined not more than One Hundred Thousand Dollars ($100,000.00) or both such fine and imprisonment.

E. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

F. The Board shall promulgate rules pursuant to the Administrative Procedures Act as may be necessary and appropriate to implement the provisions of this section.

G. The provisions of this section shall apply to:

1. Any pending or future application for a permit for land disposal or treatment of hazardous waste, except treatment at a facility accepting hazardous waste exclusively for the purpose of conducting research and design tests; and

2. Any application for a permit for hazardous waste treatment, storage, recycling or disposal which is initially submitted to the Department after July 31, 1992, or which has not been determined by the Department to be technically complete by December 31, 1993, regardless of the initial submittal date.

Added by Laws 1992, c. 201, § 3, eff. July 1, 1992. Amended by Laws 1993, c. 145, § 92, eff. July 1, 1993. Renumbered from Title 63, § 1-2004.3 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 18, eff. July 1, 1994.

§27A-2-7-110. Liquid hazardous waste - Certain disposal prohibited - Exceptions.

A. The Department shall not issue a permit for the treatment, disposal or temporary storage of any liquid hazardous waste in a surface impoundment which is not generated by the owners of the surface impoundment.

B. Except as otherwise specifically provided by law, the disposal of any liquid hazardous waste in a landfill or in a surface impoundment is prohibited.

C. The provisions of this section shall not prohibit:

1. The practice of soil farming of hazardous waste authorized by the provisions of the Oklahoma Hazardous Waste Management Act;

2. The construction and operation of surface impoundments solely for the collection of rainfall runoff; or

3. The construction of impoundments solely for the emergency retention of spills of substances which are or may become hazardous waste;

provided all liquids and associated solids are removed for proper treatment or disposal in accordance with the rules promulgated by the Board pursuant to the Oklahoma Hazardous Waste Management Act.

Added by Laws 1986, c. 180, § 4, emerg. eff. May 15, 1986. Amended by Laws 1992, c. 403, § 20, eff. Sept. 1, 1992; Laws 1993, c. 145, § 93, eff. July 1, 1993. Renumbered from Title 63, § 1-2006.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 19, eff. July 1, 1994.

§27A-2-7-111. Prohibited disposal - Hazardous waste facility for on-site or off-site treatment, recycling, storage or disposal.

A. The practice of plowing hazardous waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a plan approved by the Department of Environmental Quality for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive erosion. The administrative permit hearing provisions of Sections 2-7-113, 2-7-113.1 and 2-14-304 of this title shall not apply to soil farming operations conducted on the generator's plant site or nearby property under the control of the generator.

B. A hazardous waste facility for on-site treatment, recycling or storage shall not be sited in or over a principal groundwater resource or recharge area as determined in writing by the Oklahoma Geological Survey, except pursuant to a plan approved by the Department. The plan shall contain such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of said principal groundwater resource or recharge area. The plan shall also provide for the establishment and maintenance of a bond or other financial assurance in a form and amount acceptable to the Department, specifically for the purpose of assuring both immediate response and containment and comprehensive remediation as directed by the Department in the event of a release to soil or water of any hazardous waste or hazardous waste constituent.

C. 1. Except as provided in paragraph 3 of this subsection, a hazardous waste facility for off-site treatment, recycling or storage or for on-site or off-site disposal shall not be sited in or over a principal groundwater resource or recharge area as determined in writing by the Oklahoma Geological Survey.

2. a. Except as provided in subparagraph b of this paragraph, a facility for off-site treatment, storage, recycling or disposal of hazardous waste shall not be sited in any other area of the state without the prior written approval of an emergency and release response plan by the affected property owners as such term is defined in Section 2-7-103 of this title. Such plan shall provide for the minimization of hazards to the health and property of such affected property owners from emergency situations or from sudden or nonsudden releases of hazardous waste or constituents thereof.

After the applicant has made a reasonable effort to negotiate said plan with the affected property owners and has acquired the written approval of a majority of the affected property owners, the applicant may certify to the Department that such reasonable effort has been made and that a minority of the affected property owners would not consent. The Department may then issue the permit if it meets all other requirements. The Department is expressly authorized to review the reasons of the affected property owners for nonapproval of the plan. If nonapproval is not based solely upon minimization of environmental hazards to the health and property of the affected property owners, the Department shall exclude those affected property owners from a calculation of a majority of affected property owners. The Department shall have the final authority to issue or not to issue any permit to any treatment, storage, or disposal facility.

b. Existing industrial facilities not currently receiving hazardous waste which propose to begin receiving hazardous waste from off-site, including facilities at which the hazardous waste is to be utilized as fuel in a recycling unit and all other existing industrial facilities, shall submit an emergency and release response plan as part of the permit application. The plan shall be subject to public review and comment as part of the permit application pursuant to Section 2-7-113 of this title or the Oklahoma Uniform Environmental Permitting Act prior to final approval or disapproval by the Department. Upon submittal of the proposed plan to the Department, the applicant shall be required to mail a copy of said plan to the affected property owners and shall promptly thereafter certify to the Department that such mailing has been made. If a permit is issued, the permittee shall send the final plan by first-class mail to the last-known address of all affected property owners.

c. An emergency and release response plan for a new or existing facility, located or to be located within the city limits or within the emergency response area of any incorporated city or town, which proposes to begin receiving hazardous waste from off-site shall not be approved by the Department until at least sixty (60) days after the city or town has been served with a copy of the plan by the applicant. During said sixty-day period the city or town shall have the opportunity to review the plan and comment to the Department upon the

ability of the city to comply with any item in the plan requiring the participation of or assistance by the city or town or any departments or agencies thereof.

3. The Department may grant a variance to an off-site hazardous waste treatment, recycling or storage facility to allow the siting of such facility over a principal groundwater resource or recharge area as determined in paragraph 1 of this subsection, upon the following conditions:

a. the request for variance, and a detailed rationale, shall be included in the permit application,

b. the Department shall receive and consider comments on the appropriateness of the proposed variance at any formal public meeting or administrative permit hearing conducted on the draft permit or proposed permit pursuant to the provisions of Section 2-7-113 of this title or the Oklahoma Uniform Environmental Permitting Act,

c. the applicant shall bear the burden of establishing clearly and convincingly to the Department that the design, construction and operation of the proposed facility will be such that the risk of a release of hazardous waste or hazardous waste constituents directly or indirectly to groundwater is minimal, and

d. the permit application shall provide for the establishment and maintenance of a bond or other financial assurance as described and for the purposes specified in subsection B of this section.

D. The provisions of this section shall apply to:

1. Applications for future proposed sites;

2. Pending applications for new hazardous waste permits; and

3. Applications for permits to modify existing facilities which have either a permit or interim status when the proposed modification involves the opportunity for an administrative permit hearing.

E. The provisions of paragraphs 1 and 2 of subsection C of this section shall not apply to applications to increase existing storage, treatment, recycling or disposal capacity or to modify existing disposal sites for treatment or disposal. Such modification of existing disposal sites shall include upgrading said facilities to use the best available waste destruction technology such as incineration, detoxification, recycling or neutralization technology.

Added by Laws 1976, c. 251, § 16. Amended by Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 16, eff. July 1, 1981. Renumbered from Title 63, § 2765 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1987, c. 51, § 2, emerg. eff. April 29, 1987; Laws 1988, c. 42, § 2, emerg. eff. March 21, 1988; Laws 1991, c. 336, § 2, eff. July 1, 1991; Laws 1992, c. 403, § 32, eff. Sept. 1, 1992; Laws 1993, c. 145, § 94, eff. July 1, 1993.

Renumbered from Title 63, § 1-2014 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 29, eff. July 1, 1993; Laws 1994, c. 373, § 13, eff. July 1, 1994; Laws 1995, c. 285, § 3, eff. July 1, 1995.
NOTE: Laws 1981, c. 277, § 5 and Laws 1981, c. 322, § 16 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993.

§27A-2-7-112. Hazardous waste facility construction to be supervised.

The design, testing and construction of a hazardous waste facility shall be conducted under the supervision of a professional engineer, registered in Oklahoma, with training and experience in suitable disciplines.
Laws 1976, c. 251, § 8; Laws 1978, c. 260, § 7, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 8, eff. July 1, 1981. Renumbered from Title 63, § 2758 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1992, c. 403, § 21, eff. Sept. 1, 1992; Laws 1993, c. 145, § 95, eff. July 1, 1993. Renumbered from Title 63, § 1-2007 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-113.1. Issuance of permits - Suitability of facility - Administrative procedures.

A. The Department of Environmental Quality shall issue permits for hazardous waste facilities. A permit shall be issued only upon proper application and determination by the Department that the proposed site and facility are physically and technically suitable.

B. Upon a finding that a proposed hazardous waste facility is not physically or technically suitable, the Department shall deny the permit.

C. In accordance with the provisions of Section 2-14-304 of this title, an administrative permit hearing shall be available on a proposed permit which is based on a Tier III hazardous waste permit application for a new permit or for the modification of an existing permit involving a fifty percent (50%) or more increase in permitted capacity for storage, treatment or disposal including but not limited to incineration.

D. The Department may, upon determining that public health or safety requires emergency action, issue a temporary permit for treatment or storage of hazardous waste or recyclable material for a period not to exceed ninety (90) days without the prior notices and opportunity to request a public meeting or the administrative permit hearing required by this section or the Oklahoma Uniform Environmental Permitting Act. Any person aggrieved by such permit may seek judicial review.
Added by Laws 1994, c. 373, § 27, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 4, eff. July 1, 1996.

§27A-2-7-113. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996.

§27A-2-7-114. New hazardous waste facilities within eight miles of corporate limits - Exemptions.

A. Except as provided in subsections B and C of this section, no permit shall be issued for the off-site disposal of hazardous waste or for the off-site treatment of hazardous waste by incinerator at a new hazardous waste facility proposed to be located within eight (8) miles of the corporate limits of an incorporated city or town. For the purposes of this section the corporate limits of an incorporated city or town shall be the corporate limits in effect on January 1 of the year the application is filed, and a new hazardous waste facility means a hazardous waste facility that was not in operation and actively treating hazardous waste by incineration or disposing of hazardous waste during the year preceding August 30, 1991. Addition of new treatment, storage or disposal units to an existing hazardous waste facility does not constitute a new facility.

B. This section shall not apply to any facility accepting hazardous waste exclusively for the purpose of conducting treatment research and design tests.

C. This section shall not apply to a proposed site located on property owned or operated by a person who also owns or operates a hazardous waste facility on contiguous property on which a hazardous waste facility was operating pursuant to a valid permit on August 30, 1991.

Added by Laws 1991, c. 173, § 13. Amended by Laws 1992, c. 403, § 35, eff. Sept. 1, 1992; Laws 1993, c. 145, § 97, eff. July 1, 1993. Renumbered from Title 63, § 1-2014.3 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 20, eff. July 1, 1994.

§27A-2-7-115. New hazardous waste facility permits - Suitability of roads and bridges, upgrading - Notice, grievance procedure.

A. Regarding a permit application for a new hazardous waste facility, the board of county commissioners of the county in which the waste facility is located and the board of county commissioners of any county contiguous to the waste facility, whose roads and bridges are to be used to provide access to the proposed waste facility, shall review the county road classification plans as described in Section 654 of Title 69 of the Oklahoma Statutes and substantiate whether the county roads and bridges to be used to and from such hazardous waste facility in their respective counties may be used without any substantial detriment to said roads and bridges as provided in Section 14-113 of Title 47 of the Oklahoma Statutes. If any board of county commissioners finds that substantial detriment to the roads and bridges in its county would occur, such board shall

determine reasonable measures necessary to upgrade the roads and bridges and allow the applicant for a hazardous waste facility to upgrade or pay for the upgrading of such roads and bridges if the applicant receives a permit.

B. The Department shall not issue a permit for any new hazardous waste facility unless:

1. Each board of county commissioners, as appropriate pursuant to subsection A of this section, has substantiated by resolution that the county roads and bridges as they exist can be used without any substantial detriment to said roads and bridges as provided by the restrictions imposed by Section 14-113 of Title 47 of the Oklahoma Statutes; or

2. The applicant has agreed to upgrade or pay for the upgrading of the roads and bridges to the reasonable measures determined by the appropriate board of county commissioners or to the design standards established by the Oklahoma Department of Transportation for industrial access roads.

The Department shall not authorize the operation of the facility until the necessary upgrades to the roads and bridges have been made.

C. The Department shall notify the applicable boards of county commissioners by certified mail, return receipt requested, of the proposed waste site. Said boards of county commissioners shall have forty-five (45) days from receipt of such notice to review the county road classification plan and respond to the Department. The finding of each board of county commissioners shall be sent to the Department by certified mail, return receipt requested. Failure to respond within such forty-five-day response period shall constitute a finding that the roads and bridges can be used without substantial detriment and preclude the board of county commissioners failing to respond from raising the suitability of use of roads and bridges of the county as set out in subsections A and B of this section at a later date.

D. Any applicant for a permit aggrieved by the action of the board of county commissioners pursuant to this section shall have the right of review by trial de novo in the district court of the county wherein the board of county commissioners took such action.

E. This section shall apply to any permit application submitted to the Department on or after May 30, 1985, and to any permit application submitted before May 30, 1985, for which a permit has not been issued.

Added by Laws 1985, c. 113, § 5, emerg. eff. May 30, 1985. Amended by Laws 1992, c. 403, § 14, eff. Sept. 1, 1992; Laws 1993, c. 145, § 98, eff. July 1, 1993. Renumbered from Title 63, § 1-2005.3 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 21, eff. July 1, 1994.

§27A-2-7-116. Permits - Application - Liability insurance - Bond - Financial responsibility - Operation of facility - Insolvency - Liability of guarantors.

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

B. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury or property damage on, below or above the surface, as required by the rules of the Board. Additional insurance shall be required as deemed necessary by the Department to protect the property rights of owners or leaseholders of underground resources such as oil, gas, water or other mineral substances. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. In lieu of liability insurance required by this or any other section of the Oklahoma Hazardous Waste Management Act, an equivalent amount of cash, securities or alternate financial assurance of a type and in an amount acceptable to the Department, may be substituted; provided, that such deposit shall be maintained for a period of five (5) years after the date of last operation of the facility.

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

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

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

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

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

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

I. 1. In any case where the owner or operator of a hazardous waste facility is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or if jurisdiction in any state court or any federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility is required pursuant to the Oklahoma Hazardous Waste Management Act may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action taken pursuant to this section, such guarantor shall be entitled to claim all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if any action had been brought against the guarantor by the owner or operator.

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

Added by Laws 1976, c. 251, § 9. Amended by Laws 1978, c. 260, § 8, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 9, eff. July 1, 1981. Renumbered from Title 63, § 2759 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1986, c. 140, § 1, emerg. eff. April 21, 1986; Laws 1990, c. 196, § 5, emerg. eff. May 10, 1990; Laws 1992, c. 403, § 22, eff. Sept. 1, 1992; Laws 1993, c. 145, § 99, eff. July 1, 1993. Renumbered from Title 63, § 1-2008 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 22, eff. July 1, 1994; Laws 1995, c. 285, § 5, eff. July 1, 1995; Laws 2015, c. 202, § 1, emerg. eff. April 28, 2015.

§27A-2-7-117. Multi-user on-site treatment facilities - Permits - Suitability factors.

A. Two or more persons generating hazardous waste may enter into a compact to construct and operate a multi-user on-site treatment facility for the exclusive use of the members of such compact. Such facility shall not be used as a hazardous waste facility for off-site treatment, storage or disposal of hazardous waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Hazardous Waste Management Act, a multi-user on-site treatment facility shall meet the following criteria:

1. The facility may be co-owned by the generators of hazardous waste who are members of the compact;

2. Each member of the compact shall be identified in the application and permit. In addition, the individual hazardous waste generated by each member shall be separately and distinctly characterized in the application and in the permit and shall meet the compatibility requirements established by the Department;

3. The facilities generating hazardous waste which is to be treated at the multi-user on-site treatment facility shall be located within the same county as the multi-user on-site treatment facility;

4. The multi-user on-site treatment facility shall be located upon the property of one of the compact members;

5. Financial responsibility requirements shall be the responsibility of the compact members and shall be prorated according to the relative amount of hazardous waste of a generator to be treated at the facility; and

6. The Department may require such other criteria and information in order to determine if the multi-user on-site treatment facility is physically and technically suitable for the hazardous waste to be treated at the facility.

C. A multi-user on-site treatment facility, located within an industrial park which treats, stores or disposes of wastes that are produced only within that industrial park, may be owned or operated by persons other than the generators of the waste.

D. Upon compliance with the provisions of the Oklahoma Hazardous Waste Management Act, this section and rules promulgated thereunder, the Department shall issue a permit for the construction and operation of a multi-user on-site treatment facility.

E. The board of county commissioners of the county in which a multi-user on-site treatment facility is proposed to be located shall review all transportation routes between such proposed location and the facilities generating hazardous waste which are operated by members of the compact. The provisions of Section 2-7-115 of this title relating to county roads and bridges shall apply to permit applications for multi-user on-site treatment facilities.

Added by Laws 1988, c. 54, § 2, eff. Nov. 1, 1988. Amended by Laws 1991, c. 173, § 7; Laws 1992, c. 403, § 23, eff. Sept. 1, 1992; Laws 1993, c. 145, § 100, eff. July 1, 1993. Renumbered from Title 63, § 1-2008.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 23, eff. July 1, 1994; Laws 1995, c. 1, § 7, emerg. eff. Mar. 2, 1995.
NOTE: Laws 1994, c. 353, § 21 repealed by Laws 1995, c. 1, § 40, emerg. eff. Mar. 2, 1995.

§27A-2-7-118. Facilities that recycle hazardous waste - Permit requirements, exemption.

Facilities that recycle hazardous waste shall be exempt from subsection C of Section 2-7-113.1 and Section 2-7-115 of this title with regard to those units exclusively used in the recycling process. Off-site hazardous waste recycling facilities are subject to the requirements specified by the Oklahoma Hazardous Waste Management Act, the Oklahoma Uniform Environmental Permitting Act, and rules promulgated thereunder, for a permit, and shall also meet design standards as promulgated by the Board. Such recycling facilities which were in existence on July 1, 1990, may but shall not be required to file a permit application pursuant to the provisions of the Oklahoma Hazardous Waste Management Act. A permit modification is not required for a permitted recycling facility to use new, improved, or better methods of recycling if the Department has approved the plans as being environmentally acceptable. An approved class 1 permit modification shall be required for a permitted recycling facility to increase the capacity of its recycling units or add new or different recycling units.
Added by Laws 1990, c. 296, § 6, operative July 1, 1990. Amended by Laws 1991, c. 173, § 12; Laws 1992, c. 403, § 34, eff. Sept. 1, 1992; Laws 1993, c. 145, § 101, eff. July 1, 1993. Renumbered from Title 63, § 1-2014.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 30, eff. July 1, 1993; Laws 1994, c. 373, § 24, eff. July 1, 1994; Laws 1995, c. 1, § 8, emerg. eff. March 2, 1995; Laws 1995, c. 285, § 6, eff. July 1, 1995; Laws 2013, c. 7, § 1, eff. Nov. 1, 2013.
NOTE: Laws 1994, c. 353, § 22 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995.

§27A-2-7-119. Permit fees.

A. The Environmental Quality Board shall establish a schedule of fees, pursuant to Section 2-3-402 of this title and the Administrative Procedures Act, to be charged for applications to issue and renew permits for hazardous waste facilities and for the regulation of hazardous waste. Such fees shall only be used for the implementation of the provisions of the Oklahoma Hazardous Waste Management Act pursuant to Section 2-3-402 of this title.

B. The Environmental Quality Board shall charge fees only within the following ranges:

For generator disposal plan: $100.00 to $10,000.00 per year
For permit application: $5,000.00 to $50,000.00
For application resubmittal: $100.00 to $1,000.00
For monitoring: $100.00 to $10,000.00 per year.

C. The Environmental Quality Board shall develop a separate schedule of reduced fees of not less than Twenty-five Dollars ($25.00) for small quantity generators.

Added by Laws 1985, c. 113, § 1, emerg. eff. May 30, 1985. Amended by Laws 1986, c. 229, § 1, emerg. eff. June 10, 1986; Laws 1992, c. 403, § 13, eff. Sept. 1, 1992; Laws 1993, c. 145, § 102, eff. July 1, 1993. Renumbered from Title 63, § 1-2005.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 23, eff. July 1, 1994; Laws 2000, c. 130, § 1, emerg. eff. April 24, 2000.

§27A-2-7-120. Fee for disposal of liquid waste other than controlled industrial waste in underground injection well.

Any person subject to regulation by the Department of Environmental Quality disposing of liquid waste other than hazardous waste in an underground injection well that is required to be permitted shall pay a fee of two-hundredths of one cent (2/100 of $0.01) per gallon for such disposal, provided that the total fee shall be not less than Ten Thousand Dollars ($10,000.00) nor more than Fifty Thousand Dollars ($50,000.00) per year. The total fee for injection of drinking water treatment residuals into a Class V underground injection well shall be not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00) per year. The fee shall be paid to the Department on a quarterly basis within one (1) month following the close of each quarter for the waste disposed in that preceding quarter. The fees shall be deposited into the Department of Environmental Quality Revolving Fund.

Added by Laws 1991, c. 173, § 5. Amended by Laws 1992, c. 403, § 16, eff. Sept. 1, 1992; Laws 1993, c. 10, § 7, emerg. eff. Mar. 21, 1993; Laws 1993, c. 145, § 103, eff. July 1, 1993. Renumbered from Title 63, § 1-2005.3B by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 32, eff. July 1, 1993; Laws 2015, c. 282, § 1.

NOTE: Laws 1992, c. 361, § 1 repealed by Laws 1993, c. 10, § 16, emerg. eff. Mar. 21, 1993. Laws 1993, c. 148, § 1 repealed by Laws 1993, c. 324, § 58, eff. July 1, 1993.

§27A-2-7-121.1. Waiver of fee.

A. The Department of Environmental Quality may direct a facility to waive the fees described in paragraph 1 of subsection A of Section 2-7-121 of Title 27A of the Oklahoma Statutes for hazardous waste

received from certain sites undergoing response actions under the authority of the federal Comprehensive Environmental Response, Compensation and Liability Act. A fee waiver may only be granted for response actions financed through the Superfund Trust Fund that are conducted by the Department or the federal Environmental Protection Agency, when the amount of fee waiver will qualify towards the contributions required of the state for such actions.

B. The Department of Environmental Quality may direct a facility to waive the fees described in paragraph 1 of subsection A of Section 2-7-121 of Title 27A of the Oklahoma Statutes for hazardous waste received from certain sites in Oklahoma undergoing remedial actions that are being conducted as a result of:

1. A consent order approved by the Department;

2. Fulfilling the requirements of a Compliance Schedule issued by the Department as a result of a permit; or

3. A Brownfields action that has been approved by the Department.

Such fee waivers may be granted for remedial actions only when the amount of the fee waiver will qualify toward the contributions required of the state in response actions financed through the Superfund Trust Fund. The Department shall void all waivers for fees as described in paragraph 1 of subsection A of Section 2-7-121 of Title 27A should the requirements of any Consent Order, Compliance Schedule, or Brownfields action not be fulfilled as stipulated.

Added by Laws 1999, c. 284, § 4, emerg. eff. May 27, 1999.

§27A-2-7-121. Annual fee - Exemptions - Expenditure of funds.

A. Every hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles hazardous waste subject to the provisions of the Oklahoma Hazardous Waste Management Act shall pay to the Department of Environmental Quality an annual fee on the amount of hazardous waste managed by such facility.

1. Subject to paragraphs 2 and 7 of this subsection, such fees shall be:

a. Nine Dollars ($9.00) per ton for on-site or off-site storage, treatment or land disposal,

b. Four Dollars ($4.00) per ton for off-site recycling, including regeneration, or

c. three cents ($0.03) per gallon for on-site or off-site underground injection.

2. There shall be a minimum fee per facility as follows:

a. except as provided in subparagraph d of this paragraph, any person owning or operating an off-site hazardous waste treatment facility or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars ($50,000.00) each state fiscal year,

b. any person owning or operating an on-site hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars ($20,000.00) each state fiscal year. The annual fee for the on-site disposal of hazardous waste by underground injection shall not exceed Fifty Thousand Dollars ($50,000.00),

c. any person owning or operating an off-site facility for the storage or recycling of hazardous waste shall pay a total fee of not less than Twenty Thousand Dollars ($20,000.00) each state fiscal year; provided, any such off-site recycling facility which consistently recycles fewer than ten (10) tons of hazardous waste per calendar month shall not be subject to this minimum annual fee. For the purpose of this subparagraph, storage includes physical separation or combining of wastes solely to facilitate efficient storage at the facility and/or efficient transportation, and

d. any person owning or operating an off-site facility which accepts hazardous waste exclusively for the purpose of conducting research and design tests shall pay a total fee of not less than Ten Thousand Dollars ($10,000.00) each state fiscal year.

3. Off-site facilities may charge persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

4. The facility shall become liable for payment of the fee on each ton or gallon of hazardous waste at the time it is received. For purposes of on-site facilities, receipt is deemed to have occurred when the waste is first managed in any unit or manner that requires a hazardous waste permit. The fee shall be payable by the facility to the Department only as provided for in subsection C of this section.

5. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling of the hazardous waste. The fee shall be based on the purpose for which the waste was received by the facility. In no event shall a facility be required to pay a fee on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

6. In computing the amount of the fee specified in subparagraph b of paragraph 1 of subsection A of this section for the off-site recycling or regeneration of hazardous waste, the assessment for regeneration shall be made on a dry weight basis.

7. If a generator of characteristic hazardous waste or listed hazardous waste treats the waste on-site to meet Best Demonstrated Available Technology Standards and disposes of the waste on-site, the

waste shall be subject to a reduced treatment or on-site disposal fee of one-half (1/2) the rate required by subparagraph a of paragraph 1 of this subsection; provided, such rate reduction shall not exceed Twenty-two Thousand Dollars ($22,000.00) per calendar year.

B. The following facilities shall not be required to pay the fee required by the provisions of this section:

1. Facilities engaged only in the on-site recycling of hazardous waste; and

2. Facilities which have not received new hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for hazardous waste received by the facility during the prior calendar quarter. Such quarterly payments shall be due on the first day of the month of the following quarter. All payments shall be made within thirty (30) days from the date they become due.

D. The fees required by this section shall be paid in lieu of the monitoring fees imposed in subsection B of Section 2-7-119 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically required by the Oklahoma Hazardous Waste Management Act.

E. All fees and other monies received by the Department pursuant to the provisions of this section shall be expended solely for the purposes specified in this section.

1. Ten percent (10%) of the fees collected from an off-site hazardous waste facility pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds. The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the off-site hazardous waste facilities within the Trust area.

2. The Department shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

a. the administration of the provisions of the Oklahoma Hazardous Waste Management Act,

b. the development of an inventory of hazardous wastes currently produced in Oklahoma and management needs for the identified wastes,

c. the implementation of information exchange, technical assistance, public information, and educational programs,

d. the development and encouragement of waste reduction plans for Oklahoma waste generators, or

e. increased inspection of hazardous waste facilities which may include full time inspectors at off-site hazardous waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the Department shall only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act for remediation or related action upon a site within the state;

2. Response, including but not limited to containment and removal, to emergency situations involving spillage, leakage, emissions or other discharge of hazardous waste or hazardous waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by hazardous waste or hazardous waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 2-7-305 of this title.

Added by Laws 1990, c. 196, § 9, operative July 2, 1990. Amended by Laws 1991, c. 173, § 4; Laws 1992, c. 201 , § 2, eff. Jan. 1, 1993; Laws 1992, c. 403, § 15, eff. Sept. 1, 1992; Laws 1993, c. 145, § 104, eff. July 1, 1993. Renumbered from Title 63, § 1-2005.3A by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 24, eff. July 1, 1994; Laws 1996, c. 356, § 11, emerg. eff. June 14, 1996; Laws 2001, c. 191, § 1, emerg. eff. May 7, 2001.

§27A-2-7-122. Disposal by underground injection - Limitation of annual fee.

The Department shall not assess an annual fee for the on-site disposal of hazardous waste by underground injection which exceeds Fifty Thousand Dollars ($50,000.00).

Added by Laws 1992, c. 201, § 7, emerg. eff. May 12, 1992. Amended by Laws 1993, c. 145, § 105, eff. July 1, 1993. Renumbered from Title 63, § 1-2002.a by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-123. Permit issuance notice - Notice of remediation or related action taken - Interference with remediation – Good Samaritan protections and immunities.

A. Upon issuance of any permit issued pursuant to the requirements of the Oklahoma Hazardous Waste Management Act, the Department of Environmental Quality shall file or cause to be filed a recordable notice of the permit in the land records of the county in which the site is located. The notice shall contain the legal description of the site as well as the terms under which the permit was issued.

B. The Department shall file or cause to be filed a recordable notice of remediation or related action taken pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act in the land records of the county in which the site is located. The notice shall contain a legal description of the affected property and shall identify all engineering controls used to ensure the effectiveness of the remediation.

C. The Department shall file or cause to be filed a recordable notice of remediation or related action in the county where the property is located when remediation of contaminated property to risk-based standards is performed pursuant to this subsection or subsection F of this section under an order of or a remediation plan approved by the Department. The notice shall contain a legal description of the affected property and shall identify all engineering or other controls used to ensure the effectiveness of the remediation.

D. The notices required in subsections B and C of this section shall also contain a prohibition against engaging in any activities that cause or could cause damage to the remediation or the engineering controls, or recontamination of the soil or groundwater. The notices shall also contain any appropriate restrictions on land use or other activities that are incompatible with the cleanup level, including, but not limited to, restrictions against increasing the amount or extent of contamination or using groundwater for drinking or irrigation purposes or redeveloping the land for residential use. Any person who damages or interferes with the remediation, the engineering controls, or continuing operation, maintenance or monitoring of the site or who increases the amount or extent of contamination is liable to repair the damage, remedy the interference, or remediate the contamination, or for costs incurred by the Department in doing so. The Department may take administrative or civil action to recover costs or to compel compliance with this subsection, including but not limited to administrative penalties pursuant to the Oklahoma Hazardous Waste Management Act.

E. Any notice filed pursuant to this section shall run with the land. It may not be extinguished, limited, or impaired by application of the provisions of Sections 71 through 85 of Title 16 of the Oklahoma Statutes or the Uniform Unclaimed Property Act.

F. An eligible person may be entitled to protections and immunities as a voluntary "Good Samaritan" as provided in this subsection after meeting all eligibility requirements and compliance with an order or a detailed written plan of the proposed voluntary reclamation project or water pollution abatement project. The person seeking "Good Samaritan" status under this subsection shall submit a plan to be approved by the Department and to be implemented at a historical or orphaned mining site or other approved site within the State of Oklahoma. The approved plan must demonstrate that the activities conducted under the plan will accelerate a partial or complete CERCLA-like cleanup and will result in environmental improvement.

1. The activities of an eligible person volunteering to conduct a project under this subsection shall not duplicate or interfere with remedial actions being taken or overseen by a responsible party or a state or federal agency at the site.

2. The Department may require evidence of the Good Samaritan's financial ability to complete the proposed project.

3. No eligible person shall be liable for costs or damages or be subject to administrative or civil liabilities or penalties as a result of actions taken or omitted in the course of rendering voluntary care, assistance or advice while conducting a project under this section if the project is implemented and completed in accordance with the approved plan.

4. The immunities provided in this subsection shall not apply to any person:

a. whose act or omission caused in whole or in part such actual or threatened pollution or who would otherwise be liable therefor under state or federal law,

b. who receives compensation other than reimbursement for out-of-pocket expenses for services in rendering such assistance or advice,

c. whose act or omission constitutes gross negligence or reckless, wanton or intentional misconduct, or

d. who discharges pollutants without a required National Pollutant Discharge Elimination System (NPDES) permit except at a historical or orphaned mining site or other site approved by the Department's Executive Director prior to commencement of work on the project.

Added by Laws 1976, c. 251, § 5. Amended by Laws 1978, c. 260, § 4, emerg. eff. May 10, 1978. Renumbered from § 2755 of Title 63 by Laws 1982, c. 202, § 9. Amended by Laws 1993, c. 145, § 106, eff. July 1, 1993. Renumbered from § 1-2005.1 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2000, c. 74, § 1, emerg. eff. April 14, 2000; Laws 2004, c. 141, § 2, eff. Nov. 1, 2004; Laws 2005, c. 1, § 25, emerg. eff. March 15, 2005; Laws 2009, c. 5, § 1, eff. July 1, 2009; Laws 2014, c. 148, § 1, eff. Nov. 1, 2014.

NOTE: Laws 2004, c. 111, §2 repealed by Laws 2005, c. 1, § 26, emerg. eff. March 15, 2005.

§27A-2-7-124. Monitoring of closed facility.

After a hazardous waste facility has been closed, its owner or operator shall properly maintain and monitor the hazardous waste facility for a period of time required by rules of the Board and shall make such repairs or improvements as deemed necessary by the Department to ensure that no migration of hazardous waste material will occur from the hazardous waste facility. The rules of the Board which specify the period of time for maintenance and monitoring of closed facilities shall be in compliance with the hazardous waste regulations of the U.S. Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act.

Laws 1976, c. 251, § 10; Laws 1978, c. 260, § 9, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 11, eff. July 1, 1981. Renumbered from Title 63, § 2760 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1985, c. 113, § 2, emerg. eff. May 30, 1985; Laws 1992, c. 403, § 24, eff. Sept. 1, 1992; Laws 1993, c. 145, § 107, eff. July 1, 1993. Renumbered from Title 63, § 1-2009 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-125. Hazardous waste manifest.

A. Persons generating hazardous waste shall provide a manifest to the operator of any mode of any off-site transportation carrying hazardous waste. Such manifest shall be in a form which has been prescribed by the Department of Environmental Quality. The manifest shall also set forth the type, amount, approximate content, origin and destination of the waste. Such operator shall have the manifest in his or her possession while transporting or handling the hazardous waste. Upon delivery of the hazardous waste to a facility duly authorized to accept such waste, the operator shall submit such manifest to the receiving person for processing pursuant to rules promulgated by the Board.

B. No person shall transport, receive, treat or dispose of hazardous waste without having the manifest in his or her possession.

Added by Laws 1976, c. 251, § 11. Amended by Laws 1978, c. 260, § 10, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 12, eff. July 1, 1981. Renumbered from Title 63, § 2761 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1990, c. 296, § 4, operative July 1, 1990; Laws 1992, c. 403, § 26, eff. Sept. 1, 1992; Laws 1993, c. 145, § 108, eff. July 1, 1993. Renumbered from Title 63, § 1-2010 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2000, c. 130, § 2, emerg. eff. April 24, 2000; Laws 2006, c. 175, § 2, eff. July 1, 2006.

§27A-2-7-126. Orders.

In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act, the Department of Environmental Quality 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 Hazardous Waste Management Act, or any rule promulgated thereunder.

1. Such order may require compliance with the Oklahoma Hazardous Waste Management Act or such rule immediately or within a specified time period or both. Such order may also assess an administrative penalty for any past or current violation of the Oklahoma Hazardous Waste Management Act or the rules and for each day or part of a day that such person fails to comply with such order.

   a. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations.

   b. Any penalty assessed in the order shall not exceed Twenty-five Thousand Dollars ($25,000.00) per day of noncompliance for each violation of the Oklahoma Hazardous Waste Management Act, the rules or the order. In assessing such penalties, the Executive Director shall consider the seriousness of the violation or violations and any good faith efforts to comply with applicable requirements.

2. 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 an administrative enforcement hearing. Upon such request the Department shall promptly provide for the hearing. The Department shall dismiss such proceedings where past and current compliance with the Oklahoma Hazardous Waste Management Act, the rules and the order is demonstrated.

   a. Orders and hearings are subject to the Administrative Procedures Act.

   b. 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.

   c. The Department may adopt procedural rules as necessary and appropriate to implement the provisions of this section.

3. Any order issued pursuant to the Oklahoma Hazardous Waste Management Act may require that corrective action be taken beyond the hazardous waste facility boundary where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that, despite the owner's or operator's best efforts, the owner or operator is unable to obtain the necessary permission to undertake such action.

Added by Laws 1985, c. 113, § 3, emerg. eff. May 30, 1985. Amended by Laws 1986, c. 180, § 5, emerg. eff. May 15, 1986; Laws 1990, c. 196, § 7, emerg. eff. May 10, 1990; Laws 1991, c. 173, § 11; Laws 1992, c. 403, § 28, eff. Sept. 1, 1992; Laws 1993, c. 145, § 109, eff. July 1, 1993. Renumbered from Title 63, § 1-2012.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993; Laws 1998, c. 186, § 2, eff. Nov. 1, 1998.

§27A-2-7-127. Corrective action - Permit review - Permit renewal - Information and reports.

A. In accordance with standards established by the Administrator of the Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act, the Department may require corrective action beyond a hazardous waste facility boundary as a condition of the issuance of a permit pursuant to the Oklahoma Hazardous Waste Management Act, where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that despite the owner's or operator's best efforts such owner or operator is unable to obtain the necessary permission to undertake such action. The Department may also require, as a condition of a permit issued pursuant to the Oklahoma Hazardous Waste Management Act, corrective action for all releases of hazardous waste from any solid waste management unit at a facility seeking a permit, regardless of the time the waste was placed in such unit. If such corrective action cannot be completed prior to issuance of the permit, such permit shall contain schedules of compliance for the corrective action required and assurances of financial responsibility for completing such corrective action.

B. The Department shall review each permit for a hazardous waste land disposal facility five (5) years after the date of such issuance or reissuance and shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable standards and permit requirements for hazardous waste facilities. Nothing in this subsection shall preclude the Department from reviewing and modifying a permit at any time during its term. The Department, in reviewing any application for a permit renewal, shall consider improvements in the state of control and measurement technology and changes in applicable regulations. Each issued or reissued permit shall contain such terms and conditions as the Department determines necessary to protect human health and the environment.

C. The Department is authorized to require each owner or operator applying for a permit for a hazardous waste landfill or surface impoundment to submit with the permit application information reasonably ascertainable by the owner or operator concerning the potential exposure to the public of hazardous wastes as a result of releases from a hazardous waste unit. The Department shall be

authorized to make exposure and health assessment information available to the public and to other state and federal agencies.
Laws 1986, c. 180, § 6, emerg. eff. May 15, 1986; Laws 1992, c. 403, § 30, eff. Sept. 1, 1992; Laws 1993, c. 145, § 110, eff. July 1, 1993. Renumbered from Title 63, § 1-2012.3 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-128. Administrative penalties - Disposition and use.
Administrative penalties collected by the Department pursuant to the Oklahoma Hazardous Waste Management Act shall be paid into the Hazardous Waste Fund.
Laws 1985, c. 113, § 4, emerg. eff. May 30, 1985; Laws 1992, c. 403, § 29, eff. Sept. 1, 1992; Laws 1993, c. 145, § 111, eff. July 1, 1993. Renumbered from Title 63, § 1-2012.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-129. Violations - Civil penalties.
In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act, the Department may:
1. Temporarily suspend the permit of any operator of a hazardous waste facility until such facility conforms to the provisions of the Oklahoma Hazardous Waste Management Act and the rules promulgated thereunder;
2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder, or who operates in such a manner as to cause or to continue in existence an environmentally unsafe condition. Such revocation may only take place following proper hearing, and shall conform to provisions of the Administrative Procedures Act. Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder;
3. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation occurs seeking an injunction to restrain a violation of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder or to restrain the maintenance of a public nuisance; and
4. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder occurs seeking a civil penalty of not more than Twenty-five Thousand Dollars ($25,000.00) per day or part of a day such violation occurs.
Laws 1976, c. 251, § 13; Laws 1978, c. 260, § 12, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 14, eff. July 1, 1981. Renumbered from

Title 63, § 2763 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1991, c. 173, § 10; Laws 1992, c. 403, § 27, eff. Sept. 1, 1992; Laws 1993, c. 145, § 112, eff. July 1, 1993. Renumbered from Title 63, § 1-2012 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-130. Violations - Criminal penalties.

Except as otherwise provided by the Oklahoma Hazardous Waste Management Act or other law, any person who violates any of the provisions of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment in the county jail for not more than six (6) months, or a fine of not less than Two Hundred Dollars ($200.00) nor more than Twenty-five Thousand Dollars ($25,000.00), or by both such fine and imprisonment. Each day or part of a day during which such violation is continued or repeated shall constitute a new and separate offense.

Laws 1976, c. 251, § 12; Laws 1978, c. 260, § 11, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 13, eff. July 1, 1981. Renumbered from Title 63, § 2762 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1991, c. 173, § 9; Laws 1993, c. 145, § 113, eff. July 1, 1993. Renumbered from Title 63, § 1-2011 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-131. Initiation and prosecution of action.

Upon request of the Department, the district attorney of the county in which any violation of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder occurs shall initiate and prosecute any civil or criminal proceeding provided by the Oklahoma Hazardous Waste Management Act.

Laws 1978, c. 260, § 13, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2763.1 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Amended by Laws 1993, c. 145, § 114, eff. July 1, 1993. Renumbered from Title 63, § 1-2013 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-132. Appeal of issuance of permit - Stay of time restraints.

The filing of a proceeding appealing the issuance of a permit authorizing a hazardous waste facility shall stay any time restraints specified in the permit relating to the term or expiration of the permit.

Added by Laws 1990, c. 296, § 5, operative July 1, 1990. Amended by Laws 1992, c. 403, § 31, eff. Sept. 1, 1992; Laws 1993, c. 145, § 115, eff. July 1, 1993. Renumbered from Title 63, § 1-2012.4 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 25, eff. July 1, 1994.

§27A-2-7-133. Intervention.

The Department shall not oppose intervention by any person when permissive intervention may be authorized by statute or rule.

Laws 1981, c. 322, § 15, eff. July 1, 1981; Laws 1993, c. 145, § 116, eff. July 1, 1993. Renumbered from Title 63, § 1-2013.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-134. Summary suspension of permit for failure to remit penalty or fee - Revocation proceedings.

A. Unless otherwise authorized by the Department of Environmental Quality or stayed by a court of review, if a hazardous waste treatment, storage, disposal or recycling facility fails to remit to the Department any administrative penalty assessed against the facility pursuant to the provisions of the Oklahoma Environmental Quality Code, within the time period established by the final or consent order, the Department shall summarily suspend the hazardous waste operating permit of the facility.

B. Unless otherwise authorized by the Department or stayed by a court of review, if a hazardous waste treatment, storage, disposal or recycling facility fails to pay to the Department any fee required to be remitted to the Department on a quarterly, annual or other periodic basis pursuant to the provisions of this article or by rule promulgated pursuant thereto within sixty (60) days after an invoice is mailed by certified mail, return receipt requested, to the facility by the Department, the Department shall summarily suspend the hazardous waste operating permit of the facility.

C. Following suspension of a permit pursuant to the provisions of this section, the Department shall promptly institute proceedings for revocation of the permit pursuant to Section 2-3-502 of Title 27A of the Oklahoma Statutes.

D. Unless otherwise ordered by the Department or a court of review, the suspension or revocation of a hazardous waste operating permit shall not be deemed to relieve the facility from permit requirements for corrective action, closure of hazardous waste units, postclosure maintenance and monitoring, or similar requirements which relate primarily to remediation or closure.

E. The suspension or revocation of a hazardous waste operating permit shall not be deemed to require cessation of any operations at the facility which are unrelated to the treatment, storage, disposal or recycling of waste.

Added by Laws 1998, c. 186, § 3, eff. Nov. 1, 1998.

§27A-2-7-201. Special Economic Development Trust Funds.

A. The county commissioners of the counties which are within a ten-mile radius of an off-site hazardous waste facility may establish a Special Economic Development Trust Fund for those counties.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development in the counties located within the trust area. Such uses shall allow the authority to acquire assets, develop property, and to contract with local municipalities or economic development trusts or authorities to promote economic development in the counties located within the trust area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section 2-7-121 of this title;

2. All income from the investment of monies held in the trust fund;

3. Interest resulting from the deposit of such monies; and

4. Any other sums designated for deposit to the fund from any source, public or private.

D. Any trust established pursuant to the provisions of this section shall be governed by the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes.

E. 1. Such Trust shall be governed by a Board of Trustees of not less than six nor more than ten members. Each county within the Trust area shall be represented equally on the Board of Trustees.

2. Each Trustee shall be appointed by a majority vote of the county commissioners of the county that the Trustee represents. A Trustee may be removed prior to the expiration of the term of office by a majority vote of the county commissioners of the county that the Trustee represents. In the event there are two or more Trustees from each county, the initial appointments shall be made so that the terms are staggered. After the initial appointment, each Trustee shall serve a term of two (2) years and may be reappointed.

3. The Trustees shall receive no compensation for service on the Board of Trustees, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties as trustees in accordance with the State Travel Reimbursement Act.

4. Any action of the Board of Trustees must be approved by a two-thirds vote of the total authorized membership of the Board.

5. The Trustees shall have authority to exercise such powers as are necessary to perform the duties and functions imposed by the provisions of this section.

F. The Board of Trustees shall meet not less than twice each calendar year. At the first meeting in a new calendar year the members shall elect a chairman, a vice-chairman, a secretary, and a treasurer.

Added by Laws 1991, c. 173, § 6. Amended by Laws 1991, c. 336, § 1, eff. July 1, 1991; Laws 1992, c. 403, § 17, eff. Sept. 1, 1992; Laws 1993, c. 10, § 8, emerg. eff. March 21, 1993; Laws 1993, c. 145, § 117, eff. July 1, 1993. Renumbered from Title 63, § 1-2005.3C by

Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 25, eff. July 1, 1994.
NOTE: Laws 1992, c. 361, § 2 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 1992, c. 363, § 11 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993.

§27A-2-7-301. Short title.

This part shall be known and may be cited as the "Hazardous Waste Fund Act".

Laws 1982, c. 202, § 1; Laws 1992, c. 403, § 36, eff. Sept. 1, 1992; Laws 1993, c. 145, § 118, eff. July 1, 1993. Renumbered from Title 63, § 1-2015 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-302. Purposes of act.

The purposes of the Hazardous Waste Fund Act are to:

1. Protect public health and safety, and the natural resources of the State of Oklahoma;

2. Provide for response to environmental emergencies and incidents; and

3. Establish a fund administered by the Department which will be available to monitor hazardous waste management facilities and to respond and assist municipalities and counties in responding to any emergency situation involving hazardous waste.

Laws 1982, c. 202, § 2; Laws 1992, c. 403, § 37, eff. Sept. 1, 1992; Laws 1993, c. 145, § 119, eff. July 1, 1993. Renumbered from Title 63, § 1-2016 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-303. Definitions.

As used in the Hazardous Waste Fund Act and in addition to the definitions used in the Oklahoma Hazardous Waste Management Act:

1. "Discharge" means any releasing, spilling, leaking, leaching, seeping, pouring, draining, emptying, dumping, expelling or any other emitting of hazardous waste into the environment beyond the confines of a licensed disposal site; and

2. "Incident" means any occurrence or series of occurrences which result in the discharge of hazardous waste which create an injury to any person or property.

Laws 1982, c. 202, § 3; Laws 1992, c. 403, § 38, eff. Sept. 1, 1992; Laws 1993, c. 145, § 120, eff. July 1, 1993. Renumbered from Title 63, § 1-2017 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-304. Creation of fund - Status - Expenditures - Purpose - Control and management - Use - Emergencies.

A. There is hereby created in the State Treasury a special fund for the Department to be designated as the "Hazardous Waste Fund". This fund shall consist of monies transferred to it from funds appropriated to the Department for this purpose and from other

sources as provided by law. The fund shall be a continuing fund not subject to fiscal year limitations. Expenditures from the Hazardous Waste Fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services for approval and payment. The fund shall be for the purpose of protecting public health and safety as prescribed in the Hazardous Waste Management Act and for providing basic emergency response training and protective equipment and for response or remediation activities authorized in subsection F of Section 2-7-121 of this title. The Department is authorized, upon the request of a municipality or county, to assist such municipality or county in the development of emergency response plans. The fund shall be under the control and management of the administrative authority of the Department. Pursuant to the provisions of the Hazardous Waste Fund Act, the Department is authorized to determine the manner in which such fund is to be used. The Department of Public Safety and the Department of Civil Emergency Management are authorized and directed to assist and cooperate with the Department in the performance of its duties under the Hazardous Waste Fund Act.

B. Hazardous waste fees paid into the Department of Environmental Quality Revolving Fund pursuant to the Hazardous Waste Management Act may be transferred to the Hazardous Waste Fund.

Added by Laws 1982, c. 202, § 4. Amended by Laws 1992, c. 403, § 39, eff. Sept. 1, 1992; Laws 1993, c. 145, § 121, eff. July 1, 1993. Renumbered from § 1-2018 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 26, eff. July 1, 1994; Laws 2012, c. 304, § 105.

§27A-2-7-305. Assistance to political subdivisions.

To further benefit the citizens of the State of Oklahoma, the Department may, if funds are available from the fund, render financial assistance, by form of a matching grant not to exceed Fifty Thousand Dollars ($50,000.00), to any municipality or county of the state, which has prepared an emergency response plan which has been approved by the Department, for the purpose of providing basic emergency response training and protective equipment to be used by such municipality or county in responding to incidents involving hazardous waste. Such financial assistance shall be available only to those applicants which have a significant potential for initiating emergency response to an incident involving hazardous waste. The Department shall give priority to municipalities or counties of the state in which off-site facilities are located.

Laws 1982, c. 202, § 5; Laws 1986, c. 229, § 2, emerg. eff. June 10, 1986; Laws 1992, c. 403, § 40, eff. Sept. 1, 1992; Laws 1993, c. 145, § 122, eff. July 1, 1993. Renumbered from Title 63, § 1-2019 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-306. Rules.

The Board shall promulgate rules to implement and administer the Hazardous Waste Fund Act.

Laws 1982, c. 202, § 6; Laws 1993, c. 145, § 123, eff. July 1, 1993. Renumbered from Title 63, § 1-2020 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-307. Report of use and disposition of funds.

The Department shall annually submit a written report on the use and disposition of the fund to the Oklahoma State Legislature.

Laws 1982, c. 202, § 7; Laws 1993, c. 145, § 124, eff. July 1, 1993. Renumbered from Title 63, § 1-2021 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-7-401. Short title.

Sections 2 through 9 of this act shall be known and may be cited as the “Oklahoma Highway Remediation and Cleanup Services Act”.

Added by Laws 2006, c. 243, § 2, eff. Nov. 1, 2006.

§27A-2-7-402. Definitions.

As used in the Oklahoma Highway Remediation and Cleanup Services Act:

1. "Highway remediation and cleanup service" means the removal of cargo involved in and the containment, removal or remediation of spills occurring as the result of a collision involving a truck, truck-tractor, trailer, or any combination thereof;

2. "Executive Director" means the Executive Director of the Department of Environmental Quality;

3. "Department" means the Department of Environmental Quality; and

4. "Operator" means any person owning, operating or engaging in a highway remediation and cleanup service.

Added by Laws 2006, c. 243, § 3, eff. Nov. 1, 2006.

§27A-2-7-403. Licensure and regulation of highway remediation and cleanup services and operators.

A. The Department of Environmental Quality shall have the power and authority to license, supervise, govern and regulate highway remediation and cleanup services and highway remediation and cleanup service operators in this state.

B. The Environmental Quality Board is authorized to adopt rules as necessary to implement the provisions of this act. The rules shall state the requirements for facilities, for storage of vehicles, the records to be kept by operators and liability insurance and other insurance or bonding requirements in such sums and with such provisions as the Department deems necessary to adequately protect the interests of the public. The rules may address such other

matters as the Board deems necessary for the protection of the public.

Added by Laws 2006, c. 243, § 4, eff. Nov. 1, 2006.

§27A-2-7-404. License requirements - Display - Fees - Term and renewal - Suspension or revocation - List of service operators.

A. To be licensed pursuant to this act, a person, firm, corporation or other entity shall meet the following requirements:

1. Principal business facilities are located within Oklahoma;
2. Tow trucks are registered and licensed in Oklahoma; and
3. Owner is a resident of the State of Oklahoma or the service is an Oklahoma corporation.

B. No operator or employee of any operator shall be permitted, allowed or caused to solicit business or engage in highway remediation and cleanup services without the operator first having obtained from the Department of Environmental Quality a license to operate a highway remediation and cleanup service. The license number shall be displayed, in conformance with rules of the Department, on both sides of every vehicle operated by the highway remediation and cleanup service. This section shall not apply to the Oklahoma Department of Transportation or the Oklahoma Turnpike Authority.

C. The license fee required by this section shall be in lieu of the motor carrier filing fee as required in Section 165 of Title 47 of the Oklahoma Statutes. It shall not be necessary for any operator to prove public convenience and necessity to obtain such license, and the Department shall issue such license without public hearing. The fee for such license shall be Ten Thousand Dollars ($10,000.00).

D. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of One Thousand Dollars ($1,000.00) upon application to the Department as prescribed by rule. No license fee shall be refunded in the event that the license is suspended or revoked.

E. The Department is authorized to issue notices of violation and compliance orders and to suspend, revoke, or refuse to issue or renew the license of an operator when it finds the licensee or applicant has not complied with or has violated any of the provisions of this act, or any rules adopted by the Board. A suspension shall be for a period of time deemed appropriate by the Department for the violation. An operator whose license has been revoked may not apply for one (1) year. Any suspended or revoked license shall be returned to the Department by the operator. An operator whose license is revoked by the Department shall be required to pay an additional fee of Ten Thousand Dollars ($10,000.00) for reinstatement if such reinstatement is authorized by the Department.

F. The Department shall keep a current list of highway remediation and cleanup service operators licensed pursuant to this

act and forward such list to the Department of Public Safety for distribution to wrecker service operators licensed by the Department of Public Safety. The Department shall update such list regularly to delete highway remediation and cleanup service operators whose licenses have been suspended or revoked.

G. Fees or fines collected pursuant to the provisions of this section shall be remitted to the State Treasurer to be deposited in the Department of Environmental Quality Revolving Fund.

Added by Laws 2006, c. 243, § 5, eff. Nov. 1, 2006. Amended by Laws 2007, c. 62, § 5, emerg. eff. April 30, 2007.

§27A-2-7-405. Authority to employ or contract with remediation service of choice - Hazardous conditions exception.

The provisions of this act shall not preclude any person in need of any highway remediation or cleanup service from employing or contracting with any licensed highway remediation service of choice, except where hazardous conditions exist which pose an imminent threat to human health or the environment, in which case a law enforcement officer may contact any available highway remediation and cleanup service operator or any other provider of a needed service as the officer deems necessary as safety and time conditions warrant.

Added by Laws 2006, c. 243, § 6, eff. Nov. 1, 2006.

§27A-2-7-406. Applicability - Exceptions.

A. The provisions of the Oklahoma Highway Remediation and Cleanup Services Act shall not apply to discharges or spills from rail transportation, vehicles or cargo at locations including, but not limited to, highway, street or road intersections or other locations involving railroad tracks.

B. The provisions of the Oklahoma Highway Remediation and Cleanup Services Act shall not apply to discharges or spills from vehicles, cargo or electrical equipment under the control of an electric utility.

Added by Laws 2009, c. 72, § 1, emerg. eff. April 21, 2009.

§27A-2-8-101. Short title.

This article shall be known and may be cited as the "Central Interstate Low-Level Radioactive Waste Compact".

Laws 1983, c. 27, § 1; Laws 1993, c. 145, § 125, eff. July 1, 1993. Renumbered from Title 63, § 1-2101 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-8-102. Central Interstate Low-Level Radioactive Waste Compact - Enactment.

The Central Interstate Low-Level Radioactive Waste Compact is hereby enacted into law and entered into by the State of Oklahoma

with all other states legally joining therein in accordance with its terms, in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that each state is responsible for the management of its nonfederal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act, 42 U.S.C., Sections 2121b to 2121d, has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states. It is the policy of the party states that activities conducted by the Commission are the formation of public policies and are therefore public business.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Commission" means the Central Interstate Low-Level Radioactive Waste Compact Commission;

B. "Decommissioning" means the measure taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at the facility;

C. "Disposal" means the isolation and final disposition of waste;

D. "Extended care" means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or cleanup necessary to protect public health and the environment;

E. "Facility" means any site, location, structure or property used or to be used for the management of waste;

F. "Generator" means any person who, in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. "Generator" does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

G. "Host state" means any party state in which a regional facility is situated or is being developed;

H. "Institutional control" means those activities carried out by the host state to physically control access to the disposal site following transfer of the license to the owner of the disposal site. These activities include, but are not limited to, environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state and administration of funds to cover the costs of these activities. The period of institutional control will be determined by the host state but may not be less than one hundred (100) years following transfer of the license to the owner of the disposal site;

I. "Low-level radioactive waste" or "waste" means, as defined in the Low-Level Radioactive Waste Policy Act (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in Section 11 e.2 of the Atomic Energy Act of 1954, U.S.C. Section 2014, as amended through 1978;

J. "Management of waste" means the storage, treatment or disposal of waste;

K. "Notification of each party state" means transmittal of written notice to the Governor, presiding officer of each legislative body and any other persons designated by the party state's Commission member to receive such notice;

L. "Party state" means any state which is a signatory party to this compact;

M. "Person" means any individual, corporation, business enterprise or other legal entity, either public or private;

N. "Region" means the area of the party states;

O. "Regional facility" means a facility which is located within the region and which has been approved by the Commission for the benefit of the party states;

P. "Site" means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

Q. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States;

R. "Storage" means the holding of waste for treatment or disposal; and

S. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or management, amenable for recovery, convertible to another usable material or reduced in volume.

ARTICLE III. RIGHTS AND OBLIGATIONS

A. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from party states, and meeting the requirements of the Central Interstate Low-level Radioactive Waste Compact, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

B. To the extent authorized by federal law and host state law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

C. Rates shall be charged to any user of the regional facility, set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

D. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to subsection C of Article III of the compact, for any regional facility within its borders. Any fees proposed by the host state shall be subject to a one hundred twenty-day prior notice to the Commission with an opportunity to provide comments to the host state. Such fees shall be fair and reasonable, and shall provide the host state with sufficient revenue to cover all anticipated present and future costs associated with any regional facility and a reasonable reserve for future contingencies which are not covered by rates established in subsection C of Article III of the compact including, but not limited to:

1. The licensure, operation, monitoring, inspection, maintenance, decommissioning, closure, institutional control, and extended care of a regional facility;

2. Response, removal, or remedial action or cleanup deemed appropriate and required by the host state as a result of a release of radioactive or hazardous materials from such regional facility;

3. Premiums for property and third party liability insurance;

4. Protection of the public health and safety and the environment;

5. Compensation and incentives to the host community;

6. Any amount due from a judgment or settlement involving a property or third party liability claim for medical expenses and all other damages incurred as a result of personal injury or death and damages or losses to real or personal property or the environment; and

7. The cost of defending or pursuing liability claims against any party or state.

The fees established pursuant to subsection D of Article III of the compact may include incentives for source and volume reduction and may be based on the hazard of the waste. Notwithstanding

anything to the contrary in the compact, or in any state constitution, statute, or regulation, to the extent that such fees are insufficient to pay for any costs associated with a regional facility, including all costs under subsection D of Article III of the compact, all party states and any other state or states whose generators use the regional facility, shall share liability for all such costs. However, there shall be no recovery from the states under subsection D of this article until all available funds, payments, or in-kind services have been exhausted including:

a. designated low-level radioactive waste funds managed by the host state,

b. payable proceeds of insurance or surety policies applicable to a regional facility,

c. proceeds of reasonable collection efforts against the regional facility operator or operators, and

d. payments from in-kind services by generators.

In the event any regional facility operator files or has filed against it a bankruptcy proceeding, then for purposes of determining whether or not reasonable collection efforts have been undertaken, the filing of such proceedings, if not dismissed within sixty (60) days of filing, shall be considered exhaustion of reasonable collection efforts with respect to such party. Recovery from the states under subsection D of Article III of the compact upon satisfaction of the exhaustion of available funds, payments, or in-kind services shall not preclude any state from further recovery of its costs from a facility operator, insurer or generator. During the period of time that such reasonable collection efforts or exhaustion of available funds, payments, or in-kind services occur, any applicable statutes of limitation with respect to claims against any other parties or states will be deemed tolled and will not run. All costs or liabilities shared by a state will be shared proportionately by comparing the volume of the waste received at a regional facility from the generators of each state with the total volume of the waste received at a regional facility from all generators.

E. To the extent authorized by federal law, each party state is responsible for enforcing any applicable federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

F. Each party state has the right to rely on the good faith performance of each other party state.

G. Unless authorized by the Commission, it shall be unlawful after January 1, 1986, for any person:

1. To deposit at a regional facility, waste not generated within the region;

2. To accept, at a regional facility, waste not generated within the region;

3. To export from the region, waste which is generated within the region; and

4. To transport waste from the site at which it is generated except to a regional facility.

ARTICLE IV. THE COMMISSION

A. There is hereby established the Central Interstate Low-Level Radioactive Waste Compact Commission. The Commission shall consist of one voting member from each party state, except that each host state shall have two at-large voting members and one nonvoting member from the county in which the facility is located. All members shall be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

B. Except for the nonvoting member, each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be binding unless a majority of the total membership casts its vote in the affirmative.

C. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact.

D. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member. All meetings of the Commission shall be open to the public with reasonable advance publicized notice given, and such meetings shall be subject to those exceptions provided for within the open meetings laws of the host state. The Commission shall adopt bylaws that are consistent in scope and principle with the open meetings laws of the host state, or if there is no host state, the open meetings law of the state in which the Commission headquarters is located.

E. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any federal, state or local agency, board or commission that has jurisdiction over any matter arising under or relating to the terms and provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

F. The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

G. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by acceptance of a federal grant the staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

H. Funding for the Commission shall be as follows:

1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed Twenty-five Thousand Dollars ($25,000.00) until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this subsection as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within sixty (60) days of their receipt; and

2. Each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which:

a. shall be sufficient to cover the annual budget of the Commission, and

b. shall be paid to the Commission, provided, however, that each host state collecting such surcharges may retain a portion of the collection sufficient to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

I. The Commission shall keep accurate accounts of all receipts and disbursements. A licensed public accountant or a certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV of the compact.

J. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this subsection, together with the identity of

the donor, grantor or lender, shall be detailed in the annual report of the Commission.

K. 1. Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto; and

2. The Commission herein established is a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

L. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the district wherein the Commission maintains its headquarters by filing in such court a petition for review within sixty (60) days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

M. The Commission shall:

1. Receive and approve the application of a nonparty state to become a party state in accordance with Article VII of the compact;

2. Submit an annual report to, and otherwise communicate with, the Governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

3. Hear and negotiate disputes which may arise between the party states regarding this compact;

4. Require of and obtain from the party states, and nonparty states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

5. Approve the development and operation of regional facilities in accordance with Article V of the compact;

6. Notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

7. Revoke the membership of a party state in accordance with Articles V and VII of the compact;

8. Require all party states and other persons to perform their duties and obligations arising under this compact by an appropriate

action in any forum designated in subsection E of Article IV of the compact; and

9. Take such other action as may be necessary to perform its duties and functions as provided in this compact.

N. All files, records, and data of the Commission shall be open to reasonable public inspection, regardless of physical form, subject to those exceptions listed within the public records laws of the host state. The Commission shall adopt bylaws relating to the availability of files, records, and data of the Commission that are consistent in scope and principle with the public records laws of the host state, or if there is no host state, the public records laws of the state in which the Commission headquarters is located.

O. All decisions of the Commission regarding public meetings and public records issues shall be reviewable solely in a United States District Court of a host state, or if there is no host state, then in the state in which the Commission headquarters is located.

ARTICLE V. DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

A. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

B. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in subsection C of Article V of the compact, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

C. The Commission shall review and consider each applicant's proposal based upon the following criteria:

1. The capability of the applicant to obtain a license from the applicable authority;

2. The economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per cubic foot of waste;

3. Financial assurances;

4. Accessibility to all party states; and

5. Such other criteria as shall be determined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

D. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria enumerated in subsection C of Article V of the compact and the needs of the region.

E. Following notification of each party state of the results of the preliminary selection process, the Commission shall:

1. Authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance

with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

2. Require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted.

F. The preliminary selection or selections made by the Commission pursuant to Article V of the compact shall become final and receive the Commission's approval as a regional facility upon the issuance of a license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in Article V of the compact.

G. The Commission may by a two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in subsection E of Article VII of the compact.

ARTICLE VI. OTHER LAWS AND REGULATIONS

A. Nothing in this compact shall be construed to:

1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2. Prevent the application of any law which is not otherwise inconsistent with this compact;

3. Prohibit or otherwise restrict the management of waste on the site where it is generated if such is otherwise lawful;

4. Affect any judicial or administrative proceeding pending on the effective date of this compact;

5. Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

6. Affect the generation or management of waste generated by the federal government or federal research and development activities.

B. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

C. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to enactment of this compact shall not be affected.

D. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the

generators of another party state than for the generators of the state where the facility is situated.

ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

A. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and South Dakota.

B. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the compact upon the unanimous approval of the Commission.

C. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the compact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in subsection F of Article VII of the compact.

D. Any party state may withdraw from this compact by enacting a statute repealing the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five (5) years after the Governor of the withdrawing state has given notice in writing of such withdrawal to each Governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

E. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing, have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one (1) year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five (5) years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with subsection D of Article III of the compact, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the compact shall be transmitted immediately following the vote of the Commission, by the chairman, to the Governor of the affected

party state, all other Governors of the party states and the Congress of the United States.

F. This compact shall become effective after enactment by at least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent every five (5) years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five-year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under subsections B and C of Article VII of the compact and to the power to ban the exportation of waste pursuant to Article III of the compact.

G. The withdrawal of a party state from this compact under subsection D of Article VII of the compact or the revocation of a state's membership in this compact under subsection E of Article VII of the compact shall not affect the applicability of this compact to the remaining party states.

H. This compact shall be terminated when all party states have withdrawn pursuant to subsection D of Article VII of the compact.

ARTICLE VIII. PENALTIES

A. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

B. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.

Laws 1983, c. 27, § 2; Laws 1992, c. 380, § 1, eff. July 1, 1992; Laws 1993, c. 145, § 126, eff. July 1, 1993. Renumbered from Title 63, § 1-2102 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-8-103. Authorization to execute Compact.

The Governor, on behalf of this state, is authorized to execute the Central Interstate Low-Level Radioactive Waste Compact, in order for this state to become a party state as defined in paragraph J of Article II of the compact. For the purposes of the Central Interstate Low-Level Radioactive Waste Compact, the state has not entered into an interstate compact until the compact becomes effective by its own terms.

Laws 1983, c. 27, § 3; Laws 1993, c. 145, § 127, eff. July 1, 1993. Renumbered from Title 63, § 1-2103 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-8-201. Oklahoma representatives to Central Interstate Low-Level Radioactive Waste Compact Commission.

The member of the Central Interstate Low-Level Radioactive Waste Compact Commission representing the State of Oklahoma shall be the Executive Director of the Department of Environmental Quality or the designated representative of the Executive Director.

Laws 1983, c. 27, § 4; Laws 1992, c. 380, § 2, eff. July 1, 1992; Laws 1993, c. 145, § 128, eff. July 1, 1993. Renumbered from Title 63, § 1-2104 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-8-202. Rules - Apportionment of fees.

A. The Environmental Quality Board, with the assistance of the Radiation Management Advisory Council, shall promulgate, in accordance with the Administrative Procedures Act, for the purpose of the compact, rules for the generating, storing, packaging and transporting of low-level radioactive waste generated within Oklahoma and the packaging and transporting of such waste passing through this state.

B. The Board rules shall be consistent with and may incorporate such standards of the U.S. Nuclear Regulatory Commission and of the U.S. Department of Transportation by reference. The Department of Environmental Quality shall administer and enforce the provisions of the Central Interstate Low-Level Radioactive Waste Compact and the rules of the Board.

C. The annual fees of the State of Oklahoma due the Central Interstate Low-Level Radioactive Waste Compact Commission shall be apportioned among those generators disposing of low-level radioactive waste as determined by the Central Interstate Low-Level Radioactive Waste Compact Commission unless the Department determines to use other funds available to it for that purpose.

Laws 1983, c. 27, § 5; Laws 1993, c. 145, § 129, eff. July 1, 1993. Renumbered from Title 63, § 1-2105 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 160, § 2, eff. July 1, 2008.

§27A-2-8-203. Oklahoma rate-review agency.

For purposes of Article III of the Central Interstate Low-Level Radioactive Waste Compact, the Corporation Commission is designated as the rate-review agency for the State of Oklahoma.
Laws 1983, c. 27, § 6; Laws 1993, c. 145, § 130, eff. July 1, 1993. Renumbered from Title 63, § 1-2106 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-8-204. Study of Oklahoma as low-level radioactive waste disposal site.

The Department and the Radiation Management Advisory Council shall study the procedural and substantive authority, criteria and physical and technical standards that would be advisable and necessary for the protection of the health, safety and welfare of the public and the environment concerning the licensure and subsequent construction and operation of a low-level radioactive waste disposal site in this state should Oklahoma be considered as one of the host states for the region, in accordance with Articles IV and V of the Central Interstate Low-Level Radioactive Waste Compact. The Department shall annually submit written findings and recommendations to the Governor and to the Legislature.
Laws 1983, c. 27, § 7; Laws 1993, c. 145, § 131, eff. July 1, 1993. Renumbered from Title 63, § 1-2107 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-9-101. Short title.

This article shall be known and may be cited as the "Radiation Management Act".
Added by Laws 1993, c. 145, § 132, eff. July 1, 1993.

§27A-2-9-102. Definitions.

As used in the Radiation Management Act:

1. "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

2. "By-product material" means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the ionizing radiation incident to the process of producing or utilizing special nuclear materials;

3. "Production facility" means:
   a. any equipment or device determined under authority of the federal Atomic Energy Act of 1954, as amended, to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or
   b. any important component part especially designed for such equipment or device;

4. "Special nuclear material" means:

a. plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which is determined to be special nuclear material under authority of the federal Atomic Energy Act of 1954, as amended, but does not include source material, or
b. any material artificially enriched by any of the foregoing, but does not include source material;

5. "Utilization facility" means:
a. any equipment or device, except an atomic or nuclear weapon, as determined under authority of the federal Atomic Energy Act of 1954, as amended, to be capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security or in such manner as to affect the health and safety of the public, or
b. any important component part especially designed for such equipment or device;

6. "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter, such as alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other atomic particles, but not sound or radio waves, or visible, infrared, or ultraviolet light;

7. "Nonionizing radiation" means radiation in any portion of the electromagnetic spectrum not defined as ionizing radiation, and at energy levels which may reasonably be expected to cause bodily harm, including, but not limited to, emissions from such sources as lasers, microwave and ultraviolet devices;

8. "Radiation" means ionizing and nonionizing radiation;

9. "Source of radiation" means any radioactive material or any instrument or material capable of producing or emitting radiation as defined in the preceding paragraph;

10. "Radiation hazard" is any condition that could, with reasonable expectation, result in harmful radiation exposure in such manner as to affect the health and safety of the public and the environment;

11. "Source material" means:
a. uranium or thorium, or any combination thereof, in any physical or chemical form, or
b. ores which contain by weight one-twentieth of one percent (1/20 of 1%) or more of uranium, thorium, or any combination thereof.

Source material does not include special nuclear material;

12. "Diagnostic x-ray facility" means the use of an x-ray system(s) by a facility in any procedure that involves irradiation of any part of a human or animal body for the purpose of diagnosis;

13. "Electronic product radiation" means:

a. any ionizing or nonionizing electromagnetic or particulate radiation, or

b. any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product; and

14. "Electronic product" means:

a. any manufactured or assembled product which, when in operation:

(1) contains or acts as part of an electronic circuit, and

(2) emits, or would emit in the absence of effective shielding or other controls, electronic product radiation, or

b. any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in subparagraph a of this definition and which, when in operation, emits (or in the absence of effective shielding would emit) such radiation.

Added by Laws 1993, c. 145, § 133, eff. July 1, 1993.

§27A-2-9-103. Official agency for regulatory activities - Application of act - Agreements with United States Nuclear Regulatory Commission.

A. The Department of Environmental Quality is hereby designated as the official agency of the State of Oklahoma for all regulatory activities for the use of atomic energy and sources of radiation, except for the use of sources of radiation by diagnostic x-ray facilities, and shall act as the coordinating agency for the purpose of cooperating with other states, the United States Public Health Service, and the United States Nuclear Regulatory Commission, and other federal agencies in the administration of programs relating to atomic energy and sources of radiation, available to the State of Oklahoma under federal laws; and it shall encourage, participate in, and conduct investigations, training and demonstrations relating to constructive uses of radiation and the prevention and control of its associated harmful effects, the control of radiation hazards, the measurement of radiation, the effects to health on exposure to radiation, and related problems.

B. Nothing in this article shall interfere with the doctor-patient relationship of any practitioner of the healing arts; nor shall anything in this act prohibit a licensed practitioner of the healing arts, or an individual under the direction of such licensed practitioner, from using X-rays or fluoroscopes for diagnostic

purposes, as authorized under the specific licensing act for the practitioner and other law.

C. The Governor, on behalf of this state, may enter into agreements with the United States Nuclear Regulatory Commission, pursuant to Section 274b of the Atomic Energy Act of 1954, as amended, providing for discontinuance of specified responsibilities of the federal government and for the assumption thereof by this state with respect to byproduct material, special nuclear material, and sources of radiation.

D. Any person who, on the effective date of an agreement under subsection C of this section, possesses a license which is subject to that agreement and which is issued by the United States Nuclear Regulatory Commission for radioactive materials, shall be deemed to possess a like license issued under the Radiation Management Act. Such license shall expire on the date of expiration specified in the federal Nuclear Regulatory Commission license.

Added by Laws 1993, c. 145, § 134, eff. July 1, 1993.

§27A-2-9-104. Rules.

A. The Board shall have the authority to promulgate rules on the following: the establishment of standards for safe levels of protection against radiation; the maintenance and submission of records; the determination, prevention and control of radiation hazards; the reporting of radiation accidents; the handling, storage and registration of sources of radiation; periodic inspections of facilities using sources of radiation; the review and approval of plans, and the issuance and revocation of permits and licenses, for the use of sources of radiation; prior to issuance of any permit, requirements to post a bond or acceptable alternative financial assurance guaranteeing proper on-site or off-site storage or disposal; methods and facilities for disposal of sources of radiation; constructive uses of radiation, and prevention and control of its associated harmful effects; and other items deemed necessary for the protection of the public health and safety in radiation. Such rules shall be consistent with nationally recognized standards, which may be included by reference in the adopted rules.

B. The rules shall not apply to electronic products used for diagnosis by diagnostic x-ray facilities or 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.

Added by Laws 1993, c. 145, § 135, eff. July 1, 1993. Amended by Laws 2011, c. 335, § 1; Laws 2012, c. 110, § 2, eff. Nov. 1, 2012.

§27A-2-9-105. Fees.

A. The Board shall, pursuant to Section 24 of this act, establish by rule a fee schedule to be charged for permits, licenses,

or radiation protection services for the regulation of any source of radiation by the Department. Fees charged pursuant to this section shall be paid into the Department of Environmental Quality Revolving Fund and shall be used by the Department in administering the radiation management program pursuant to Section 24 of this act.

B. The Board shall consider any federal funding available to the Department, or federal guidelines or requirements for agreement states, when establishing or amending the schedule of fees for radiation permits, licenses or protection services by the Department.

Added by Laws 1993, c. 145, § 136, eff. July 1, 1993.

§27A-2-9-106. Topics of investigations, training and demonstrations - Cooperation with other state and federal agencies.

The Department of Environmental Quality shall encourage, participate in and conduct investigations, training and demonstrations relating to:

1. The control of electronic product radiation;
2. The detection and measurement of electronic product radiation;
3. The effects on health of exposure to electronic product radiation; and
4. Safety and consumer protection in the use of electronic products.

The Department of Environmental Quality is hereby designated as the official agency of the State of Oklahoma to cooperate with other states; the United States Department of Health, Education and Welfare; and other federal agencies in the administration of programs relating to the control of electronic product radiation which may be initiated under federal laws.

Added by Laws 1993, c. 145, § 137, eff. July 1, 1993.

§27A-2-9-107. Exercise of federal authority - Impoundment of radioactive materials.

The authority reserved to the United States Nuclear Regulatory Commission shall only be exercised by this state after this state has achieved agreement status with the Commission pursuant to Section 274b of the Atomic Energy Act of 1954, as amended. In the event of an emergency which threatens the public health, safety and welfare or the environment, the Department of Environmental Quality may impound or order the impounding of by-product material, special nuclear material, and sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of the Radiation Management Act or any rules issued thereunder. The costs of such impoundment shall be assessed against such person.

Added by Laws 1993, c. 145, § 138, eff. July 1, 1993.

§27A-2-10-101. Short title.

This article shall be known and may be cited as the Oklahoma Solid Waste Management Act.

Laws 1970, c. 69, § 1, emerg. eff. March 17, 1970. Renumbered from Title 63, § 2251 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1993, c. 145, § 139, eff. July 1, 1993. Renumbered from Title 63, § 1-2300 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-10-102. Purpose.

It is the purpose of the Oklahoma Solid Waste Management Act and it is hereby declared to be the policy of this state and its political subdivisions to regulate the collection, transportation, processing and disposal of solid waste in a manner that will:

1. Protect the public health, safety and welfare;
2. Protect the environment of the state;
3. Conserve valuable land and other natural resources;
4. Enhance the beauty and quality of the environment; and
5. Encourage recycling of solid waste.

Laws 1970, c. 69, § 2, emerg. eff. March 17, 1970; Laws 1981, c. 324, § 1, emerg. eff. June 30, 1981; Laws 1990, c. 225, § 1, eff. Sept. 1, 1990. Renumbered from Title 63, § 2252 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1993, c. 145, § 140, eff. July 1, 1993. Renumbered from Title 63, § 1-2301 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-10-103. Definitions.

As used in the Oklahoma Solid Waste Management Act:

1. "Affiliated person" means:
   a. any officer, director or partner of the applicant,
   b. any person employed by the applicant as general or key manager who directs the operations of the site, transfer station, or facility which is the subject of the application, or
   c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

2. “Commercial composting facility” means a composting facility that:
   a. is not owned or operated by a governmental entity,
   b. receives one hundred (100) tons or more per year of material for composting, any part of which consists of food waste, and
   c. principally accepts material for composting that is not agricultural in origin;

3. “Composting facility” means a facility in which material is converted, under thermophilic conditions, to a product with a high

humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, or stormwater run-off;

4. "Disclosure statement" means a written statement by the applicant which contains:

a. the full name, business address, and social security number of the applicant, and all affiliated persons,

b. the full name and business address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%) or which is a parent company or subsidiary of the applicant, and a description of the ongoing organizational relationships as they may impact operations within the state,

c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental regulation,

d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant and affiliated person which resulted in a final agency order or final judgment by a court of record, including final order or judgment on appeal, in the ten (10) years immediately preceding the filing of the application relating to solid or hazardous waste. Such action shall include, without limitations, any permit denial or any sanction imposed by a state regulatory agency or the United States Environmental Protection Agency, and

e. a listing of any federal environmental agency and any state environmental agency that has or has had regulatory responsibility over the applicant;

5. "Disposal site" means any place, including, but not limited to, a transfer station or a roofing material recycling facility, at which solid waste is dumped, abandoned, or accepted or disposed of by incineration, land filling, composting, shredding, compaction, baling or any other method or by processing by pyrolysis, resource recovery or any other method, technique or process designed to change the physical, chemical or biological character or composition of any solid waste so as to render such waste safe or nonhazardous, amenable to transport, recovery or storage or reduced in volume. A disposal site shall not include a manufacturing facility which processes scrap materials which have been separated for collection and processing as industrial raw materials;

6. "Dwelling" means a permanently-constructed, habitable structure designed and constructed for full-time occupancy in all weather conditions, which is not readily mobile and shall include but not be limited to a manufactured home as such term is defined by paragraph 16 of Section 1102 of Title 47 of the Oklahoma Statutes;

7. "Final closure" means those measures for providing final capping material, proper drainage, perennial vegetative cover, maintenance, monitoring and other closure actions required for the site by rules of the Board;

8. "Inert waste" means any solid waste that is insoluble in water, chemically inactive, that will not leach contaminants, or is commonly found as a significant percentage of residential solid waste;

9. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation, or a demonstrated pattern of prohibited conduct which could reasonably be expected to result in adverse environmental impact if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;

10. "Integrated solid waste management plan" means a plan that provides for the integrated management of all solid waste within the planning unit and embodies sound principles of solid waste management, natural resources conservation, energy production, and employment-creating opportunities;

11. "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. The term "lithified earth material" shall not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface;

12. "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a ninety percent (90%) or greater probability that the acceleration will not be exceeded in two hundred fifty (250) years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment;

13. "Monofill" means a landfill which is used to dispose of a single type of specified nonhazardous industrial solid waste, except for other nonhazardous industrial solid wastes which are not readily separable from the specified waste;

14. "Nonhazardous industrial solid waste" means any of the following wastes deemed by the Department to require special handling:

a. unusable industrial or chemical products,

b. solid waste generated by the release of an industrial product to the environment, or

c. solid waste generated by a manufacturing or industrial process.

The term "nonhazardous industrial solid waste" shall not include waste that is regulated as hazardous waste or is commonly found as a significant percentage of residential solid waste;

15. "Person" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, any incorporated city or town or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized;

16. "Recycling" means to reuse a material that would otherwise be disposed of as waste, with or without reprocessing;

17. “Roofing Material” means all material associated with a roofing project that is debris or is otherwise not intended for future use by the roofer or the property owner, including but not limited to shingles made from asphalt, fiberglass, composite, or wood, as well as decking, flashing, fasteners, insulation, and associated packaging materials;

18. “Roofing material recycling facility” means a site or facility at which roofing material is processed for alternative uses, or is accumulated for the purpose of processing or selling all or parts of the roofing material for alternative uses, including but not limited to road construction;

19. "Seismic impact zone" means an area with a ten percent (10%) or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in two hundred fifty (250) years;

20. "Solid waste" means all putrescible and nonputrescible refuse in solid, semisolid, or liquid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, roofing material, solid or semisolid commercial and industrial wastes including explosives, biomedical wastes, chemical wastes, herbicide and pesticide wastes. The term "solid waste" shall not include:

a. scrap materials, not including roofing materials, which are source separated for collection and processing as industrial raw materials, except when contained in the waste collected by or in behalf of a solid waste management system, or

b. used motor oil, which shall not be considered to be a solid waste, but shall be considered a deleterious substance, if the used motor oil is recycled for energy reclamation and is ultimately destroyed when recycled;

21. "Solid waste management system" means the system that may be developed for the purpose of collection and disposal of solid waste by any person engaging in such process as a business or by any

municipality, authority, trust, county or by any combination thereof at one or more disposal sites;

22. "Solid waste planning unit" means any county or any part thereof, incorporated city or town, or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized, which the Department determines to be capable of planning and implementing an integrated solid waste management program;

23. "Transfer station" means any disposal site, processing facility or other place where solid waste is transferred from a vehicle or container to another vehicle or container for transportation, including but not limited to a barge or railroad unloading facility where solid waste, in bulk or in containers, is unloaded, stored, processed or transported for any purpose. The term "transfer station" shall not include the following:

a. a facility, such as an apartment complex or a large manufacturing plant, where the solid waste that is transferred has been generated by the occupants, residents, or functions of the facility,

b. a citizens' collection station, or

c. a waste collection system which leaves collected solid waste in enclosed containers along the collection route for later transport to a recycling or disposal facility serving the area; and

24. "Waste reduction" means to reduce the volume of waste requiring disposal.

Added by Laws 1970, c. 69, § 3, emerg. eff. March 17, 1970. Amended by Laws 1981, c. 324, § 2, emerg. eff. June 30, 1981. Renumbered from Title 63, § 2253 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1991, c. 335, § 23, emerg. eff. June 15, 1991; Laws 1992, c. 50, § 1, emerg. eff. April 8, 1992; Laws 1993, c. 145, § 141, eff. July 1, 1993. Renumbered from Title 63, § 1-2302 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2000, c. 184, § 1, emerg. eff. May 3, 2000; Laws 2011, c. 219, § 1; Laws 2012, c. 194, § 1, emerg. eff. May 7, 2012.

NOTE: Laws 1990, c. 217, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991.

§27A-2-10-201. Rules - Fees.

A. The Board of Environmental Quality is directed and empowered to promulgate rules for solid waste management including but not limited to:

1. The permitting, posting of security, construction, operation, closure, maintenance and remediation of solid waste disposal sites;

2. Disposal of solid waste in ways that are environmentally safe and sanitary, as well as economically feasible;

3. Authorizing variances from the specific requirements of a particular rule provided that the applicant for a variance has demonstrated that compliance with the rule will be met by substituted technology which equals or exceeds the protection accorded by the particular rule and that the variance will not result in a hazard to the health, environment and safety of the people of this state or their property. The grant of any variance shall be upon express condition that, in the event of the failure of the substituted technology to conform to the requirements of law and rules, the applicant shall be required to incorporate the technology, process or procedure established under the rules;

4. Requiring the submission of laboratory reports or analyses performed by certified laboratories for the purposes of compliance monitoring and testing and for other purposes required for the regulation of sludge pursuant to Part 4 of this Article;

5. The transportation of solid waste. Such rules shall not be more stringent than those of the United States Department of Transportation or the United States Interstate Commerce Commission;

6. Applicant disclosure; and

7. The regulation of borrow areas for soils to be used in solid waste disposal sites. Regulatory authority over such borrow areas shall be exclusive to the Board and the Department of Environmental Quality.

B. Rules shall be promulgated in compliance with the Administrative Procedures Act. Notice of any proposed changes to such rules shall be given to the Oklahoma Municipal League, the County Commissioners Association, and such citizens as have requested to be notified and shall advise them of an opportunity to comment thereon before the adoption of such rules.

C. Absent specific legislative authority, the Board shall not amend any existing rule in such a manner as to encourage importation of biomedical waste generated outside the territorial limits of this state.

D. The Board, pursuant to Section 2-3-402 of this title and the Administrative Procedures Act, shall establish a schedule of fees to be charged for applications to issue and renew permits, licenses and other authorizations required by the provisions of this article and for such environmental services as are involved in the regulation of solid waste. Fees charged pursuant to this section shall be paid into the Department of Environmental Quality Revolving Fund and shall be used by the Department in administering the Solid Waste Management Act. The Board, in setting fees, shall consider factors which include but are not limited to:

1. Facility size and capability;

2. Size of population served by such facility;

3. Type or class of facility; and

4. Type and amount of waste accepted, stored, treated, transferred or disposed.

Added by Laws 1970, c. 69, § 9, emerg. eff. Mar. 17, 1970. Amended by Laws 1986, c. 113, § 3, emerg. eff. April 9, 1986; Laws 1990, c. 225, § 8, eff. Sept. 1, 1990. Renumbered from § 2259 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1992, c. 50, § 6, emerg. eff. April 8, 1992; Laws 1992, c. 403, § 43, eff. Sept. 1, 1992; Laws 1993, c. 145, § 142, eff. July 1, 1993. Renumbered from Title 63, § 1-2417 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 36, eff. July 1, 1993; Laws 2001, c. 107, § 1, emerg. eff. April 18, 2001.

§27A-2-10-202. Powers and duties of Department of Environmental Quality.

A. The Department of Environmental Quality shall have the power and duty to:

1. Advise, consult and cooperate with other agencies and instrumentalities of the state, other states and the federal government and with affected groups and industries in the formulation of plans and the implementation of the solid waste disposal program;

2. Administer and make available such loans and grants from the federal government and from other sources as may be available to the Department for the planning, construction, and operation of solid waste disposal sites;

3. Develop a statewide integrated solid waste management plan with input from the public, municipal and county governments and regional solid waste planning and management entities;

4. Review and act upon applications for solid waste disposal site permits, inspect construction, operation, closure and maintenance of solid waste disposal sites and establish standards for and oversee the remediation of contaminated soils resulting from releases or spills associated with transit or other activities not subject to permitting requirements and not subject to the jurisdiction of another state environmental agency;

5. Perform investigations and inspections which it deems necessary to ensure compliance with the Oklahoma Environmental Quality Code, the Oklahoma Solid Waste Management Act and rules promulgated thereunder and orders, permits and licenses issued pursuant thereto;

6. Provide technical assistance to solid waste planning units, public solid waste management service entities, political subdivisions, business and industry, and the general public to promote development and implementation of recycling activities to meet the goals of the Oklahoma Solid Waste Management Act;

7. Establish and maintain, or cause to be established and maintained, in cooperation with the Department of Commerce, a

database for tracking markets for materials which are being or could be recovered from the municipal solid waste stream in Oklahoma. The database shall contain information including but not limited to the names and addresses of buyers and sellers of secondary materials relevant to Oklahoma, market prices, and specifications required by buyers;

8. Establish an office for local solid waste systems development and coordination; and

9. Establish a certification program for control officers employed by regional solid waste management districts within this state or governments or county government instrumentalities within this state who are responsible for the investigation and enforcement of the laws of this state relating to illegal dumps. Such certified control officers shall have the authority to investigate and report violations to the proper authority pursuant to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

B. Any local governing body may by ordinance or resolution adopt standards for the location, design, construction, and maintenance of solid waste disposal sites and facilities more restrictive than those promulgated by the Board under the provisions of the Oklahoma Solid Waste Management Act.

Added by Laws 1970, c. 69, § 10, emerg. eff. March 17, 1970. Amended by Laws 1990, c. 217, § 2, eff. Sept. 1, 1990. Renumbered from § 2260 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Amended by Laws 1990, c. 337, § 16; Laws 1993, c. 145, § 143, eff. July 1, 1993. Renumbered from § 1-2418 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 242, § 41; Laws 2001, c. 392, § 2, emerg. eff. June 4, 2001; Laws 2002, c. 328, § 1, eff. Nov. 1, 2002.

NOTE: Renumbering by Laws 1990, c. 217, § 10 was editorially modified to conform to renumbering by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

NOTE: Laws 1990, c. 225, § 9 repealed by Laws 1990, c. 337, § 26.

§27A-2-10-203. Department of Environmental Quality designated state agency for participation in federal program.

The Department is hereby designated the agency to implement the federal Solid Waste Disposal Act (Public Law 89-272) as it exists or may be amended.

Laws 1970, c. 69, § 11, emerg. eff. March 17, 1970. Renumbered from Title 63, § 2261 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990; Laws 1993, c. 145, § 144, eff. July 1, 1993. Renumbered from Title 63, § 1-2419 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-10-204. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-205.1. Recycling - Protection from unnecessary and burdensome regulation.

A. To further the goals promoted in the Oklahoma Recycling Initiative, Section 2-10-205 of this title, it is necessary to protect recycled material and the businesses who handle it from unnecessary and burdensome regulation. To prevent such impediments:

1. The generator of recoverable materials shall retain ownership of those materials until the generator donates or sells those materials to another entity. Units of government shall not require such a generator to convey, donate or sell recoverable materials to that government or to a designated facility, nor restrict such a generator's right to donate or sell recoverable materials to any other entity; and

2. The ownership of recoverable materials is transferred to the operator of a recoverable collection program at the time such materials are placed into a container provided by the operator for the collection of such materials. If the operator is operating under a contract with and on behalf of a unit of government, the terms of the contract shall determine the ownership of the recoverable materials.

B. No provision of this section shall be construed to prevent units of government from requiring generators of recoverable materials under their jurisdiction to separate recoverable materials for recycling collection.

Added by Laws 1996, c. 270, § 1, emerg. eff. May 29, 1996.

§27A-2-10-205. Oklahoma Recycling Initiative.

A. The Legislature hereby recognizes and declares that it is necessary for the public interest, health and economic welfare to encourage and promote the recycling and reuse of recoverable materials. The recycling and reuse of recoverable materials substantially reduces disposal costs and the tremendous flow of solid waste to Oklahoma's dwindling solid waste sites. It is equally necessary that Oklahoma preserve, expand and encourage economic growth. The recycling and reuse of recoverable materials will create new employment, provide and allow for expansion of existing manufacturing, thereby increasing employment and payrolls as well as upgrading the state's natural resources.

B. In addition to the benefits of cost-effective recycling and reuse outlined in subsection A of this section, the measurable energy efficiency achieved through the cost-effective recovery and reuse of recyclable materials by energy-intensive industries shall be a priority of this state and encouraged by state regulatory agencies. For purposes of this section, "energy-intensive industry" means an industry that uses significant quantities of energy as part of its primary economic activities and includes the following industries:

1. Information technology, including data centers containing electrical equipment used in processing, storing and transmitting digital information;

2. Consumer product manufacturing;

3. Food processing; and

4. Materials manufacturers, including aluminum, chemicals, forest and paper products, metal casting, glass, petroleum refining, mining and steel.

C. The Legislature declares that the goal of this state, hereinafter called the Oklahoma Recycling Initiative, is that each incorporated municipality with a population greater than five thousand (5,000), as determined by the most recent decennial census by the Bureau of the Census of the United States Department of Commerce, should develop and operate a recycling program which will generate raw materials for the manufacturing industries located in this state. Due to the importance of the paper industry to Oklahoma's economy, each cost-effective recycling and reuse program should at a minimum include the collection of waste paper.

In implementing any recycling program pursuant to the Oklahoma Recycling Initiative, the municipality may:

1. Consider the overall status of the solid waste collection system and management within the municipality, including generation, recycling and disposal;

2. Review five-, ten-, and twenty-year municipality-wide goals for reducing the amount of solid waste through the recycling of recoverable materials;

3. Evaluate alternative methods for achieving the Oklahoma Recycling Initiative through municipality-wide collection systems or through integrated recoverable materials management on a regional basis;

4. Establish a comprehensive and sustained public information and education program concerning the recoverable materials program's features and requirements; and

5. Include in the program such other information recommended by the Department of Environmental Quality.

D. The Legislature in an effort to increase statewide recycling efforts hereby encourages a goal of recycling ten percent (10%) of the entire solid waste stream produced in this state by December 31, 2011. The Department of Environmental Quality shall coordinate this effort with the Oklahoma Recycling Association (OKRA) and any other interested parties and issue a report to the Legislature by December 31, 2011.

Added by Laws 1995, c. 311, § 1, eff. Nov. 1, 1995. Amended by Laws 1998, c. 401, § 1, emerg. eff. June 10, 1998; Laws 2008, c. 125, § 1, emerg. eff. May 6, 2008; Laws 2013, c. 263, § 1, emerg. eff. May 13, 2013.

NOTE: Laws 1998, c. 364, § 11 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§27A-2-10-301.1. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-301.2. Commercial composting facility - Permit.

No person shall operate a commercial composting facility without a valid permit issued by the Department of Environmental Quality. The Environmental Quality Board shall adopt rules establishing requirements for the permitting and operation of commercial composting facilities. Such rules shall include, without limitation, requirements relating to:

1. Applicant disclosure information;
2. Siting;
3. Design, construction and operation;
4. Water protection and water management, including groundwater monitoring and stormwater control;
5. Closure; and
6. Financial assurance for the proper management and removal of all of the feedstock and product material that the site is capable of storing.

Added by Laws 2011, c. 219, § 4.

§27A-2-10-301. Permit required - Exemptions - Remediation projects.

A. Except as otherwise specified in this section:

1. No person shall dispose of solid waste at any site or facility other than a site or facility for which a permit for solid or hazardous waste disposal has been issued by the Department of Environmental Quality;
2. No person shall own or operate a site or facility at which solid waste is disposed other than a site or facility for which a permit for solid or hazardous waste disposal has been issued by the Department;
3. No person shall knowingly transport solid waste to an unpermitted site or facility; and
4. The Department shall not bring an enforcement action against any unit of local government which undertakes any remediation of an illegal dump which the local government had no role in creating provided that the unit of local government first consults with and follows the remediation advice of the Department. The Department is authorized to recommend remediation of illegal dumps by burial of the material on location, when such burial appears to pose less risk than failure to remediate.

B. No provision of the Oklahoma Solid Waste Management Act shall be construed to prevent a person from disposing of solid waste from his or her household upon his or her property provided such disposal

does not create a nuisance or a hazard to the public health or environment or does not violate a local government ordinance.

C. Notice of permit actions shall be in accordance with the Uniform Permitting Act.

D. The Department shall issue a permit to be effective for the life of a given landfill site. The Environmental Quality Board may promulgate rules regarding permit requirements for the commencement of construction and operation of disposal sites. The rules promulgated by the Board for the commencement of construction and operation of landfill sites shall not apply to sites permitted prior to the effective date of this act. For sites using new technology, the Department may issue research and development permits to be effective for specified periods of time. In order to assure adequate financial assurance as required by this section, each permittee who operates a landfill disposal site, other than a generator owned and operated private industrial nonhazardous monofill, shall submit information on an annual basis at such times and in such form as the Department shall require, sufficient to allow the Department to know the remaining landfill life.

E. Information and data submitted in support of a permit application or a permit modification application for any site serving a population equivalent of five thousand (5,000) or more persons shall be prepared and sealed by a professional engineer licensed to practice in this state. Applicants for smaller site permits are encouraged but not required to seek professional engineering assistance.

F. The Department shall not issue any permit for the siting or expansion of an asbestos monofill which will be located closer than five hundred (500) yards from any occupied residence. No asbestos monofill shall be constructed within three (3) miles of the corporate boundaries of any city or town.

G. Disposal sites approved by the Department to receive only solid waste shall not accept for disposal any waste classified as hazardous waste.

H. No permit shall be required for a disposal site constructed pursuant to an order issued by the Department in an effort to remediate an abandoned or inactive waste site. Such disposal site shall only receive waste from the remediation project, and shall be designed, constructed, and operated in accordance with the technical standards established in the applicable rules promulgated by the Environmental Quality Board. Such rules shall not be less stringent than those which would apply to a federally funded remediation project pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act.

I. The Department shall not issue any permit for the siting of a new municipal solid waste landfill in any location that is both:

1. Within a locally fractured or cavernous limestone or cherty limestone bedrock; and

2. Within five (5) miles of any water well owned by a rural water district that is used or has the potential to be used to provide water to customers of the district.

J. No permit shall be required for a project approved by the Department and a local conservation district to use suitable portions of the solid waste stream to reclaim and restore Oklahoma lands.

Added by Laws 1970, c. 69, § 8, emerg. eff. March 17, 1970. Amended by Laws 1976, c. 134, § 1, emerg. eff. May 24, 1976; Laws 1985, c. 109, § 1, emerg. eff. May 29, 1985; Laws 1986, c. 113, § 1, emerg. eff. April 9, 1986; Laws 1990, c. 225, § 5, eff. Sept. 1, 1990; Laws 1990, c. 337, § 15. Renumbered from § 2258 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1991, c. 336, § 5, eff. July 1, 1991; Laws 1992, c. 50, § 2, emerg. eff. April 8, 1992; Laws 1992, c. 403, § 41, eff. Sept. 1, 1992; Laws 1993, c. 145, § 146, eff. July 1, 1993. Renumbered from § 1-2414 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1997, c. 371, § 1, eff. July 1, 1997; Laws 1998, c. 401, § 2, emerg. eff. June 10, 1998; Laws 2000, c. 202, § 1, emerg. eff. May 15, 2000; Laws 2001, c. 5, § 8, emerg. eff. March 21, 2001; Laws 2014, c. 227, § 1, eff. Nov. 1, 2014.

NOTE: Renumbering by Laws 1990, c. 217, § 10 editorially modified to conform to renumbering by Laws 1990, c. 225, § 11.

NOTE: Laws 1990, c. 122, § 1 repealed by Laws 1990, c. 337, § 26. Laws 2000, c. 8, § 1 repealed by Laws 2001, c. 5, § 9, emerg. eff. March 21, 2001.

§27A-2-10-302. Disclosure statement upon application - Revocation, or refusal to issue, amend, modify, renew or transfer permit - Failure to disclose or stating false information - Penalty.

A. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance or transfer of any solid waste permit, license, certification or operational authority shall file a disclosure statement with their applications.

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other information as the Department of Environmental Quality may require pursuant to this section that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

B. The Department is authorized to revoke or to refuse to issue, amend, modify, renew or transfer a permit for the disposal of solid waste from or to any person or an affiliated person who:

1. Is not, due solely to the applicant's actions or inactions, in substantial compliance with any final agency order or final order or judgment of a court of record secured by the Department issued pursuant to the provisions of the Oklahoma Solid Waste Management Act; or

2. Is not in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the storage, transfer, transportation, treatment or disposal of any solid waste; or

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal environmental laws, including without limitation the rules of the Department, regarding the storage, transfer, transportation, treatment or disposal of any solid or hazardous waste.

C. The application shall be signed under oath by the applicant.

D. The Department may suspend or revoke a permit issued pursuant to the Oklahoma Solid Waste Management Act to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section.

E. Any person who willfully fails to disclose or states falsely any such information, upon conviction, shall be guilty of a felony and may be punished by imprisonment for not more than five (5) years or a fine of not more than One Hundred Thousand Dollars ($100,000.00) or both such fine and imprisonment.

F. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

Added by Laws 1992, c. 50, § 7, emerg. eff. April 8, 1992. Amended by Laws 1993, c. 145, § 147, eff. July 1, 1993. Renumbered from Title 63, § 1-2306 by Laws 1993, c. 145, § 359, eff. July 1, 1993; Laws 1998, c. 401, § 3, emerg. eff. June 10, 1998.

§27A-2-10-303.1. Availability of administrative permit hearing.

In accordance with the provisions of Section 2-14-304 of this title, an administrative permit hearing shall be available on a proposed permit which is based on a Tier III solid waste permit application for a new permit or for the major modification of an existing permit involving a fifty percent (50%) or more increase in permitted capacity for storage, treatment or disposal including but not limited to incineration.

Added by Laws 1994, c. 373, § 28, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 8, eff. July 1, 1996.

§27A-2-10-303. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996.

§27A-2-10-304. Variances - One-hundred year flood plains.

A. Requests for variances from specific requirements of any particular rule must be made a part of the permit application of any applicant and the opportunity to request a public meeting or administrative permit hearing, or both, shall have been offered prior to authorization of the variance to any applicant, including any unit of government. Further, any application for a variance for substitute technology which equals or exceeds the protection accorded by the particular rule shall not be granted unless an opportunity to request a public meeting or administrative permit hearing, or both, has been offered.

B. Except as otherwise provided in this subsection, the Department shall not approve a variance from the rules of the Board for a solid waste disposal site to be located within any one-hundred year flood plain unless the variance is conditioned upon the subsequent redefinition of the one-hundred year plain to not include the land area proposed for the variance. A variance may be granted for the siting of a solid waste transfer station within a one-hundred year flood plain conditioned upon the requirement that no solid waste will be retained or stored by any means during nonoperating hours on any portion of the permitted site that is within the one-hundred year flood plain.

Added by Laws 1990, c. 217, § 8, eff. Sept. 1, 1990. Amended by Laws 1993, c. 145, § 149, eff. July 1, 1993. Renumbered from Title 63, § 1-2421 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1995, c. 341, § 2, eff. Jan. 1, 1996.

NOTE: Laws 1995, c. 285, § 9 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996.

§27A-2-10-305. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-306. Appeal of issuance of permit - Stay of time restraints.

The filing of a proceeding appealing the issuance of a permit authorizing the construction and operation of a solid waste disposal facility shall stay any time restraints specified in the permit relating to the term or expiration of the permit.

Laws 1990, c. 296, § 8, operative July 1, 1990; Laws 1993, c. 145, § 151, eff. July 1, 1993. Renumbered from Title 63, § 1-2414.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-10-307. Permit application process for solid waste transfer station or yard-waste composting site.

A permit application for a solid waste transfer station or yard-waste composting site shall be subject to any applicable public comment, public meeting and administrative hearing requirements as set forth for the application tier in the Oklahoma Uniform Environmental Permitting Act, unless the board of county commissioners of the county of the proposed site, after opportunity for written or oral public comment, has found the application to be within the scope of the county's solid waste management plan.

Added by Laws 1994, c. 353, § 27, eff. July 1, 1994. Amended by Laws 1995, c. 285, § 10, eff. July 1, 1996.

§27A-2-10-308.1. Disposal of untreated biomedical waste in municipal solid waste landfills prohibited.

No person, firm, association, corporation or cooperative shall dispose of untreated, potentially infectious medical waste in either a municipal solid waste landfill or in any receptacle or system designed to collect and transport solid waste to a municipal solid waste landfill. This prohibition shall include all quantities of untreated sharps but shall not apply to other untreated, potentially infectious medical waste generated in quantities less than sixty (60) pounds (27.2 kilograms) per month from one physical location.

Added by Laws 1997, c. 371, § 2, eff. July 1, 1997.

§27A-2-10-308. Repealed by Laws 2004, c. 83, § 2, emerg. eff. April 13, 2004.

§27A-2-10-401. Sludge defined.

For purposes of this part, "sludge" means solid waste that is a nonhazardous solid, semi-solid, or liquid residue generated by the treatment of domestic sewage or wastewater by a treatment works or water by a water supply system, or such residue, treated or untreated, which results from commercial, agricultural or agribusiness activities or industrial or manufacturing processes and which is subject to the jurisdiction of the Department.

Added by Laws 1993, c. 145, § 152, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 37, eff. July 1, 1993; Laws 1994, c. 353, § 28, eff. July 1, 1994.

§27A-2-10-402.1. Acceptance of municipal sewage sludge by municipal solid waste landfill.

A. A municipal solid waste landfill shall not accept for disposal any municipal sewage sludge unless:

1. The sludge has been treated to meet Class B requirements for pathogen reduction, as specified in Section 503.32 of Title 40 of the Code of Federal Regulations; and

2. The sludge is demonstrated not to contain free liquids pursuant to the Paint Filter Liquids Test, EPA Method 9095, or any successor free liquids test hereafter adopted by the United States Environmental Protection Agency and approved by the Department of Environmental Quality.

B. The Department may refuse to renew, or may suspend or revoke, a permit issued to a municipal solid waste landfill pursuant to the Oklahoma Solid Waste Management Act for willful violation of the requirements of this section. The authorization for suspension, revocation or nonrenewal pursuant to this subsection is in addition to any other remedies for noncompliance available to the Department pursuant to the Oklahoma Environmental Quality Code.

Added by Laws 2010, c. 206, § 1, emerg. eff. May 5, 2010.

§27A-2-10-402. Solid waste permit required for beneficial use, transport, disposal and storage of sludge.

A. In addition to any permit required under Article VI of Chapter 2 of this Code, a solid waste permit shall be required for the beneficial use, transport, disposal and storage of sludge not subject to the direct jurisdiction of a state environmental agency.

B. All sludge application projects shall be operated in conformance with rules promulgated by the Board.

C. A permit issued pursuant to this part shall be subject to the enforcement provisions of Article III of this Code.

D. The provisions of this section shall apply to permit applications filed with the Oklahoma Water Resources Board on or before June 30, 1993, for which no permit has been issued by the Oklahoma Water Resources Board for the land application of industrial waste, wastewater or sludge.

Added by Laws 1993, c. 145, § 153, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 38, eff. July 1, 1993; Laws 1994, c. 353, § 29, eff. July 1, 1994.

§27A-2-10-403. Renumbered as § 2-6-501.3 of this title by Laws 1994, c. 353, § 42, eff. July 1, 1994.

§27A-2-10-404. Renumbered as § 2-6-501.4 of this title by Laws 1994, c. 353, § 43, eff. July 1, 1994.

§27A-2-10-405. Renumbered as § 2-6-501.5 of this title by Laws 1994, c. 353, § 44, eff. July 1, 1994.

§27A-2-10-501. Nonhazardous industrial solid waste landfills - Permit - Restrictions.

A. The Department of Environmental Quality may issue a permit for a landfill disposal site, which is not a hazardous waste facility, which accepts unspecified nonhazardous industrial solid waste, only under the following circumstances:

1. The landfill is located outside of areas of principal groundwater resource or recharge areas as determined and mapped by the Oklahoma Geological Survey or is on a proposed site on property owned or operated by a person who also owns or operates a hazardous waste facility or solid waste facility, on or contiguous to property on which a hazardous waste facility or solid waste facility is operating pursuant to a permit and the site is designed to meet the most environmentally protective solid waste rules promulgated by the Environmental Quality Board and includes a leachate collection system; or

2. The landfill complies with all siting and public participation requirements as though the solid waste landfill were a hazardous waste landfill; or

3. The site is proposed and designed as a nonhazardous industrial solid waste landfill which will be owned, operated, or owned and operated by an industry or manufacturer for its exclusive noncommercial use; or

4. The landfill is owned or operated by a municipality or is a privately owned landfill which regularly serves one or more municipalities and which has been accepting nonhazardous industrial solid waste under approval of the Department.

B. The provisions of this section shall apply to all pending applications for which final agency action has not been taken, future permit applications and facilities which are not fully operational.

C. Except as otherwise provided in subsection A of this section, the Department shall not allow a solid waste disposal site to accept any nonhazardous industrial solid waste type unless:

1. Said site is permitted by the Department to accept such waste type;

2. The landfill is owned or operated by a municipality or is a privately owned landfill which regularly serves one or more municipalities and which has been accepting nonhazardous industrial solid waste under approval of the Department; or

3. The site is proposed, designed, and permitted as a nonhazardous industrial solid waste monofill.

D. 1. New landfills which accept nonhazardous industrial solid waste shall not be constructed nor shall such existing landfills be expanded which are located within a seismic impact zone unless the applicant demonstrates that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

2. No nonhazardous industrial solid waste landfill shall be located within five (5) miles of a known epicenter of an earthquake of more than 4.0 on the Richter Scale or a number V on the modified Mercalli Scale as recorded by the Oklahoma Geological Survey.

3. Landfill disposal sites that only receive ash generated by the burning of coal for the purpose of generating electricity by electric utilities and independent power producers are subject to paragraph 1 of this subsection. Otherwise, paragraphs 1 and 2 of this subsection shall not apply to a nonhazardous industrial solid waste landfill which is owned or operated by:

a. an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use, or

b. a municipality, or is a privately owned landfill which regularly serves one or more municipalities, and which has been accepting nonhazardous industrial solid waste under approval of the Department.

E. 1. Except as otherwise provided by this subsection, the Department shall not issue, amend or modify a permit to allow a solid waste landfill to accept more than one type of nonhazardous industrial solid waste for disposal unless said landfill is equipped with a composite liner and a leachate collection system designed and constructed in compliance with rules promulgated by the Board.

2. Any landfill which is owned, operated, or owned and operated by an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use may be required to install a composite liner and a leachate collection system as determined to be necessary by the Department on a case-by-case basis.

3. The Department shall not require composite liners and leachate collection systems for any nonhazardous industrial solid waste landfill initially licensed by the Department prior to July 1, 1992, which is owned and operated by an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use.

F. No limitation shall be placed on the percentage of nonhazardous industrial solid waste that may be accepted for disposal at solid waste landfills which have a composite liner and a leachate collection system designed and constructed in compliance with rules promulgated by the Board.

G. Solid waste disposal site operators shall submit to the Department an itemized monthly report of the type, quantity and source of nonhazardous industrial solid waste accepted the previous month. Solid waste disposal sites that are owned and operated by an industry or manufacturer which are utilized for such industry's or manufacturer's exclusive noncommercial use are not required to submit monthly reports to the Department but shall maintain in the operating record information regarding the type and quantity of nonhazardous

industrial waste accepted each month. Information maintained in the operating record shall be made available to the Department upon request.

H. 1. Before sending waste identified as nonhazardous industrial solid waste for disposal in an Oklahoma solid waste landfill, a certification that the waste is not a hazardous waste as such term is defined in the Oklahoma Hazardous Waste Management Act shall be submitted to the Department. Such certification shall be made by:

a. the original generator,

b. a person who identifies and is under contract with a generator and whose activities under the contract cause the waste to be generated,

c. a party to a remediation project under an order of the Department or under the auspices of the Oklahoma Energy Resources Board or other agencies of other states, or

d. a person responding to an environmental emergency.

2. The Department may require the certifier to substantiate the certification by appropriate means, when it is reasonable to believe such waste may be hazardous. Such substantiation may include Material Safety Data Sheets, an explanation of specific technical process knowledge adequate to identify that the waste is not a hazardous waste, or laboratory analysis.

I. Any generator seeking to exclude a specific nonhazardous industrial solid waste, which is also an inert waste, from the provisions of this section may petition the Department for a regulatory exclusion. The generator shall demonstrate to the satisfaction of the Department that the waste is inert and that it may be properly disposed.

J. Unless otherwise specified in this section, by January 1, 1993, solid waste landfills existing on the effective date of this section which are required by this section to utilize composite liners and leachate collection systems and are not doing so shall cease to accept nonhazardous industrial solid waste.

K. Notwithstanding any other provision of the Oklahoma Solid Waste Management Act, no solid waste permit shall be required for an incineration facility burning nonhazardous solid waste for the purpose of disposing of the waste if:

1. The incinerator has an air quality permit from the Department;

2. Storage of waste at the site prior to incineration is limited to the lesser of twenty (20) tons or the volume reasonably expected to be incinerated within ten (10) days, considering the nature of the waste and the manufacturer's approved charge rate for the incinerator;

3. The waste is stored at a location and managed in a manner which minimizes the risk of a release, exposure or other incident

which could threaten human health or the environment, including the storage of liquids within adequate secondary containment;

4. All ashes and residues from the incineration process are managed in accordance with applicable statutes and rules; and

5. a. The incinerator is owned and operated by a business or industry for the incineration of its own waste exclusively, or

b. The waste feed rate of the incinerator does not exceed five (5) tons per day.

Added by Laws 1990, c. 122, § 2. Amended by Laws 1991, c. 336, § 9, eff. July 1, 1991. Renumbered from § 2258.4 of Title 63 by Laws 1991, c. 336, § 10, eff. July 1, 1991. Amended by Laws 1992, c. 403, § 42, eff. Sept. 1, 1992; Laws 1993, c. 10, § 9, emerg. eff. March 21, 1993; Laws 1993, c. 145, § 157, eff. July 1, 1993. Renumbered from § 1-2416.1 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1995, c. 341, § 3, eff. Jan. 1, 1996; Laws 1997, c. 200, § 2, eff. July 1, 1997; Laws 1998, c. 401, § 4, emerg. eff. June 10, 1998; Laws 2000, c. 364, § 2, emerg. eff. June 6, 2000; Laws 2016, c. 168, § 1, eff. Nov. 1, 2016.

NOTE: Laws 1992, c. 270, § 3 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993.

§27A-2-10-503. Fund pooling agreements or multiple beneficiary public trusts - Financial assistance programs.

A. Municipalities, counties and regional solid waste management districts may directly, or through a public trust of which they are a beneficiary, enter into agreements or multiple beneficiary public trusts to combine or pool funds by contract with other municipalities, counties, regional solid waste management districts, and public trusts for management and investment when deemed necessary to provide escrow or security funds to ensure operation, maintenance, or closure of solid waste management systems and disposal sites under applicable federal, state or local law.

B. One or more municipalities may establish or participate in a program that provides for each participating municipality or any participating county or regional solid waste management district to furnish financial assurance as required by the Resource Conservation and Recovery Act, 42 U.S.C., Section 6901 et seq., or any other federal, state or local law. The program may establish any combination of financing mechanisms necessary to ensure that funds will be available in a timely fashion when needed to meet a participating entity's obligation thereunder. The program may provide for participating entities to use any means available to them to meet financial obligations pursuant to laws of the state. The program may ensure enforcement of the payment of any financial assurance obligation by a participating entity.

Added by Laws 1993, c. 169, § 1, emerg. eff. May 10, 1993. Renumbered from § 2100 of this title by Laws 1993, c. 324, § 57, eff. July 1, 1993. Amended by Laws 1994, c. 310, § 1, emerg. eff. June 7, 1994.

§27A-2-10-601. Renumbered as § 2-11-412 of this title by Laws 1995, c. 191, § 9, eff. Nov. 1, 1995.

§27A-2-10-602. Renumbered as § 2-11-413 of this title by Laws 1995, c. 191, § 10, eff. Nov. 1, 1995.

§27A-2-10-701.1. Repealed by Laws 2003, c. 118, § 11, emerg. eff. April 22, 2003.

§27A-2-10-701. Site closure plan - Financial security.

A. All disposal site owners shall provide a closure plan to the Department of Environmental Quality for approval which defines operational phases and includes cost estimates, and plans and specifications for final closure. A site may be closed in phases according to a closure plan approved by the Department.

1. Owners of landfills that receive household solid waste, defined as Municipal Solid Waste Landfill Facilities in the federal regulations adopted under Subtitle D of the federal Solid Waste Disposal Act, and owners of commercial nonhazardous industrial waste landfills shall provide for the maintenance and monitoring of such works for thirty (30) years. Provided, the owner of any landfill that stops receiving waste on or before April 9, 1994, and has completed final closure of the site on or before October 9, 1994, shall provide for the maintenance and monitoring of such site for eight (8) years after final closure has been completed. A permittee who stopped receiving waste at his permitted solid waste municipal landfill on or before April 9, 1994, may apply to the Department for a modification of his permit to operate an on-site solid waste transfer station, a yard-waste composting facility or a citizen's collection station. Provided no land disposal occurs, such site shall not require monitoring or financial assurance as a municipal solid waste landfill.

2. Generator owned and operated private industrial nonhazardous monofills shall only be required to have an eight-year postclosure period or such postclosure time period as may be mandated under the federal Solid Waste Disposal Act. Generator owned and operated private industrial nonhazardous landfill disposal sites and all construction and demolition landfill disposal sites shall only be required to have an eight-year postclosure period or such postclosure time period as may be mandated under the federal Solid Waste Disposal Act or determined necessary by the Department on a case-by-case basis considering the nature of the waste disposed.

3. Disposal sites other than land disposal sites shall have a closure plan which would accomplish the removal and proper disposal of any remaining waste and the elimination of potential environmental health hazards.

B. The Department shall require that financial assurances be provided in an amount sufficient to cover the estimated cost of closure and any postclosure. The Department shall establish financial assurance mechanisms which will ensure that the funds necessary to meet the costs of closure, postclosure care and corrective action for known releases will be available whenever such funds are needed. An increase in financial assurance shall be required when any permittee deviates from the approved closure plan or when the cost of closure or postclosure is found to have increased. Owners of landfills that receive household solid waste shall increase financial assurance if corrective action is required.

C. 1. Disposal site owners as identified in subsection A of this section shall provide financial assurance to guarantee the performance of final closure and for any required postclosure as required by the Department pursuant to this section. Except in cases where owners utilize a financial test provided by rule, the state shall be the sole beneficiary of any such assurance solely for the cost of performance of closure and postclosure and shall have a security interest therein.

2. The financial assurance shall be in a form described in rules promulgated by the Environmental Quality Board or the owner may provide the Department with cash or certificates of deposit payable to the Department of Environmental Quality Revolving Fund for deposit with the State Treasurer's Office.

3. Disposal site owners may satisfy the financial assurance requirements of this section by creating a trust in accordance with the federal regulations adopted under Subtitle D of the federal Solid Waste Disposal Act. Municipal solid waste disposal site owners may satisfy the financial assurance requirements of this section by creating an escrow account in accordance with Board rules adopted under the Oklahoma Solid Waste Management Act. These financial assurance mechanisms shall provide for payments by the disposal site owner which will allow for closure and corrective action obligations to be spread out over the economic life of the disposal site, but shall not exceed fifteen (15) years.

4. Owners of disposal sites which receive waste after April 9, 1994, shall provide financial assurance for closure and any applicable postclosure on or before April 9, 1995, unless such date is extended by the federal Environmental Protection Agency pursuant to Subtitle D of the federal Resource, Conservation and Recovery Act. If any disposal site owner fails to provide such financial assurance by the applicable deadline, the Department shall cause the landfill disposal site permit to be summarily suspended by order. The

Department shall initiate the process of revoking the permit and may require closure of the landfill. This subsection shall not apply to units of the federal government.

5. Financial assurance provided prior to June 8, 1994, as a condition of issuance of any permit or any agreement with the Department shall continue in effect unless the permittee replaces such assurance with an additional mechanism or combination of mechanisms authorized by the Department.

6. In lieu of the performance guarantee mechanisms specified in this section, owners or operators of a nonhazardous industrial solid waste landfill which is owned or operated by an industry or manufacturer for its exclusive noncommercial use may satisfy the financial assurance requirements for closure, postclosure and maintenance by meeting the requirements of a corporate financial test and corporate guarantee similar to that applicable to hazardous waste facilities.

7. Any unit of local government or public trust of which it is a beneficiary may satisfy financial assurance requirements for closure and, when required, postclosure, by participating in a statewide trust capable of guaranteeing performance of such closure and postclosure.

8. Solid waste transfer stations, processing facilities, or composting facilities are exempt from the financial assurance requirements of this section if they principally manage municipal solid waste.

D. When financial assurance is required, it shall remain in effect until closure and any postclosure is completed. The amount of such assurance shall be set by the Department and shall not be less than the anticipated cost of contracting for performance of each phase of the closure plan and postclosure. The Department may allow a reduction in the amount of assurance to reflect the anticipated costs which remain.

Added by Laws 1983, c. 156, § 2, emerg. eff. May 31, 1983. Amended by Laws 1984, c. 72, § 1, emerg. eff. March 29, 1984; Laws 1985, c. 109, § 2, emerg. eff. May 29, 1985; Laws 1986, c. 113, § 2, emerg. eff. April 9, 1986; Laws 1990, c. 225, § 7, eff. Sept. 1, 1990. Renumbered from § 2258.3 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1991, c. 336, § 8, eff. July 1, 1991; Laws 1992, c. 50, § 5, emerg. eff. April 8, 1992. Renumbered from § 1-2416 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 167, § 1, emerg. eff. May 10, 1993; Laws 1994, c. 338, § 4, emerg. eff. June 8, 1994; Laws 1995, c. 341, § 4, eff. Jan. 1, 1996; Laws 1996, c. 59, § 2, emerg. eff. April 9, 1996; Laws 1997, c. 371, § 3, eff. July 1, 1997; Laws 1998, c. 401, § 5, emerg. eff. June 10, 1998; Laws 2003, c. 118, § 10, emerg. eff. April 22, 2003.

NOTE: Renumbering by Laws 1990, c. 217, § 10 editorially modified to conform to renumbering by Laws 1990, c. 225, § 11.
NOTE: Laws 1993, c. 145, § 160 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§27A-2-10-801.1. Vegetation plan.

The owner or operator of any commercial solid waste landfill, over fifty (50) feet in height above natural surface contours that accepts more than two hundred (200) tons per day of solid waste, must submit a vegetation plan to the Department of Environmental Quality for approval. The vegetation plan shall address establishment and maintenance of appropriate vegetative cover for the purposes of erosion and dust control and aesthetic enhancement. The vegetation plan shall be implemented in waste disposal areas that have been undisturbed for ninety (90) days. The Department may approve an alternative plan that accomplishes similar objectives. The Environmental Quality Board shall promulgate rules, developed and recommended by the Solid Waste Management Advisory Council, relative to the contents of the plan.

Added by Laws 2001, c. 392, § 3, emerg. eff. June 4, 2001. Amended by Laws 2014, c. 227, § 2, eff. Nov. 1, 2014.

§27A-2-10-801.2. Solid waste landfill - Exterior and interior slopes.

A. Except as provided in subsection B of this section, the owner and operator of a solid waste landfill shall ensure the following:

1. Exterior slopes, to the edge of the permitted footprint, are maintained at all times to be no steeper overall than four (4) horizontal to one (1) vertical (4:1), except as otherwise provided in a plan approved by the Department of Environmental Quality; and

2. All interior slopes are maintained at all times to be no steeper overall than three (3) horizontal to one (1) vertical (3:1), except as otherwise provided in a plan approved by the Department.

B. The working face slopes of a solid waste landfill may vary during daily placement of waste but shall be graded to meet the applicable interior or exterior slope grades prior to placement of the daily cover of soil or approved alternate daily cover material.

C. The Environmental Quality Board is authorized to promulgate rules recommended by the Solid Waste Management Advisory Council as needed to implement the provisions of this section.

Added by Laws 2011, c. 219, § 5.

§27A-2-10-801. Solid waste disposal sites - Territorial limits - Exemptions - Waivers - Filing of disposal plans - Penalties.

A. In order to protect public health and preserve the expectation of future disposal capability of areas local to a disposal site, except as otherwise provided by this section, no

disposal site shall accept more than two hundred (200) tons per day of solid waste generated more than fifty (50) miles from the disposal site unless a permit application for a new disposal site is submitted and approved by the Department for such waste.

The waste generated within the fifty-mile local area shall not be considered in calculating the two-hundred-ton limit.

B. New and existing landfills, incinerators, or other sites designed, constructed and operated in accordance with the most environmentally protective solid waste regulations adopted by the Board shall be subject to neither the two-hundred-ton nor the fifty-mile limit.

C. The Department may grant a temporary waiver to the limit specified in this section in the event of an emergency. Any such waiver so granted may be conditioned on development of additional capacity in the area where the waste is generated.

D. Before any disposal site accepts for disposal any solid waste generated outside the territorial limits of this state in excess of two hundred (200) tons per day:

1. The operator of the disposal site shall submit to the Department for approval a disposal plan prepared by either the generator or shipper as set out in the rules promulgated by the Board. Such plans as a minimum shall indicate the type and amount of solid waste generated, the handling, storage, treatment, disposal method and the disposal site to be used. The disposal plans shall be kept current by the persons submitting the original disposal plans and the Department shall be advised not less than five (5) working days prior to the day on which such changes are to be implemented.

Persons storing or shipping recyclable materials in an environmentally acceptable manner for the purpose of recycling shall be required to file disposal plans required by this subsection only for those wastes which are to be disposed.

2. The disposal site shall be designed, constructed and operated in accordance with the most environmentally protective solid waste rules promulgated by the Board. For landfills, the most environmentally protective solid waste regulations shall be any of those regulations promulgated by the Board for the largest population category and which include leachate collection in the landfill design, and which were effective when the application for disposal plan approval was filed with the Department.

E. Operators of solid waste disposal sites shall reject shipments of solid waste brought into this state which do not meet all the applicable requirements of this section. All rejected solid waste shall be taken out of state by the same persons who brought it into this state in violation of the provisions of this section.

F. Fly ash and bottom ash generated by coal-fired facilities located outside the territorial limits of this state in excess of two hundred (200) tons per day shall be constructively reutilized or

disposed of only in an active or inactive mining operation subject to the provisions contained in Title 45 of the Oklahoma Statutes.

G. Willful violation of this section shall constitute a felony punishable by a fine of not more than Ten Thousand Dollars ($10,000.00) or imprisonment of not more than five (5) years, or both such fine and imprisonment.

Laws 1990, c. 225, § 4, eff. Sept. 1, 1990; Laws 1990, c. 217, § 7, eff. Sept. 1, 1990; Laws 1991, c. 336, § 3, eff. July 1, 1991; Laws 1993, c. 145, § 161, eff. July 1, 1993. Renumbered from Title 63, § 1-2304 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-10-802.1. Application of reimbursement remainder to landfill closures.

In any fiscal year in which the amount reimbursed under paragraph 4 of subsection B of Section 2-10-802 of this title for the costs of purchase and installation of wheel wash systems is less than Fifty Thousand Dollars ($50,000.00), the Department of Environmental Quality may apply any or all of the remainder toward the proper closure of solid waste landfills that meet the following criteria:

1. The landfill is no longer in operation;

2. The owner or operator of the landfill failed to provide sufficient financial assurance for proper closure of the landfill; and

3. The owner or operator of the landfill cannot be identified, found or, despite all reasonable efforts, cannot be compelled to properly close the landfill.

Added by Laws 2007, c. 71, § 2, eff. July 1, 2007. Amended by Laws 2010, c. 301, § 3, eff. July 1, 2010; Laws 2011, c. 219, § 3.

§27A-2-10-802.2. Required components of a roofing material recycling facility.

A. In addition to meeting the requirements of the Oklahoma Solid Waste Management Act generally applicable to solid waste disposal sites, including but not limited to permitting, disclosure statement, siting, closure plan and financial assurance, the owner or operator of a roofing material recycling facility shall:

1. Install scales, weigh roofing material received and record weights in accordance with the provisions of paragraphs 1 and 2 of subsection A of Section 2-10-802 of Title 27A of the Oklahoma Statutes;

2. Assess a fee of One Dollar and fifty cents ($1.50) per ton of roofing material received, retaining twenty-five cents ($0.25) per ton for a period of time necessary to recoup a capital investment plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars ($40,000.00). At the end of such period the fee shall revert to One Dollar and twenty-five cents ($1.25) per ton;

3. Remit the fee to the Department of Environmental Quality in accordance with the provisions of paragraphs 7 through 12 of subsection B of Section 2-10-802 of Title 27A of the Oklahoma Statutes. For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected. Records documenting the capital investment and the use of the funds shall be included with each return; and

4. Submit receipts for the payment for disposal of non-recyclable materials at a permitted landfill or solid waste disposal site in order to receive credit against the fee owed to the Department of Environmental Quality for that tonnage.

B. An operation otherwise meeting the definition of a roofing material recycling facility but that is included within and regulated under a permit for a solid waste land disposal site is not subject to the provisions of this section.

C. The Environmental Quality Board is authorized to adopt rules recommended by the Solid Waste Management Advisory Council as needed to implement the provisions of this section.

Added by Laws 2012, c. 194, § 2, emerg. eff. May 7, 2012.

§27A-2-10-802. Scales - Fees, reimbursement, exemptions - Expenditure of funds - Annual report.

A. 1. Owners or operators of landfill disposal sites which are not generator-owned and -operated nonhazardous industrial waste monofills and owners or operators of commercial incinerators shall install scales. Such scales shall be installed on or within five (5) miles of the landfill disposal site or incinerator and shall be tested and certified as required by Section 14-35 of Title 2 of the Oklahoma Statutes relating to the authority of the State Board of Agriculture to test the standards of weights and measures within the state and to approve if found to be correct. For purposes of this section, any reference to "incinerator" or "incineration" shall encompass waste-to-energy facilities that produce recoverable energy by high-temperature combustion.

2. The owner or operator shall upon receipt weigh all waste received and record the weight in writing. If scales at a disposal site or incinerator are not operative, tonnage shall be estimated on a volume basis whereby the volume reported shall be no less than the volume capacity of the containers or, if none, of the vehicles delivering the waste, and one cubic yard of solid waste shall be calculated to weigh one-third (1/3) ton. The owner or operator shall place notice in the operating record of the disposal site or incinerator of the time and date at which the scales became inoperable, describe the steps taken to repair them, and note the date use was resumed. If daily use has not resumed within thirty (30) days after the scales became inoperable, the owner or operator shall give written notice to the Department of Environmental Quality.

3. The owner or operator shall also maintain a written record of the weight or volume of any solid waste received which is productively reused or recovered in materially the same form as when received and sold in accordance with the permit for the landfill disposal site or incinerator.

4. The scale location restriction of this subsection shall not apply to federal or state military installations so long as:

a. the scales are located within the physical boundary of that installation, and

b. the disposal site or incinerator receives waste only from that military installation.

B. 1. Except as otherwise provided by this subsection:

a. owners and operators of landfill disposal sites or commercial incinerators which receive an average of less than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents ($1.50) per ton of solid waste received for disposal or incineration. A total of fifty cents ($.50) per ton of such fee shall be retained by the owner or operator and used exclusively for capital improvement to their facilities and for the projects required pursuant to the Oklahoma Solid Waste Management Act or the permit for the disposal site or incinerator for such period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of a total of Forty Thousand Dollars ($40,000.00),

b. when the owner or operators have recouped a capital investment of the total specified in subparagraph a of this paragraph, the fee to be assessed shall be One Dollar and twenty-five cents ($1.25) per ton of solid waste received for disposal or incineration. At such time, for a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected, and

c. records documenting the projects and use of the funds shall be included with each return.

2. a. Owners and operators of landfill disposal sites or commercial incinerators which receive an average of more than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents ($1.50) per ton of solid waste received for disposal or incineration, retaining twenty-five cents ($0.25) per ton for a period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars ($40,000.00). At the end of such period the

fee shall revert to One Dollar and twenty-five cents ($1.25) per ton. For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected.

b. Records documenting the capital investment and the use of the funds shall be included with each return.

3. Owners and operators of commercial composting facilities shall assess a fee of One Dollar and twenty-five cents ($1.25) per ton of all composting material received.

4. a. Owners and operators of landfill disposal sites or commercial incinerators may be reimbursed for capital investment costs that have been or will be expended for the purchase and installation of a wheel wash system for use at the landfill disposal site or commercial incinerator facility. To be eligible to claim this reimbursement, the owner or operator must notify the Department no later than January 1, 2011, of the intent to claim the reimbursement, and the wheel wash system must be in place and operational no later than January 1, 2012. Reimbursement shall be paid only after the wheel wash system is installed and operational and each landfill disposal site or commercial incinerator shall be eligible for reimbursement for only one wheel wash system.

b. The owner or operator shall provide records documenting the capital investment costs of the wheel wash system to the Department.

c. At such time as the wheel wash system is in place and operational and the capital investment costs have been approved by the Department, the Department shall reimburse the owner or operator the approved costs, subject to the limitations in subparagraph d of this paragraph. The Department shall reimburse eligible applicants in the order of approval until that limitation has been reached. If there are multiple eligible applicants awaiting reimbursement, the Department shall apportion the reimbursement amount among the eligible applicants according to the capital investment costs approved by the Department.

d. If the total amount reimbursed to all eligible owners and operators reaches Fifty Thousand Dollars ($50,000.00) within any state fiscal year, the Department shall notify the owners and operators, and thereafter the owners and operators shall not receive any reimbursement until the next state fiscal year.

e. The Environmental Quality Board is authorized to promulgate rules as necessary to implement the provisions of the Solid Waste Management Act, including rules specifying minimum standards or other criteria for wheel wash systems necessary to qualify for the reimbursement.

5. The fee assessed by paragraph 1 or 2 of this subsection shall not be imposed on:

a. the solid waste received which is productively reused or recovered in materially the same form as when received in accordance with the permit for the landfill disposal site or incinerator. The owner or operator shall include records pertaining to this fee exemption in the quarterly return of fees to the Department,

b. generator-owned and -operated nonhazardous waste land disposal monofills and waste subject to a fee pursuant to Section 2-10-803 of this title. For emergencies and other special events, the Department and the owner or operator of a site subject to this section may enter into a formal agreement to waive the fee, and

c. ash produced as a result of the combustion in a commercial incinerator of waste on which the fee imposed by this section has been paid.

6. Large industrial waste generators who generate over ten thousand (10,000) tons of nonhazardous industrial solid waste in the state in a calendar year may annually apply to the Department for a certificate exempting the disposal or incineration of such generated waste in excess of ten thousand (10,000) tons from the disposal and incineration fee authorized by this section. An applicant must have implemented a pollution prevention plan for such waste and filed it with the Department, provided operational documentation regarding such plan and paid the disposal and incineration fee on ten thousand (10,000) tons of the waste during the calendar year of application. The Department-issued exemption certificates shall be valid for the remainder of the calendar year of application, may contain conditions, and, upon presentation by authorized persons, shall be recognized by owners or operators of landfill disposal sites and incinerators subject to this section. If a generator operates a landfill or incinerator solely for waste from that generator, and if that generator chooses to seek the exemption authorized by this paragraph, the generator shall not be required to install scales or keep records relative to quantity of waste received for the landfill or incinerator.

7. The fee assessed by paragraph 1 or 2 of this subsection shall be imposed for all nonhazardous solid wastes accepted for disposal at a site or facility to which a solid waste or hazardous waste permit has been issued by the Department of Environmental Quality, and is to

be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.

8. The owner or operator of a solid waste disposal site or incinerator and the owner or operator of a commercial composting facility shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department quarterly returns indicating:

a. the total tonnage of solid wastes or material for composting received for disposal, incineration or composting at the gate of the site, and

b. the total amount of the fees collected pursuant to this section.

9. Not later than thirty (30) days after the end of the quarter to which such a return applies, the owner or operator shall mail to the Department the return for that quarter together with the fees collected during that quarter as indicated on the return.

10. The owner or operator may receive an extension of not more than thirty (30) days for filing the return and remitting the fees, provided that:

a. the owner or operator has submitted a request for an extension in writing to the Department together with a detailed description of why the extension is requested,

b. the Department has received the request not later than the day on which the return is required to be filed, and

c. the Department has approved the request.

11. For any quarterly return filed more than thirty (30) days after the last day of the quarter or extension date, the owner or operator shall remit an additional five percent (5%) of the fees collected during the month to which the return applies. If the fees are not remitted within sixty (60) days of the last day of the quarter during which they were collected, the owner or operator shall pay an additional fifteen percent (15%) of the amount of the fees for each month that they are late.

12. If the owner or operator misrepresents, or fails to properly measure or record, the amount of waste received or fails to remit fees within sixty (60) days after the last day of the quarter during which they were collected, the permit for the landfill disposal site, incinerator or commercial composting facility shall be summarily suspended by order and the Department shall initiate the process of revoking the permit and may require closure of the landfill, incinerator or commercial composting facility.

C. 1. The Department shall expend funds collected pursuant to the provisions of this section solely for the administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of solid waste technical assistance

programs, solid waste public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, solid waste recycling and litter prevention programs, and other environmental improvements.

2. In order to assist the Department of Environmental Quality regarding its responsibilities relating to the promotion of recycling of solid waste, each fiscal year the Department shall contract with units of local government, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities or counties, or substate planning districts recognized by the Oklahoma Department of Commerce, for up to a total of One Hundred Thousand Dollars ($100,000.00) and to the extent such monies are available for projects promoting the recycling of solid waste. Local governments, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities and counties and substate planning districts recognized by the Oklahoma Department of Commerce desiring to contract with the Department for such projects shall meet the application requirements of rules promulgated by the Environmental Quality Board and the criteria established by a recycling priorities plan prepared annually by the Department after review and comment by the Solid Waste Management Advisory Council. Except as otherwise provided by this section, contracts for such projects shall not be granted to state agencies.

3. Any litter prevention program shall be developed by the Department in conjunction with the Department of Transportation.

4. a. To the extent that funds are available, the Department may also reimburse any governmental entity for equipment other than motor vehicles or buildings to separate, process, modify, convert or treat solid waste or recovered materials so that the resulting product is being used in a productive manner.

b. The reimbursements shall be from solid waste fee funds and shall not exceed twenty-five percent (25%) of the person's total project costs. No reimbursement may be larger than Twenty Thousand Dollars ($20,000.00).

c. Reimbursements must be expended in accordance with rules promulgated by the Environmental Quality Board and criteria established through the Department's annual recycling priorities plan. The Department shall not expend more than Two Hundred Thousand Dollars ($200,000.00) in each fiscal year for such reimbursements, nor shall the Department reimburse used tire recycling facilities that may be eligible for compensation from the Used Tire Recycling Indemnity Fund.

5. a. The Department, in conjunction with the Corporation Commission, the Oklahoma Energy Resources Board and the Oklahoma Conservation Commission, may develop a plan to use suitable portions of the solid waste stream to reclaim Oklahoma lands damaged by oil and gas exploration and production or by mining activities.
   b. To the extent that funds are available, the Department may use up to ten percent (10%) of the annual income from the fees received pursuant to the provisions of this section to implement the plan. The Department may use its discretion in administering the funds for the purpose of this paragraph, but shall keep records subject to audit by the State Auditor and Inspector for good business practices.
6. a. To the extent that funds are available, after having reasonably met other specified uses of the solid waste fund, the Department is authorized to expend up to five percent (5%) of the total annual solid waste fee income for the purpose of making incentive payments to any person, firm or corporation located in this state generating energy by utilizing solid waste landfill methane or steam produced by a commercial incinerator.
   b. The Environmental Quality Board shall promulgate rules to administer the provisions of this paragraph.
   c. No person, firm or corporation shall be eligible to receive incentive payments as provided in subparagraph a of this paragraph for more than three (3) years. The amount of such payments shall be determined by the Department based on the amount of energy generated and the cost of production.

D. The provisions of this section shall not apply to landfill disposal sites that receive only ash generated by the burning of coal.

E. On or before September 1 of each year, the Department of Environmental Quality shall prepare a report of income and expenditures for the period of each fiscal year in which solid waste fee monies authorized by this section were received and such report shall be distributed to members of the Solid Waste Management Advisory Council for review. By November 1 of each year, the Council shall submit to the Executive Director, Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate its written comments on the comparison of income with program expenditures.

Added by Laws 1990, c. 225, § 10, eff. Sept. 1, 1990. Amended by Laws 1990, c. 217, § 9, eff. Sept. 1, 1990; Laws 1991, c. 131, § 1, emerg. eff. April 29, 1991; Laws 1992, c. 50, § 3, emerg. eff. April 8, 1992; Laws 1992, c. 270, § 1, emerg. eff. May 25, 1992; Laws 1993,

c. 145, § 162, eff. July 1, 1993. Renumbered from § 1-2305 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1995, c. 341, § 5, eff. Jan. 1, 1996; Laws 1996, c. 59, § 3, emerg. eff. April 9, 1996; Laws 1997, c. 371, § 5, eff. July 1, 1997; Laws 1998, c. 401, § 7, emerg. eff. June 10, 1998; Laws 1999, c. 15, § 1, eff. July 1, 1999; Laws 2000, c. 184, § 2, emerg. eff. May 3, 2000; Laws 2005, c. 400, § 1, eff. Nov. 1, 2005; Laws 2006, c. 115, § 1, eff. July 1, 2006; Laws 2007, c. 71, § 1, eff. July 1, 2007; Laws 2010, c. 301, § 2, eff. July 1, 2010; Laws 2011, c. 164, § 10, eff. July 1, 2011; Laws 2011, c. 219, § 2; Laws 2013, c. 151, § 1, emerg. eff. April 24, 2013.

§27A-2-10-803. Fee for treatment, storage or disposal of solid wastes generated outside state - Reciprocal agreements.

A. Subject to the constraints of federal law, the Board shall establish a fee schedule which provides a differential fee for treatment, storage or disposal in Oklahoma of solid wastes generated outside the State of Oklahoma. Said fee shall be not more than ten times the fee for treatment, storage or disposal in the State of Oklahoma of solid wastes generated within the State of Oklahoma. If a federal law is enacted to authorize a prohibition by one state upon the importation of solid wastes from another state based upon the actions or inactions of such other state, then the Board shall adopt regulations establishing the criteria for the operation of such prohibition.

B. The Department is directed to pursue reciprocal agreements regarding fees with all other states which transport solid waste into Oklahoma, provided that any reciprocal agreement shall not allow the fee to be less than the instate solid waste fee for Oklahoma. Fee schedules may be adjusted by the Board to provide for such reciprocity.

Added by Laws 1992, c. 50, § 8, emerg. eff. April 8, 1992. Amended by Laws 1993, c. 145, § 163, eff. July 1, 1993. Renumbered from Title 63, § 1-2307 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-10-804. Use of fees to implement county solid waste management plans - Authorizing administrative and technical support - Interlocal agreements.

A. The Department of Environmental Quality shall use at least ten percent (10%) of the annual income from the solid waste fees received under Section 2-10-802 of this title to assist in implementing county solid waste management plans developed under Section 2-10-1001 of this title. The Department shall prioritize its assistance for enforcement, clean-up and prevention of unpermitted disposal sites, and the management of solid waste that is hard to dispose.

B. The Department may consult with the Oklahoma Cooperative Circuit Engineering Districts Board and the Oklahoma State University Cooperative Extension Service to assure that boards of county commissioners receive adequate administrative and technical support for implementing their county solid waste plans.

C. Any county, in formulating and implementing its solid waste management plan, may enter into an interlocal agreement with a municipality and may use funds provided by the Department according to this section for such agreements in furtherance of said solid waste management plans.

Added by Laws 1997, c. 371, § 6, eff. July 1, 1997. Amended by Laws 2017, c. 20, § 7, eff. Nov. 1, 2017.

§27A-2-10-805. Solid Waste Facility Emergency Closure Fund Special Account.

A. There is hereby created in the State Treasury a revolving fund for the Department of Environmental Quality to be designated the "Solid Waste Facility Emergency Closure Fund Special Account". The fund account shall be a continuing fund account, not subject to fiscal year limitations. All monies accruing to the credit of said fund account are hereby appropriated and may be budgeted and expended by the Department for the purpose specified by this section.

B. The fund shall contain only monies appropriated by the Legislature and specifically designated for deposit to the fund.

C. Expenditures from the fund account shall be made upon vouchers prescribed by the State Treasurer and issued by the Department against the Solid Waste Facility Emergency Closure Fund Special Account.

D. No monies shall be expended by the Department from the Solid Waste Facility Emergency Closure Fund Special Account except for closure and monitoring activities at landfill disposal sites where the owner or operator has failed to adequately provide closure and postclosure care and where the financial assurance, as specified in Section 2-10-701 of this title, is insufficient to properly close or monitor the site as required by the rules, and for any action determined to be necessary by the Department for the pursuit of cost recovery as required by this section.

E. The Department shall expeditiously pursue all remedies available to compel the legally responsible parties to perform closure and postclosure monitoring and care as required by the rules, and to seek the recovery of any funds expended by the Department under this section. The Department shall utilize staff or outside counsel to assure such expeditious pursuit of remedies.

F. Nothing in this section shall be construed as a state mechanism for the financial assurance required of disposal site owners and operators under Section 2-10-701 of this title.

Added by Laws 1997, c. 371, § 7, eff. July 1, 1997. Amended by Laws 2010, c. 413, § 9, eff. July 1, 2010.

§27A-2-10-901. Powers and duties of cities and towns.

A. All incorporated cities and towns may directly or through a public trust of which it is a beneficiary develop a plan, subject to the approval of the Department of Environmental Quality, to provide a solid waste management system and shall adequately provide for the collection and disposal of solid waste generated or existing within the incorporated limits of such city or town or in the area to be served thereby at one or more disposal sites. The governing body of the city or town may enter into agreements with a county or counties, with one or more other incorporated towns or cities, with persons or trusts, or with any combination thereof, to provide a disposal site or implement a solid waste management system for the incorporated city or town.

B. The governing body of such town or city shall have the authority to levy and collect such fees and charges and require such licenses as may be appropriate to discharge their responsibility, and such fees, charges and licenses shall be based on a fee schedule as set forth in an ordinance.

C. Incorporated cities or towns may control, through ordinance, regulation, rule or by permit, the collection, transportation, storage and disposal of solid waste generated or existing within the jurisdiction or control of such city or town, including requiring the delivery of all such solid waste to a disposal site. Provided, that the city or town may not require the delivery of solid waste to the operator of a solid waste management system other than in accordance with the procedures of the Oklahoma Solid Waste Management Act.

D. Incorporated cities and towns may accept and disburse funds derived from grants from the federal or state governments or from private sources or from monies that may be appropriated from the General Fund, for the installation and operation of a solid waste management system, or any part thereof.

E. Incorporated cities and towns are authorized to contract for the purchase of land, facilities, vehicles and machinery necessary to the installation and operation of a solid waste management system, either individually or as a party to a regional or county solid waste authority.

F. The governing body of an incorporated city or town shall have the right to establish policies for the operation of a solid waste management system including hours of operation, character and kinds of waste accepted at the disposal site, and such other rules as may be necessary for the safety of the operating personnel.

G. Incorporated cities or towns shall permit landowners of agricultural land located within the city or town boundaries to burn debris originating from their property following a flood or other

natural disaster. The city or town may enact procedures to determine the type of materials and locations appropriate for burning and affected landowners shall comply with all local, state and federal laws regulating such burning.

H. All incorporated cities or towns are delegated the authority necessary to fulfill the provisions of this section.

Laws 1970, c. 69, § 6, emerg. eff. March 17, 1970; Laws 1981, c. 324, § 3, emerg. eff. June 30, 1981. Renumbered from Title 63, § 2256 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990; Laws 1993, c. 145, § 164, eff. July 1, 1993. Renumbered from Title 63, § 1-2412 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 106, § 1, eff. Jan. 1, 2009.

§27A-2-10-902. Sale or conveyance of property used as solid waste disposal site or landfill.

A. Pursuant to the provisions of this section, any municipality may sell or otherwise convey any of its property within or without the limits of the municipality which is used or has been used as a solid waste disposal site or landfill or for the collection or transfer of solid waste. The provisions of this section shall apply to all such real property owned by the municipality which has been acquired or dedicated for the public use or purpose and for the benefit of the residents of the municipality.

B. The property of the municipality which is used or has been used as a solid waste disposal site or landfill or for the collection or transfer of solid waste may be sold or otherwise conveyed by the municipality if:

1. The municipal governing body provides for a public hearing on the issue of the disposal or conveyance of the property; and

2. A resolution authorizing the execution of any sale or disposal of the property is properly passed and published pursuant to law or ordinance.

Added by Laws 1995, c. 341, § 1, eff. Jan. 1, 1996.

§27A-2-10-1001. Development of plan - Fees and charges - Acceptance and disbursement of funds - Contracts for land, facilities and vehicles - Operational policies - Personnel - Violations and penalties - Exempt counties.

A. The board of county commissioners in each county of the state shall develop a plan, subject to the approval of the Department of Environmental Quality, to provide a solid waste management system to handle adequately solid wastes generated or existing within the boundaries of such county. An application for a solid waste transfer station to be located in a county with a population of less than twenty thousand (20,000) based on the 1990 Federal Decennial Census shall not be submitted to the Department unless it is included in the

county plan submitted to the Department. The application shall be made in accordance with the permitting requirements in the Oklahoma Solid Waste Management Act. By agreement or contractual arrangement the board of county commissioners may assume responsibility for solid wastes generated within incorporated cities or towns whether within their counties or other counties. The board of county commissioners of a county may enter into agreements with other counties, one or more towns or cities, governmental agencies, with private persons, trusts or with any combination thereof to provide a solid waste management system for the county or any portion thereof.

B. The county commissioners shall have the authority to levy and collect such fees and charges and require such licenses as may be appropriate to discharge their responsibility for a solid waste management system or any portion thereof. Such fees, charges and licenses shall be based on a fee schedule contained in an official resolution of the board of county commissioners and may be invoiced and collected by other public or private utility services in the normal course of their business.

C. The board of county commissioners may accept and disburse funds derived from federal or state grants or from private sources or from monies that may be appropriated from the General Revenue Fund for the installation and operation of a solid waste management system.

D. The board of county commissioners is authorized to contract for the lease or purchase of land, facilities and vehicles for the operation of a solid waste management system either for the county or as a party to a regional solid waste management district.

E. The board of county commissioners of a county shall have the right to establish written policies in compliance with the plan approved by the Department for the operation of a solid waste management system including hours of operation, amount, character and kind of waste accepted at the solid waste container sites or any disposal site, and such other rules as may be necessary for the safety of the operating personnel, persons using the sites and the general public.

F. The board of county commissioners of a county is authorized to hire such persons, including peace officers, as may be necessary to administer the county solid waste management system, enforce policies established pursuant to the solid waste plan and issue citations for violation of the solid waste laws of the State of Oklahoma.

G. Any person who violates any policy established by the board of county commissioners for the operation of a solid waste management system created pursuant to the provisions of this section, shall be subject to a civil penalty not to exceed Five Hundred Dollars ($500.00) per day. Each violation shall constitute a separate offense.

H. The provisions of this section requiring approval of the Department for plans providing for a solid waste management system, shall not apply to counties having a solid waste management system plan in effect on July 1, 1992. For any county having a solid waste management system plan in effect on July 1, 1992, the county commissioners may charge and collect reasonable service and disposal fees as necessary for any nonhazardous industrial solid waste collection and disposal system. In determining reasonable fees for any nonhazardous industrial solid waste collection and disposal system, the county may take into account the damage and repair of access roads, litter control, surveillance, civil defense, and such other costs and expenditures deemed necessary by the county. Any person subject to the assessment of such fees who is aggrieved at the action of the commissioners in determining the amount of such fees, may appeal the action of the commissioners to the district court of the county for a review as to the reasonableness of the fees. The decision of the court shall be final and binding upon the commissioners, provided that any such order of the commissioners assessing the fees shall be binding until reversed by the court.

Added by Laws 1970, c. 69, § 7, emerg. eff. Mar. 17, 1970. Amended by Laws 1982, c. 77, § 11, emerg. eff. April 1, 1982. Renumbered from § 2257 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990. Amended by Laws 1992, c. 121, § 1, eff. July 1, 1992; Laws 1992, c. 270, § 2, eff. July 1, 1992; Laws 1993, c. 145, § 165, eff. July 1, 1993. Renumbered from Title 63, § 1-2413 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 41, eff. July 1, 1993; Laws 1994, c. 338, § 5, emerg. eff. June 8, 1994; Laws 1999, c. 284, § 6, emerg. eff. May 27, 1999.

§27A-2-10-1101. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1102. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1103. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1104. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1105. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1106. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1107. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1108. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1109. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1110. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-10-1111. Repealed by Laws 1998, c. 401, § 8, emerg. eff. June 10, 1998.

§27A-2-11-101. Recycling of waste - Studies.

The Department of Environmental Quality shall provide for the development of a prioritized agenda of studies necessary to provide information to facilitate the design and implementation of recycling initiatives. Such studies may include, but not be limited to:

1. Waste composition analyses for urban and rural areas;
2. Surveys to delineate the knowledge, opinions, and preferences of Oklahoma citizens and businesses with respect to recycling;
3. A range of municipal recycling demonstration projects;
4. Yard waste composting demonstration projects to assist in reclaiming strip-mined land;
5. An assessment of management options for hard-to-handle wastes such as lead-acid batteries, used motor oil, and white goods; and
6. An assessment, in cooperation with the Department of Commerce, of the condition of markets for materials which are being or could be recovered from the municipal solid waste stream in Oklahoma.

It is the intent of the Legislature that as funds become available, the Department of Environmental Quality shall cause the studies specified by this section to be conducted.

Laws 1990, c. 217, § 4, eff. Sept. 1, 1990; Laws 1993, c. 145, § 177, eff. July 1, 1993. Renumbered from Title 63, § 1-2440 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-11-102. Waste management public education program.

The Department of Environmental Quality shall design and implement a statewide general public education program on waste management by 1992 with particular emphasis on:

1. Recycling;
2. Litter reduction;
3. Waste reduction; and

4. The management and disposal of hard to dispose of wastes.
Any litter reduction program shall be developed by the Department in conjunction with the State Department of Transportation.
Laws 1990, c. 217, § 5, eff. Sept. 1, 1990; Laws 1993, c. 145, § 178, eff. July 1, 1993. Renumbered from Title 63, § 1-2441 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-11-103. Recycling initiatives - Cooperation of Department with institutions of higher learning.

It is the intent of the Legislature that institutions of higher learning in this state, with the cooperation of the Department of Environmental Quality, conduct studies to facilitate the design and implementation of recycling initiatives.
Laws 1990, c. 217, § 6, eff. Sept. 1, 1990; Laws 1993, c. 145, § 179, eff. July 1, 1993. Renumbered from Title 63, § 1-2443 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-11-201. Repealed by Laws 2000, c. 190, § 2, emerg. eff. May 8, 2000.

§27A-2-11-202. Repealed by Laws 2000, c. 190, § 2, emerg. eff. May 8, 2000.

§27A-2-11-203. Repealed by Laws 2000, c. 190, § 2, emerg. eff. May 8, 2000.

§27A-2-11-204. Repealed by Laws 2000, c. 190, § 2, emerg. eff. May 8, 2000.

§27A-2-11-301. Short title - Application and construction.

A. This part shall be known and may be cited as the "Recycling, Reuse and Source Reduction Incentive Act".

B. This part shall have retroactive application to January 1, 1987. In addition, the provisions of this act shall not be construed to affect any rights accrued pursuant to the Recycling, Reuse, and Ultimate Destruction Incentive Act.
Added by Laws 1986, c. 164, § 1, eff. Jan. 1, 1987. Amended by Laws 1993, c. 145, § 184, eff. July 1, 1993. Renumbered from Title 68, § 2357.14 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 275, § 18, eff. July 1, 1993.

§27A-2-11-302. Purpose of act.

A. The Legislature hereby declares that it is necessary in the public interest to prevent pollution through source reduction and encourage and promote the recycling and reuse or source reduction of hazardous waste by those manufacturing, service, and processing

industries within the state whose operations produce hazardous waste and those companies engaged in the disposal of hazardous waste.

B. It is equally necessary that Oklahoma be made and kept an attractive location for continued industrial development, including the expansion of existing plants, thereby increasing employment and payrolls and upgrading the state's natural resources, both of which public purposes and objectives will simultaneously be aided and encouraged by the Recycling, Reuse and Source Reduction Incentive Act.

Added by Laws 1986, c. 164, § 2, eff. Jan. 1, 1987. Amended by Laws 1987, c. 203, § 155, operative July 1, 1987; Laws 1992, c. 403, § 45, eff. Sept. 1, 1992; Laws 1993, c. 145, § 185, eff. July 1, 1993. Renumbered from Title 68, § 2357.15 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 275, § 19, eff. July 1, 1993.

§27A-2-11-303. Repealed by Laws 2013, c. 363, § 3, eff. Jan. 1, 2014.

§27A-2-11-304. Application for tax credit.

A. In order to qualify for the income tax credit, said person, firm, corporation or other legal entity engaged, or proposing to engage, in such recycling, reuse, or source reduction of hazardous waste shall first make application to the Department of Environmental Quality on forms to be provided by the Department and shall submit all available information relative to the applicant's operations bearing upon the nature and amount of hazardous waste resulting, or expected to result therefrom, the effectiveness of the proposed recycling, reuse, or source reduction process and such other relevant information bearing upon the process as may be required by the Department. Upon receipt of such application for tax credit and supporting information, it shall be the duty of the Department to make as accurately as possible:

1. A verification of the accuracy of supporting information submitted by the applicant, or otherwise officially to determine the character and chemical content of the hazardous waste;

2. A determination of the most effective type of recycling, reuse, or source reduction process taking into consideration alternative types of recycling, reuse, or source reduction methods if any, and the relative cost of each such type;

3. A determination of the actual or approximate capital investment required to effectuate such installation so as to arrive at an actual or estimated agreed, net, nonprofitable or profitable investment expense of installing said recycling, reuse, or source reduction process; and

4. A determination as to whether or not such recommended installation of recycling, reuse, or source reduction processes will

of itself be productive of additional income or savings and will result in a reduction of hazardous waste for said applicant.

B. The actual or estimated agreed net investment cost of such process shall be certified to the Oklahoma Tax Commission by the Department. In no event shall the Oklahoma Tax Commission allow a tax credit to be taken in excess of the actual net investment cost of such approved recycling, reuse, or source reduction processing operations.

Added by Laws 1986, c. 164, § 4, eff. Jan. 1, 1987. Amended by Laws 1987, c. 203, § 157, operative July 1, 1987; Laws 1992, c. 403, § 47, eff. Sept. 1, 1992; Laws 1993, c. 145, § 187, eff. July 1, 1993. Renumbered from Title 68, § 2357.17 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 275, § 21, eff. July 1, 1993.

§27A-2-11-305. Certification of net investment expense - Allowance of tax credit.

A. Upon a determination of all such facts posed by the applicant's recycling, reuse, or source reduction process in this state, the Department of Environmental Quality shall certify to the Oklahoma Tax Commission the actual or estimated agreed net investment expense of installing such process and shall submit all such relevant information for use by the Tax Commission in allowing such tax credit and in auditing income tax returns subsequently filed by the applicant.

B. If an estimated agreed net investment expense is certified to the Tax Commission, the Tax Commission shall subsequently adjust such estimate to the actual cost outlay by the applicant for the process, not in excess of the certified estimate, at the time the tax credit is taken. The income tax return specifying the cost outlay for the process submitted by the applicant may be accepted by the Tax Commission as the actual net investment cost of the process unless the Tax Commission determines that an audit of the income tax return or income tax liability of the applicant is warranted. In conducting an audit, the Tax Commission is authorized to request such records and documentation as they determine to be necessary to verify the accuracy of the return. The person, firm, corporation or other legal entity taking such tax credit shall be required to submit to the Tax Commission evidence of the actual capital outlay for the installation of such process at the time such credit is to be taken for income tax purposes or when otherwise requested by the Tax Commission.

C. The Commission shall allow the tax credit to be taken as and to the extent provided herein.

Added by Laws 1986, c. 164, § 5, eff. Jan. 1, 1987. Amended by Laws 1987, c. 203, § 158, operative July 1, 1987; Laws 1993, c. 145, § 188, eff. July 1, 1993. Renumbered from Title 68, § 2357.18 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 275, § 22, eff. July 1, 1993.

§27A-2-11-306. Administration of act.

It shall be the further duty of the Oklahoma Tax Commission, the Department of Environmental Quality, and any other state agency called upon for assistance in the proper enforcement of the Recycling, Reuse and Source Reduction Incentive Act, to cooperate each with the other in its administration so as to accomplish the purposes set forth in the Recycling, Reuse and Source Reduction Incentive Act. The Department shall inform manufacturing and processing industries within and without the state of this tax credit benefit, and in every way possible gain the most favorable publicity and increased industrial activity for Oklahoma resulting from this enactment.

Added by Laws 1986, c. 164, § 6, eff. Jan. 1, 1987. Amended by Laws 1993, c. 145, § 189, eff. July 1, 1993. Renumbered from Title 68, § 2357.19 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 275, § 23, eff. July 1, 1993.

§27A-2-11-307. Rules and regulations.

The Department of Environmental Quality and the Oklahoma Tax Commission shall promulgate rules and regulations necessary to administer the Recycling, Reuse and Source Reduction Incentive Act.

Added by Laws 1986, c. 164, § 7, eff. Jan. 1, 1987. Amended by Laws 1993, c. 145, § 190, eff. July 1, 1993. Renumbered from Title 68, § 2357.20 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 275, § 24, eff. July 1, 1993.

§27A-2-11-401.1. Definitions.

As used in the Oklahoma Used Tire Recycling Act:

1. "ASTM" means the American Society for Testing and Materials;

2. "Automobile" means every motor vehicle of the type constructed and used for the transportation of ten persons or less, including the driver, or used for the transportation of property. Provided, however, that the automobile's gross vehicle weight rating does not exceed sixteen thousand (16,000) pounds;

3. "Automotive dismantler and parts recycler" means the same as defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

4. "Commission" means the Oklahoma Tax Commission;

5. "Department" means the Department of Environmental Quality;

6. "End use" means a Department-approved ultimate economic use for a used tire or tire-derived product, including granulated rubber, ground rubber, tire chips, tire-derived aggregate, tire-derived fuel and tire shreds;

7. "Fund" means the Used Tire Recycling Indemnity Fund;

8. "Granulated rubber" means particulate rubber composed of mainly nonspherical particles that span a broad range of maximum particle dimensions, from below four hundred twenty-five thousandths

(0.425) of a millimeter (40 mesh) to twelve (12) millimeters (0.47 inches) pursuant to current ASTM standards;

9. "Ground rubber" means particulate rubber composed of mainly nonspherical particles that span a broad range of maximum particle dimensions, from below four hundred twenty-five thousandths (0.425) of a millimeter (40 mesh) to two (2) millimeters (0.08 inches) pursuant to current ASTM standards;

10. "Motorcycle" means a motor vehicle of a type defined in Section 1-135 of Title 47 of the Oklahoma Statutes;

11. "Motor-driven cycle" means a motor vehicle of a type defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

12. "Motor vehicle" means the same as defined in Section 1-134 of Title 47 of the Oklahoma Statutes;

13. "Priority cleanup list" means a list, created and maintained by the Department, of:

a. unpermitted dumps which did not exist when the owner took possession of the property where the tires are located, and were created without the consent of or benefit to the owner of the property, and

b. such other tire dumps designated by the Department pursuant to Section 2-11-401.6 of this title;

14. "Reusable tire" means a tire that has been previously used on a vehicle, not currently mounted on a vehicle, but can be legally placed into service for vehicle use in Oklahoma;

15. "Semitrailer" means the same as defined in Section 1-162 of Title 47 of the Oklahoma Statutes;

16. "Tire" means any solid or air-filled covering for vehicle wheels;

17. "Tire chips" means pieces of scrap tires that have a basic geometrical shape and are generally between twelve (12) millimeters (0.47 inches) and fifty (50) millimeters (1.97 inches) in size and have most of the wire removed pursuant to current ASTM standards;

18. "Tire dealer" means any person engaged in the business of selling new and used tires to final consumers, not for resale;

19. "Tire-derived aggregate" means pieces of scrap tires that have a basic geometrical shape and are generally between twelve (12) millimeters (0.47 inches) and three hundred five (305) millimeters (12.01 inches) in size and are intended for use in civil engineering applications pursuant to ASTM standards;

20. "Tire-derived fuel" means whole tires or processed tires that can be used for energy or fuel recovery pursuant to current ASTM standards;

21. "Tire-derived fuel facility" or "TDF facility" means a facility that uses processed tires or whole used tires for energy or fuel recovery;

22. "Tire-derived product" means matter that:

a. is derived from a process that uses whole tires as a feedstock, including chipping for the purpose of fuel recovery, granulating and grinding,
b. adheres to established engineering or other appropriate specifications or to established product end-user specifications or customer conditions of acceptance,
c. has a demonstrated benefit associated with the end use, and
d. can be used as a substitute for or in conjunction with a commercial product or raw material;

23. "Tire shreds" means pieces of scrap tires that have a basic geometrical shape and are generally between fifty (50) millimeters (1.97 inches) and three hundred five (305) millimeters (12.01 inches) in size pursuant to current ASTM standards;

24. "Trailer" means the same as defined in Section 1-180 of Title 47 of the Oklahoma Statutes;

25. "Used tire" means an unprocessed whole tire or tire part that can no longer be used for its originally intended purpose but can be beneficially reused as approved by the Department. Any used tire collected in accordance with the requirements of the Oklahoma Used Tire Recycling Act is not considered to be discarded. A tire that can be used, reused or legally modified to be reused for its original intended purpose shall not be a used tire;

26. "Used tire processing" means altering the form of whole used tires by shredding, chipping or other method approved by the Department, except baling and pyrolysis;

27. "Used tire recycling facility" means any place which is permitted as a solid waste disposal site, in accordance with the Oklahoma Solid Waste Management Act, at which used tires are processed; and

28. "Vehicle" means the same as defined in Section 1-186 of Title 47 of the Oklahoma Statutes.

Added by Laws 1989, c. 176, § 2, eff. July 1, 1989. Amended by Laws 1991, c. 48, § 1, emerg. eff. April 9, 1991; Laws 1993, c. 145, § 192, eff. July 1, 1993. Renumbered from § 53002 of Title 68 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1995, c. 191, § 2, eff. Nov. 1, 1995; Laws 1998, c. 314, § 11, eff. July 1, 1998; Laws 1999, c. 1, § 11, emerg. eff. Feb. 24, 1999; Laws 2001, c. 388, § 1, eff. Nov. 1, 2001; Laws 2004, c. 185, § 1, emerg. eff. May 3, 2004; Laws 2005, c. 230, § 1, eff. July 1, 2005. Renumbered from § 2-11-402 of this title by Laws 2005, c. 230, § 8, eff. July 1, 2005. Amended by Laws 2011, c. 164, § 2, eff. July 1, 2011; Laws 2017, c. 286, § 1, eff. Nov. 1, 2017; Laws 2019, c. 336, § 1, eff. July 1, 2019.

NOTE: Laws 1998, c. 114, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§27A-2-11-401.2. Used tire recycling fee - Assessment - Remittance - Delinquencies - Penalties.

A. 1. Except as otherwise provided by this section, the following assessments shall be made for tires for use on vehicles:

a. at the time any tire:

(1) for an automobile as defined in the Oklahoma Used Tire Recycling Act or a tire with a rim diameter of less than or equal to nineteen and one-half (19 1/2) inches is sold by a tire dealer, there shall be assessed a used tire recycling fee of Two Dollars and ninety cents ($2.90) per tire,

(2) for vehicles other than automobiles as defined by the Oklahoma Used Tire Recycling Act with a rim diameter greater than nineteen and one-half (19 1/2) inches and a tread width of twelve (12) inches or less is sold by a tire dealer, there shall be assessed a used tire recycling fee of Five Dollars and fifty cents ($5.50) per tire,

(3) with a rim diameter greater than nineteen and one-half (19 1/2) inches and a tread width of greater than twelve (12) inches is sold by a tire dealer, there shall be assessed a used tire recycling fee of Ten Dollars ($10.00) per tire, and

(4) is sold by a tire dealer for use on a motorcycle or motor-driven cycle, there shall be assessed a used tire recycling fee of One Dollar ($1.00) per tire,

b. at any time an automobile as defined by the Oklahoma Used Tire Recycling Act or a motor vehicle with a tire rim diameter of less than or equal to nineteen and one-half (19 1/2) inches is first registered in this state, there shall be assessed a used tire recycling fee of Two Dollars and ninety cents ($2.90) per tire, except as otherwise provided by subparagraphs e and f of this paragraph,

c. at any time a vehicle other than an automobile as defined by the Oklahoma Used Tire Recycling Act with a tire rim diameter of greater than nineteen and one-half (19 1/2) inches is first registered in this state, there shall be assessed a used tire recycling fee of Five Dollars and fifty cents ($5.50) per tire, except as otherwise provided by subparagraphs e, f and g of this paragraph,

d. at any time a trailer or semitrailer with a tire rim diameter of less than or equal to nineteen and one-half (19 1/2) inches is first titled in this state, there

shall be assessed a used tire recycling fee of Two Dollars and ninety cents ($2.90) per tire,

e. at any time a motorcycle or motor-driven cycle is first registered in this state, there shall be assessed a used tire recycling fee of One Dollar ($1.00) per tire,

f. at the time a motor vehicle is first titled in this state, to be registered under the provisions of Section 1120 of Title 47 of the Oklahoma Statutes, there shall be assessed a used tire recycling fee of Seven Dollars ($7.00), and

g. at the time a trailer or semitrailer is first titled in this state, to be registered under the provisions of Section 1133 of Title 47 of the Oklahoma Statutes, there shall be assessed a used tire recycling fee of Five Dollars ($5.00).

2. No fee shall be assessed by a tire dealer for reusable tires or retreaded tires for which the tire dealer can document that the recycling fee has been previously paid.

3. All-terrain vehicles and off-road motorcycles registered pursuant to the provisions of Section 1132 of Title 47 of the Oklahoma Statutes shall be exempt from the provisions of this section.

B. 1. For tires used on implements of husbandry and agricultural equipment with a rim diameter of less than or equal to nineteen and one-half (19 1/2) inches and that are less than thirty (30) inches in total diameter, there shall be assessed a used tire recycling fee of Two Dollars and ninety cents ($2.90) per tire.

2. For tires used on implements of husbandry and agricultural equipment with a rim diameter of greater than nineteen and one-half (19 1/2) inches and that are less than thirty (30) inches in total diameter, there shall be assessed a used tire recycling fee of Five Dollars and fifty cents ($5.50) per tire.

3. For tires used on implements of husbandry and agricultural equipment that are greater than thirty (30) inches in total diameter and less than or equal to forty-four (44) inches in total diameter, there shall be assessed a used tire recycling fee of Eight Dollars ($8.00) per tire. No fee shall be assessed by a tire dealer if the customer retains the used agricultural tire for use on a farm or ranch. The customer may return the used tire to the tire dealer at a later date and shall be assessed the proper fee.

4. For tires used on implements of husbandry and agricultural equipment that are greater than forty-four (44) inches in total diameter and less than or equal to seventy-two (72) inches in total diameter and not more than thirty (30) inches wide, there shall be assessed a used tire recycling fee of Sixteen Dollars ($16.00) per tire. No fee shall be assessed by a tire dealer if the customer retains the used agricultural tire for use on a farm or ranch. The

customer may return the used tire to the tire dealer at a later date and shall be assessed the proper fee.

5. A tire dealer may pay the assessed fee for any used agricultural tire in current inventory and include that tire in the used tire recycling program.

C. 1. The tire dealer and motor license agent shall remit such fee to the Oklahoma Tax Commission in the same manner as provided by Section 1365 of Title 68 of the Oklahoma Statutes.

2. Except as otherwise provided by this section, the tire dealer shall remit to the Tax Commission ninety-seven and three-quarters percent (97.75%) of the fee due pursuant to this section at the time of filing any report as required by the Tax Commission.

3. Motor license agents shall remit ninety percent (90%) of the fee assessed on each vehicle registered.

4. Failure to remit the fee at the time of filing the returns shall cause the fee to become delinquent. If the fee becomes delinquent the tire dealer or motor license agent forfeits any claim to the discount authorized by this section and shall remit to the Tax Commission one hundred percent (100%) of the amount of the fee due plus any penalty due.

D. If the fee imposed or levied by subsection A of this section, or any part of such amount, is not paid before the fee becomes delinquent, there shall be collected on the total delinquent fee interest at the rate of one and one-quarter percent (1 1/4%) per month from the date of the delinquency until paid.

E. If any fee due under subsection A of this section, or any part thereof, is not paid within fifteen (15) days after the fee becomes delinquent, a penalty of ten percent (10%) on the total amount of fee due and delinquent shall be added and paid.

F. All penalties or interest imposed by this section shall be recoverable by the Tax Commission as a part of the fee imposed and all penalties and interest shall be apportioned the same as the fee on which the penalties or interest are collected.

Added by Laws 1989, c. 176, § 3, eff. July 1, 1989. Amended by Laws 1990, c. 296, § 9, operative July 1, 1990; Laws 1991, c. 342, § 26, emerg. eff. June 15, 1991; Laws 1993, c. 145, § 193, eff. July 1, 1993. Renumbered from § 53003 of Title 68 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 42, eff. July 1, 1993; Laws 1995, c. 191, § 3, eff. Nov. 1, 1995; Laws 1996, c. 59, § 1, emerg. eff. April 9, 1996; Laws 1997, c. 159, § 1, emerg. eff. April 25, 1997; Laws 2002, c. 502, § 1, emerg. eff. June 7, 2002; Laws 2005, c. 230, § 2, eff. July 1, 2005. Renumbered from § 2-11-403 of this title by Laws 2005, c. 230, § 9, eff. July 1, 2005. Amended by Laws 2006, c. 295, § 1, eff. July 1, 2006; Laws 2007, c. 146, § 1, eff. July 1, 2007; Laws 2010, c. 194, § 1, eff. July 1, 2010; Laws 2011, c. 164, § 3, eff. July 1, 2011; Laws 2017, c. 286, § 2, eff. Nov. 1, 2017; Laws 2019, c. 336, § 2, eff. July 1, 2019.

NOTE: Laws 1993, c. 146, § 27 repealed by Laws 1993, c. 324, § 58, eff. July 1, 1993.

§27A-2-11-401.3. Used Tire Recycling Indemnity Fund.

A. There is hereby created within the Oklahoma Tax Commission the "Used Tire Recycling Indemnity Fund". The Indemnity Fund shall be administered by the Oklahoma Tax Commission pursuant to the provisions of Section 2-11-401.4 of this title.

B. The Indemnity Fund shall consist of:

1. All monies received by the Commission as proceeds from the assessment imposed pursuant to Section 2-11-401.2 of this title;

2. Interest attributable to investment of money in the Indemnity Fund; and

3. Money received by the Commission in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Oklahoma Used Tire Recycling Act.

Added by Laws 1989, c. 176, § 4, eff. July 1, 1989. Amended by Laws 1993, c. 145, § 194, eff. July 1, 1993. Renumbered from § 53004 of Title 68 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1999, c. 254, § 5, eff. June 30, 1999. Renumbered from § 2-11-404 of this title by Laws 2005, c. 230, 10, eff. July 1, 2005. Amended by Laws 2011, c. 164, § 4, eff. July 1, 2011.

§27A-2-11-401.4. Compensation to facilities - Allocation of Used Tire Recycling Indemnity Fund.

A. Compensation to used tire facilities and tire-derived fuel or TDF facilities pursuant to this section shall be limited to facilities located in Oklahoma. Compensation for used tire activities pursuant to this section shall be limited to used tires from Oklahoma. A used tire recycling facility or tire-derived fuel or TDF facility may transport and deliver used tires collected from Oklahoma to an out-of-state used tire recycling facility or TDF facility but shall not be eligible for compensation from the Used Tire Recycling Indemnity Fund for those used tires. To be eligible, applicants for compensation shall be in compliance with the Oklahoma Used Tire Recycling Act.

B. The monies accruing annually to the Used Tire Recycling Indemnity Fund shall be allocated first to the Department of Environmental Quality Revolving Fund, to be used for implementing applicable requirements related to the control of mobile and area sources of air emissions, for monitoring and modeling the impacts on Oklahoma of air pollution from other states, for implementing and enforcing other applicable air pollution control requirements or for other environmental programs or projects. The amount of money allocated for this purpose shall be twenty-four and one-tenth percent (24.1%) of the funds produced by the two-dollar-and-ninety-cent per

tire fee assessed pursuant to division (1) of subparagraph a of paragraph 1 of subsection A of Section 2-11-401.2 of this title and subparagraph b of paragraph 1 of subsection A of Section 2-11-401.2 of this title; provided, in no event shall the amount allocated annually exceed the 3-year average of the total fiscal year amounts allocated in fiscal years 2015, 2016 and 2017 and any amount in excess of the 3-year average shall be placed to the credit of the General Revenue Fund. After this allocation is deducted, the balance of the monies shall be allocated as follows:

1. Two and one-fourth percent (2.25%), not to exceed Twenty Thousand Dollars ($20,000.00) per month, to the Oklahoma Tax Commission and five and three-fourths percent (5.75%), not to exceed Fifty Thousand Dollars ($50,000.00) per month, to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Used Tire Recycling Act; provided, in no event shall either of the amounts allocated annually pursuant to this paragraph exceed the 3-year average of the total fiscal year amounts allocated in fiscal years 2015, 2016 and 2017 and any amount in excess of the 3-year average shall be placed to the credit of the Used Tire Recycling Indemnity Fund; and

2. An amount not to exceed Fifty Thousand Dollars ($50,000.00) per audit to the State Auditor and Inspector for the purpose of conducting audits of the Oklahoma Used Tire Recycling Program pursuant to Section 2-11-401.6 of this title.

C. After the allocations under subsection B of this section are made, the balance of monies in the Fund shall be available for compensation pursuant to the provisions of the Oklahoma Used Tire Recycling Act as follows:

1. Compensation to used tire facilities for used tire processing, at the rate of Fifty-four Dollars ($54.00) per ton of processed tire material. For compensation the following conditions shall apply:

   a. facilities that process used tires by altering the form of the used tires but do not produce tire-derived product shall not receive compensation until the facility documents the sale and movement of the processed used tire material off-site to a third party,

   b. facilities shall report and certify used tire processing activity in terms of weight. The facility shall by sworn affidavit provide to the Department sufficient information to verify that the facility has processed used tires and sold processed used tires for actual recycling or reuse in accordance with the purposes of the Oklahoma Used Tire Recycling Act, and

   c. to be eligible for compensation, a facility shall not have accumulated more processed material than the amount for which the facility has provided financial

assurance under its solid waste permit or the amount accumulated from three (3) years of operation, whichever is less;

2. a. Compensation to used tire recycling facilities or TDF facilities at the rate of Fifty-three Dollars ($53.00) per ton of whole used tires for the collection and transportation of used tires from Oklahoma tire dealers, automotive dismantlers and parts recyclers, solid waste landfill sites, and dumps certified by the Department priority cleanup list, and delivering the tires to a used tire recycling facility or TDF facility. The collection and transportation of used tires shall be provided by the used tire recycling facility or TDF facility at no additional cost to the tire dealer or automotive dismantler and parts recycler or to the Fund. The used tire recycling facility or TDF facility shall collect from any location at which there are at least three hundred used tires.

   b. Compensation under this paragraph shall not be payable until the used tires have been actually processed according to the solid waste permit for the facility or actually used for energy or fuel recovery. A TDF facility that collects and transports whole used tires shall be eligible for compensation under this paragraph only for those whole used tires consumed by that facility.

   c. No tire dealer shall charge any customer any additional fee for the management, recycling, or disposal of any used tire upon which the used tire recycling fee has been remitted to the Tax Commission. For customers who choose not to leave a used tire upon which the used tire recycling fee has been remitted to the Tax Commission, the tire dealer shall issue a receipt which entitles the customer to deliver the used tire to the dealer at a later date.

   d. To be eligible for compensation pursuant to this paragraph, the used tire recycling facility or TDF facility shall:

      (1) demonstrate to the satisfaction of the Department that the facility is regularly engaged in the collection, transportation and delivery of used tires to a used tire recycling facility or to a TDF facility, on a statewide basis, and from each county of the state,

      (2) provide documentation to the Department, signed by a dealer at the time of collection, which certifies remittance of appropriate fees to the

Oklahoma Tax Commission as a participating tire dealer pursuant to the provisions of the Oklahoma Used Tire Recycling Act, and

(3) annually demonstrate that at least three to six percent (3-6%) of the tires were collected from tire dumps or landfills on the Department priority cleanup list or community-wide cleanup events approved by the Department. The Department is authorized to determine periodically the applicable percentage within the specified range set forth in this division based on the number of tires remaining in illegal dumps and available funding.

e. In lieu of proof of remitted tire recycling fees, the used tire recycling facility or TDF facility shall accept proof of purchase of a salvage vehicle registered in Oklahoma by an automotive dismantler and parts recycler, licensed pursuant to the Automotive Dismantlers and Parts Recycler Act, for the collection and transportation of up to five used tires per salvage vehicle purchased on or after January 1, 1996;

3. a. Compensation to a unit of local or county government that submits to the Department for approval a plan for the use of baled used tires in an engineering project. Compensation shall be at the rate of fifty cents ($0.50) per tire.

b. The plan shall be approved by the Department before construction of the project begins.

c. Any unit of local or county government baling used tires shall not accumulate more than fifty used tire bales prior to beginning construction of an approved project.

d. Used tires baled pursuant to this paragraph cannot be obtained from tire manufacturers, retailers, wholesalers, retreaders, or automotive dismantlers and parts recyclers.

e. Any unit of local or county government authorized to receive reimbursement for the use of baled used tires in an engineering project shall report and certify whole used tires by number. The governmental unit shall by sworn affidavit provide sufficient information to the Department to verify that the unit has utilized the tires in accordance with the purposes of the Oklahoma Used Tire Recycling Act; and

4. If the Fund contains insufficient funds in any month to satisfy the eligible reimbursements under this subsection, the Department shall determine the apportionment of payments to be made

among the qualified applicants under this subsection according to the percentage of used tires processed, collected and transported, or utilized.

D. 1. After the allocations under subsections B and C of this section are made, any remaining monies in the Fund shall be available for TDF facilities and used tire recycling facilities that produce tire-derived product for compensation at the rate of Twenty-nine Dollars ($29.00) per ton of processed or used tires utilized for energy or fuel recovery or the production of tire-derived product.

2. The production of tire-derived product shall be considered a compensable event separate from and in addition to any compensation for used tire processing under subsection C of this section.

3. TDF facilities and used tire recycling facilities authorized to receive reimbursement under this subsection shall report and certify tire material used by weight.

4. The facilities shall by sworn affidavit provide to the Department sufficient information to verify that the facility has used the tires in accordance with the purposes of the Oklahoma Used Tire Recycling Act.

5. If the Fund contains insufficient funds in any month to satisfy the eligible reimbursements under this subsection, the Department shall determine the apportionment of payments to be made among the qualified applicants according to the percentage of used tires intended for energy or fuel recovery or the production of tire-derived product.

E. 1. After the allocations under subsections B, C and D of this section are made, any remaining monies in the Fund shall be available for capital investment reimbursement to used tire facilities and TDF facilities for the purchase of equipment necessary to utilize used tires. Only equipment purchased on or after January 1, 1995, shall be eligible. The facilities are eligible for compensation at a rate of Twenty Dollars ($20.00) per ton of used tires used. Total reimbursement shall not exceed one hundred percent (100%) of the capital investment in eligible equipment. The facilities may apply for compensation monthly to the Department of Environmental Quality and shall supply any information required by the Department.

2. If the Fund contains insufficient funds in any month to satisfy the eligible reimbursements under this subsection, the Department shall determine the apportionment of payments to be made among the qualified applicants.

F. Subject to subsection G of this section, after the allocations under subsections B, C, D and E of this section are made, any remaining monies in the Fund, excluding monies collected pursuant to paragraphs 3 and 4 of subsection B of Section 2-11-401.2 of this title, shall be disbursed as follows:

1. Additional compensation to used tire recycling facilities or TDF facilities for the remediation of dumps certified by the Department and delivering the tires to a used tire recycling facility or a TDF facility. The Department shall determine additional compensation made to qualified applicants under this subsection based on cleanup feasibility of the dump. The Board shall promulgate rules establishing unit costs for compensation based on the remediation feasibility of the tire dumps. The Department may solicit bids for the remediation of tire dumps if no used tire recycling facilities or TDF facilities agree to remediate a priority tire dump authorized by the Department or if the Department determines the qualified applicant has not remediated the tires in the tire dump to meet reference conditions of comparable property in the immediate area; and

2. Reimbursement to the Department of Environmental Quality for necessary costs associated with remediation or other necessary actions at sites at which used tires or other wastes incidental to the used tires present a threat to human health or environment, or for projects to increase market demand for products made from Oklahoma used tires. The Solid Waste Management Advisory Council shall recommend and the Environmental Quality Board shall adopt rules governing the types of market development projects that may qualify for reimbursement. To the extent possible, the rules shall favor and the Department shall prioritize projects with the greatest potential to benefit schools, communities and local governments. Upon its receipt of documentation from the Department showing expenditures relating to the remediation of such sites or market development projects, the Tax Commission shall reimburse the Department for its documented expenditures.

G. Accrued funding for the purposes specified in subsection F of this section shall not exceed Five Hundred Thousand Dollars ($500,000.00). Once Five Hundred Thousand Dollars ($500,000.00) is reached, any additional funds shall be distributed as additional compensation under paragraph 1 of subsection C of this section.

H. 1. Used tire recycling facilities and TDF facilities that collect, transport and process tires used on implements of husbandry and agricultural equipment that are greater than thirty (30) inches in total diameter and less than or equal to forty-four (44) inches in total diameter shall be eligible for compensation at a rate of Eight Dollars ($8.00) per tire.

a. Collection, transportation and processing of tires under this paragraph shall be considered a compensable event separate from and in addition to any compensation under subsection C of this section.

b. Used tire recycling facilities and TDF facilities authorized to receive reimbursement under this

paragraph shall report and certify the number of tires collected and transported.

2. Used tire recycling facilities and TDF facilities that collect, transport and process tires used on implements of husbandry and agricultural equipment that are greater than forty-four (44) inches in total diameter and less than or equal to seventy-two (72) inches in total diameter and not more than thirty (30) inches wide, shall be eligible for compensation at the rate of Sixteen Dollars ($16.00) per tire.

a. Collection, transportation and processing of tires under this paragraph shall be considered a compensable event separate from and in addition to any compensation under subsection C of this section.

b. Used tire recycling facilities and TDF facilities authorized to receive reimbursement under this paragraph shall report and certify the number of tires collected and transported.

I. Used tire recycling facilities, TDF facilities, or persons, corporations or other legal entities authorized by the provisions of the Oklahoma Used Tire Recycling Act to receive reimbursement shall demonstrate that the facilities or legal entities have successfully complied with the requirements of the Oklahoma Used Tire Recycling Act through the filing of appropriate applications, reports, and other documentation that may be required by the Tax Commission and the Department.

Added by Laws 1989, c. 176, § 5, eff. July 1, 1989. Amended by Laws 1993, c. 145, § 195, eff. July 1, 1993. Renumbered from § 53005 of Title 68 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 36, eff. July 1, 1994; Laws 1995, c. 191, § 5, eff. Nov. 1, 1995; Laws 1996, c. 170, § 1, emerg. eff. May 14, 1996; Laws 1998, c. 114, § 2, emerg. eff. April 13, 1998; Laws 1998, c. 314, § 12, eff. July 1, 1998; Laws 2001, c. 388, § 2, eff. Nov. 1, 2001; Laws 2003, c. 472, § 1; Laws 2004, c. 185, § 2, emerg. eff. May 3, 2004; Laws 2005, c. 230, § 3, eff. July 1, 2005. Renumbered from § 2-11-405 of this title by Laws 2005, c. 230, § 11, eff. July 1, 2005. Amended by Laws 2007, c. 146, § 2, eff. July 1, 2007; Laws 2010, c. 194, § 2, eff. July 1, 2010; Laws 2011, c. 164, § 5, eff. July 1, 2011; Laws 2014, c. 287, § 1, eff. Nov. 1, 2014; Laws 2017, c. 286, § 3, eff. Nov. 1, 2017; Laws 2018, c. 211, § 1; Laws 2019, c. 336, § 3, eff. July 1, 2019.

§27A-2-11-401.5. Repealed by Laws 2017, c. 286, § 5, eff. Nov. 1, 2017.

§27A-2-11-401.6. Rules, reports and inspections - Duties of Tax Commission and Department of Environmental Quality.

A. 1. The Oklahoma Tax Commission shall promulgate rules to carry out the provisions of the Oklahoma Used Tire Recycling Act which pertain to the remittance of fees and to the payment of monies accruing to the Used Tire Recycling Indemnity Fund.

2. Upon receipt of any referral from the Department of Environmental Quality, as set out in paragraph 7 of subsection B of this section, it shall be the duty of the Tax Commission to promptly undertake proceedings in accordance with the recommendations of the Department. The Tax Commission shall timely report the results of the proceedings to the Department.

3. On a monthly basis, the Tax Commission shall provide to the Department a report of the fees remitted by each tire dealer and motor license agent pursuant to Section 2-11-401.2 of this title.

B. 1. The Department of Environmental Quality shall prescribe forms, containing documentation as required by the Oklahoma Used Tire Recycling Act, to be used by a used tire recycling facility, TDF facility, or person, corporation or other legal entity authorized to receive reimbursement.

2. On at least a monthly basis, the Department shall evaluate and process applications and shall report to the Tax Commission compliance and allocation information necessary for the Tax Commission to issue payment of monies from the fund.

3. The Department shall make periodic inspections of applicants for compensation to ensure compliance with the provisions of Section 2-11-401.4 of this title. The Department shall submit a summary of the results of those inspections in an annual report to the office of the State Auditor and Inspector.

4. The Environmental Quality Board shall promulgate rules for the permitting of used tire recycling facilities under the Oklahoma Solid Waste Management Act and for the certification of any entity to receive compensation under the provisions of the Oklahoma Used Tire Recycling Act.

5. The Department shall file a report with the Legislature and the Governor detailing the administration of the Oklahoma Used Tire Recycling Act and its effectiveness in bringing about the cleanup of existing used tire dumps and in preventing the development of new dumps. The first report shall be filed by no later than December 31, 1992. Subsequent reports shall be filed every three (3) years thereafter.

6. In developing the priority cleanup list, the Department shall prioritize those dumps where the landowner was a victim of illegal dumping. Any other tire dump may be placed on the priority cleanup list in cases where the administrative enforcement process has been exhausted, and in such case, the Department may provide for the cleanup of the dump pursuant to Section 2-11-401.7 of this title.

7. The Department shall make periodic inspections of tire dealers and motor license agents throughout this state to ensure

compliance with the provisions of Section 2-11-401.2 of this title. Upon a finding of any failure to properly remit the appropriate fee to the Tax Commission, the Department shall give written notice to the alleged violator and may commence administrative enforcement proceedings or civil proceedings in conformance with the provisions of Sections 2-3-502 and 2-3-504 of this title. If the Department determines that the fee has not been paid and there is no reasonable cause for the nonpayment, the Department may assess a penalty of double the amount that should have been remitted, to be added to the delinquent fee. If the Department determines any tire dealer or motor license agent has demonstrated a flagrant or repeated disregard of the provisions of Section 2-11-401.2 of this title, it shall refer such determination to the Tax Commission.

C. 1. By August 1, 1994, and every even year thereafter, the State Auditor and Inspector shall perform or shall contract with an auditor or auditing company to perform an independent audit, as defined in paragraph 4 of subsection B of Section 212 of Title 74 of the Oklahoma Statutes, of the books, records, files and other such documents of the Tax Commission and the Department pertaining to the administration of the Fund. The audit shall include, but shall not be limited to, a review of agency and claimant compliance with state statutes regarding the Fund, internal control procedures, adequacy of claim process expenditures from and debits of the Fund regarding reimbursements, administration, personnel, operating and other expenses charged by the Tax Commission and Department, and the duties performed in detail by agency personnel and Fund personnel for which payment is made from the Fund. In addition the audit shall include recommendations for improving claim processing, equipment needed for claim processing, internal control or structure for administering the Fund, and such other areas deemed necessary by the State Auditor and Inspector.

2. The cost of the audit shall be borne by the Fund, pursuant to the limits and provisions of Section 2-11-401.4 of this title.

3. Copies of the audit shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Chairs of the Appropriations Committee of both the Oklahoma House of Representatives and the Oklahoma State Senate.

Added by Laws 1989, c. 176, § 9, eff. July 1, 1989. Amended by Laws 1993, c. 145, § 199, eff. July 1, 1993. Renumbered from § 53009 of Title 68 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2005, c. 230, § 4, eff. July 1, 2005. Renumbered from § 2-11-409 of this title by Laws 2005, c. 230, § 13, eff. July 1, 2005. Amended by Laws 2007, c. 146, § 3, eff. July 1, 2007; Laws 2010, c. 413, § 10, eff. July 1, 2010; Laws 2011, c. 164, § 7, eff. July 1, 2011.

§27A-2-11-401.7. Unlawful storage, collection, disposal, transportation or removal of used tires - Penalties.

A. Except as otherwise provided by this section, it shall be unlawful for any person to:

1. Own or operate a site used for the storage, collection or disposal of more than fifty used tires except at a site or facility permitted or approved by the Department of Environmental Quality to accept used tires. The provisions of this paragraph shall not apply to tire manufacturers, retailers, wholesalers and retreaders who store a total of no more than two thousand five hundred used tires at their place of business or an ancillary off-premises storage site approved by the Department, and who are currently in compliance with applicable Oklahoma Tax Commission requirements;

2. Dispose of used tires at any site or facility other than a site or facility for which a permit has been issued, or which has been otherwise authorized by the Department;

3. Knowingly transport or knowingly allow used tires under the control or in the possession of the person to be transported to an unpermitted or unapproved site or facility;

4. Remove more than ten used tires or reusable tires from the possession of the dealer unless the dealer provides a manifest form, approved by the Department, which documents the removal and approved disposition or sale of the tires and which accompanies the tires in transport, or to transport used or reusable tires in violation of rules promulgated by the Department. Dealers, haulers, and used tire recycling facilities shall keep copies of manifests available for inspection for five (5) years; or

5. Sell any tire without collecting and remitting appropriate fees to the Tax Commission in accordance with Section 2-11-401.2 of this title.

B. The provisions of subsection A of this section shall not apply to the use of used tires for agricultural purposes as recognized by the Oklahoma Department of Agriculture, Food, and Forestry.

C. The provisions of paragraphs 2 and 3 of subsection A of this section shall not be construed to prevent an individual from disposing of used tires previously used by the individual as vehicle or equipment tires if the disposal is upon property owned by the individual and the disposal does not create a nuisance or pose a hazard to the public health or environment.

D. The provisions of paragraphs 2 and 3 of subsection A of this section shall not be construed to prevent a used tire recycling facility or tire-derived fuel or TDF facility from transporting and delivering used tires to an out-of-state used tire recycling facility or TDF facility.

E. 1. Except as otherwise ordered by the court, if the administrative enforcement process for a violation of an order issued

by the Department for remediation, corrective action or cleanup of an illegal tire dump has been exhausted, or criminal proceedings for paragraph 1 or 2 of subsection A of this section have resulted in a conviction, guilty plea or nolo contendere plea, the Department or a representative of the Department, upon notice to the landowner and an opportunity for the landowner to be heard on the issue, may enter the property to clean up the tire dump.

2. The Department may initiate a court action to recover the actual cost of cleanup, attorney fees, court costs, and all other monies expended in connection with the cleanup.

3. The Department shall deposit any excess funds recovered through such action into the Used Tire Recycling Indemnity Fund.

F. Notwithstanding the provisions of Section 2-3-504 of this title or any other remedy authorized by law, any peace officer of this state or of any political subdivision of this state may issue a citation to any person committing a violation of paragraph 1, 2, 3 or 4 of subsection A of this section. Such citation shall be in an amount not to exceed One Hundred Dollars ($100.00) for the first offense, not to exceed Two Hundred Dollars ($200.00) for the second offense and not to exceed Five Hundred Dollars ($500.00) for the third or subsequent offense. The penalties collected from the payment of such citations shall not include court costs and shall be divided as follows:

1. One-half (1/2) shall be paid into the reward fund created pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and

2. One-half (1/2) shall be paid into the Sheriff's Service Fee Account for that county to be used for environmental enforcement and cleanup programs.

Added by Laws 1989, c. 176, § 11, eff. July 1, 1989. Amended by Laws 1993, c. 145, § 159, eff. July 1, 1993. Renumbered from § 1-2324 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 35, eff. July 1, 1994; Laws 1995, c. 191, § 1, eff. Nov. 1, 1995. Renumbered from § 2-10-602 of this title by Laws 1995, c. 191, § 10, eff. Nov. 1, 1995. Amended by Laws 1998, c. 114, § 7, emerg. eff. April 13, 1998; Laws 2005, c. 230, § 5, eff. July 1, 2005. Renumbered from § 2-11-413 of this title by Laws 2005, c. 230, § 14, eff. July 1, 2005. Amended by Laws 2007, c. 146, § 4, eff. July 1, 2007; Laws 2011, c. 164, § 8, eff. July 1, 2011; Laws 2017, c. 286, § 4, eff. Nov. 1, 2017; Laws 2019, c. 336, § 4, eff. July 1, 2019.

§27A-2-11-401. Oklahoma Used Tire Recycling Act.

This part shall be known and may be cited as the "Oklahoma Used Tire Recycling Act".

Added by Laws 1989, c. 176, § 1, eff. July 1, 1989. Amended by Laws 1993, c. 145, § 191, eff. July 1, 1993. Renumbered from § 53001 of

Title 68 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2011, c. 164, § 1, eff. July 1, 2011.

§27A-2-11-402. Renumbered as § 2-11-401.1 of this title by Laws 2005, c. 230, § 8, eff. July 1, 2005.

§27A-2-11-403.1. Repealed by Laws 2001, c. 262, § 4, eff. Nov. 1, 2001 and by Laws 2001, c. 388, § 8, eff. Nov. 1, 2001.

§27A-2-11-403. Renumbered as § 2-11-401.2 of this title by Laws 2005, c. 230, § 9, eff. July 1, 2005.

§27A-2-11-404. Renumbered as § 2-11-401.3 of this title by Laws 2005, c. 230, § 10, eff. July 1, 2005.

§27A-2-11-405.1. Renumbered as § 2-11-401.5 of this title by Laws 2005, c. 230, § 12, eff. July 1, 2005.

§27A-2-11-405. Renumbered as § 2-11-401.4 of this title by Laws 2005, c. 230, § 11, eff. July 1, 2005.

§27A-2-11-406. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-407.1. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-407.2. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-407. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-408. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-409. Renumbered as § 2-11-401.6 of this title by Laws 2005, c. 230, § 13, eff. July 1, 2005.

§27A-2-11-410. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-411. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-412. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-413. Renumbered as § 2-11-401.7 of this title by Laws 2005, c. 230, § 14, eff. July 1, 2005.

§27A-2-11-414. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-415. Repealed by Laws 2005, c. 230, § 7, eff. July 1, 2005.

§27A-2-11-501. Short title.

This part shall be known and may be cited as the "Plastic Container Labeling Act".

Added by Laws 1993, c. 145, § 201, eff. July 1, 1993.

§27A-2-11-502. Plastic bottles or containers - Definitions.

For the purposes of the Plastic Container Labeling Act:

1. "Board" means the Environmental Quality Board;

2. "Department" means the Department of Environmental Quality;

3. "Label" means a molded, imprinted or raised symbol on or near the bottom of a plastic container or bottle;

4. "Person" means an individual, sole proprietor, partnership, association, corporation or other legal entity;

5. "Plastic" means any material made of polymeric organic compounds and additives that can be shaped by flow;

6. "Plastic bottle" means a plastic container intended for single use that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap or other closure and has a capacity of sixteen (16) fluid ounces or more, but less than five (5) gallons; and

7. "Rigid plastic container" means any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or form with a capacity of eight (8) ounces or more but less than five (5) gallons.

Added by Laws 1990, c. 121, § 1, eff. Sept. 1, 1990. Amended by Laws 1993, c. 145, § 202, eff. July 1, 1993. Renumbered from Title 63, § 3001.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-11-503. Plastic container labeling - Codes - Penalty.

A. No person shall distribute, receive for sale or offer for sale in this state any plastic bottle or rigid plastic container unless such container is labeled with a code identifying the appropriate resin type used to produce the structure of the container.

B. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows.

The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

1. = PETE (polyethylene terephthalate);
2. = HDPE (high density polyethylene);
3. = V (vinyl);
4. = LDPE (low density polyethylene);
5. = PP (polypropylene);
6. = PS (polystyrene);
7. = OTHER.

C. The Department shall maintain a list of the label codes provided in subsection B of this section and shall provide a copy of that list to any person upon request.

D. The Board may promulgate by rule a different plastic container labeling system than the one specified in this statute if there is any change in the nationally recognized standard codified herein.

E. Any person convicted of violating the provisions of the Plastic Container Labeling Act shall be guilty of a misdemeanor.

Added by Laws 1990, c. 121, § 2, eff. Sept. 1, 1990. Amended by Laws 1993, c. 145, § 203, eff. July 1, 1993. Renumbered from Title 63, § 3001.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-11-504. Impermissible restrictions on auxiliary containers.

A. As used in this section, "auxiliary container" means any bag, cup, package, container, bottle, device or other packaging that is:

1. Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material or similar material including, but not limited to, coated or laminated materials; and

2. Designed for, but not limited to, consuming, transporting, or protecting merchandise, food or beverages from, or at, a food service facility, manufacturing, distribution, further processing, or retail facility.

B. Except for subsection D of this section, no political subdivision shall restrict, tax, prohibit or regulate the use, disposition or sale of auxiliary containers.

C. Nothing in this section shall prohibit or limit any county or municipal ordinance or agreement regarding a recycling program or the disposal of solid waste.

D. Subsection B of this section shall not apply to the use of auxiliary containers on property owned by a county or municipality.

Added by Laws 2019, c. 136, § 1.

§27A-2-11-601. Short title.

This act shall be known and may be cited as the "Oklahoma Computer Equipment Recovery Act".

Added by Laws 2008, c. 164, § 1, eff. Jan. 1, 2009.

§27A-2-11-602. Purpose.

A. Computers and computer monitors have become indispensable to the strength and growth of the state's economy and the quality of life of its citizens. Equally important is the protection of our state's environment and natural resources which necessitates the implementation of a statewide system to properly dispose of or recycle these products. Many of these products can be refurbished and reused, and many contain valuable materials that can be recycled.

B. The purpose of the Oklahoma Computer Equipment Recovery Act is to establish a convenient and environmentally sound recovery program for the collection, recycling and reuse of computers and computer monitors that have reached the end of their useful lives. The program is based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government.

Added by Laws 2008, c. 164, § 2, eff. Jan. 1, 2009.

§27A-2-11-603. Definitions.

As used in the Oklahoma Computer Equipment Recovery Act:

1. "Brand" means symbols, words, or marks that identify a covered device, rather than any of its components;

2. "Consumer" means any occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use;

3. "Covered device" means a desktop or notebook computer, or computer monitor which is no longer of use to a consumer. Covered device does not include a television, any part of a motor vehicle, a personal digital assistant (PDA), a telephone, or a medical device that contains a video display device;

4. "Department" means the Department of Environmental Quality;

5. "Desktop computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data-processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter. A desktop computer has a main unit that is intended to be located in a permanent location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse;

6. "Manufacturer" means a person:

a. who manufactures or manufactured covered devices under a brand that the manufacturer owns or owned or is or

was licensed to use, other than a license to manufacture covered devices for delivery exclusively to or at the order of the licensor,

b. who sells or sold covered devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered devices for delivery exclusively to or at the order of the licensor,

c. who manufactures or manufactured covered devices without affixing a brand,

d. who manufactures or manufactured covered devices to which is or was affixed a brand that the manufacturer neither owns or owned nor is or was licensed to use, or

e. for whose account covered devices, manufactured outside the United States, are or were imported into the United States. If at the time such covered devices are or were imported into the United States another person has offered to collect such covered devices under a recovery plan pursuant to subsection C of Section 5 of this act, this subparagraph shall not apply.

To be subject to the provisions of this act, a manufacturer must produce, sell or import covered devices in an amount exceeding fifty units per year;

7. "Notebook computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data-processing device performing logical, arithmetic, or storage functions, but does not include a portable handheld calculator, or a portable digital assistant;

8. "Person" means any individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation or public authority;

9. "Recover" means to reuse or recycle;

10. "Recoverer" means a person or entity that reuses or recycles;

11. "Retailer" means a person that owns or operates a business that sells covered devices directly to a consumer, whether or not the seller has a physical presence in this state;

12. "Sell" or "sale" means any transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not include leases; and

13. "Television" means any telecommunication system device that can receive moving pictures and sound broadcast over a distance, and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

Added by Laws 2008, c. 164, § 3, eff. Jan. 1, 2009.

§27A-2-11-604. Collection and recovery services.

The collection and recovery provisions of this act shall apply to covered devices used and returned by consumers in this state. Manufacturers are encouraged to offer collection and recovery services to address the collection, recycling and reuse of computer and other electronic equipment not covered by the provisions of this act.

Added by Laws 2008, c. 164, § 4, eff. Jan. 1, 2009.

§27A-2-11-605. Manufacturer-Label required - Recovery plan.

A. A manufacturer shall not sell or offer for sale any covered device in this state unless the covered device is labeled with the manufacturer's brand. The label shall be permanently affixed and readily visible.

B. A manufacturer shall not sell or offer for sale a covered device in this state unless the manufacturer has adopted and is implementing a recovery plan, either alone or in cooperation with other manufacturers.

C. The recovery plan shall fully explain how the manufacturer will collect from a consumer and recover each covered device that is labeled with the manufacturer's brand, at no charge to the consumer. The manufacturer's recovery plan under this subsection may use existing collection and consolidation infrastructure for handling covered devices and may include electronic recyclers and repair shops, recyclers of other commodities, reuse organizations, nonprofit corporations, retailers, recyclers, or other suitable operations.

D. The recovery plan shall provide for covered device collection services that are reasonably convenient and available, and designed to meet the collection needs of consumers in this state. Nonexclusive examples of collection methods that alone or in combination meet the convenience requirements of this section include:

1. A mail-back system, at no cost to the consumer, whereby the consumer can return a covered device through the mail, including, but not limited to, a system in which the consumer can go online, print a prepaid shipping label, package the product, and schedule an at-home pickup for shipment back to the manufacturer;

2. The providing of staffed physical collection sites at which consumers may return covered devices, sited in locations that are geographically central to the consumers served; and

3. Collection events at which consumers may return covered devices, sited in locations that are geographically central to the people served and conducted with sufficient frequency to reasonably meet the needs of the consumers served.

E. If a manufacturer does not offer a mail-back system, it shall submit for approval by the Department of Environmental Quality a plan

that offers reasonably convenient collections as set forth in paragraph 2 or 3 of subsection D of this section. The Department shall review the plan for geographic distribution and frequency of collections. The Department shall notify the manufacturer within thirty (30) days of receipt of the plan whether or not the manufacturer's plan complies with the requirements of this section. If the Department does not approve the plan, the Department shall state the reasons the plan does not comply. The manufacturer shall respond to the Department within twenty (20) days of receipt of notification of the disapproval of the plan. If the Department and the manufacturer do not agree on whether the plan should be approved, the manufacturer may seek review in a declaratory ruling proceeding under the provisions of Section 307 of Title 75 of the Oklahoma Statutes.

F. The recovery plan shall also include a statement that the manufacturer will not dispose of covered devices in landfills or transfer covered devices to computer equipment recycling facilities that dispose of covered devices in landfills other than necessary incidental disposal in de minimis amounts.

G. Each manufacturer operating or publishing a web site for providing product information about a covered device shall include information about collection and recovery for consumers and provide such information to the Department. The manufacturer shall also include such information in the packaging or accompanying the sale of the covered device.

H. No later than March 1 of each year, each manufacturer shall submit a report to the Department that includes:

1. A summary of the recovery program implemented by the manufacturer during the previous calendar year, specifically describing the methods of recovery implemented by the manufacturer;

2. The weight of covered devices collected and recovered during the previous calendar year;

3. The location and dates of collection events during the previous calendar year, if any, and the location of collection sites, if any; and

4. Certification that the collection and recovery of covered devices complies with the provisions of Section 9 of this act.

I. Where more than one person is within the definition of manufacturer of a brand of a covered device, any of those persons may assume responsibility for and satisfy the obligations of a manufacturer with respect to covered devices bearing that brand. If no person assumes responsibility for and satisfies the obligations of a manufacturer with respect to covered devices bearing that brand, the Department may consider any of those persons within such definition to be the manufacturer of that brand.

J. This section does not apply to a manufacturer solely of covered devices that the Department determines are of such a

character that the covered devices would not be used by a consumer. If, however, such a manufacturer also manufactures one or more covered devices that are of such character as to be used by a consumer, then the provisions of this section nevertheless apply to the manufacturer for those covered devices.
Added by Laws 2008, c. 164, § 5, eff. Jan. 1, 2009.

§27A-2-11-606. Retailer-Sale requirements.

A retailer shall not sell or offer for sale a covered device in this state unless the covered device is labeled in accordance with Section 5 of this act and the manufacturer of the covered device is included on the state list of manufacturers with recovery plans.
Added by Laws 2008, c. 164, § 6, eff. Jan. 1, 2009.

§27A-2-11-607. Consumer education-List of registered manufacturers - Annual report - Collection events - Remedies - Rules.

A. The Department of Environmental Quality shall assist in educating consumers about collection and recovery of covered devices. This shall include hosting, or designating another person to host, a web site for consumers about the collection and recovery of covered devices. The web site shall provide information about and links to manufacturers' collection and recovery information, including their recovery plans, and information about and links to information for covered devices, including information about collection events, collection sites, and community recycling programs. Inclusion on such web site is not a determination by the state that the manufacturer's recovery plan or practices are in compliance with this act or other laws.

B. The Department shall maintain and make available:

1. A list of registered manufacturers who have adopted and implemented a recovery plan, as required by this act; and

2. A separate list of manufacturers whose registered recovery plan permits consumers to return for collection and recovery other manufacturers' brands of covered devices, including orphan devices. Manufacturers shall be included on this list of beyond-brand collection plans if such plan:

a. provides recycling grants or collection events for covered devices other than that manufacturer's covered devices,

b. requires a consumer who purchases a new covered electronic device from the manufacturer to return another manufacturer's branded covered device, in which case the manufacturer may require the consumer to pay for transportation or shipping, or

c. provides for use of other collection or recovery methods that are approved by the Department.

C. The Department shall file each recovery plan and annual report submitted by a manufacturer. The Department shall make recovery plans and annual reports available to the public pursuant to the Oklahoma Open Records Act.

D. The Department shall produce a schedule of collection events, based on the manufacturers' submitted recovery plans.

E. The Department shall by July 1 of each year produce and submit to the Governor, the President Pro Tempore of the Senate and Speaker of the House of Representatives a summary of the recovery program annual reports filed by the manufacturers.

F. The Department may conduct audits and inspections to determine compliance with the provisions of this act and take enforcement action against any manufacturer, retailer, or recoverer for failure to comply with any provisions of this act.

G. In addition to any other remedies provided by law, the Department may assess a penalty of up to One Thousand Dollars ($1,000.00) for the first violation, and up to Five Thousand Dollars ($5,000.00) for the second and each subsequent violation, against any manufacturer who fails to label its covered devices or to adopt and implement a recovery plan as required by this act.

H. The Environmental Quality Board may promulgate rules necessary to implement the provisions of this act, including the adoption of fees pursuant to the provisions of Section 2-3-402 of Title 27A of the Oklahoma Statutes as necessary to cover the costs of administering the program. The Board may adopt by reference standards developed by the Institute of Scrap Recycling Industries, Inc., or other recognized practices, procedures or standards.

Added by Laws 2008, c. 164, § 7, eff. Jan. 1, 2009.

§27A-2-11-608. Liability for data on recovered devices.

A. Consumers remain responsible for any data or other information that may be on a covered device that is collected or recovered.

B. Manufacturers and retailers shall not be liable for data or other information that a consumer placed on a covered device that is collected or recovered.

Added by Laws 2008, c. 164, § 8, eff. Jan. 1, 2009.

§27A-2-11-609. Compliance with laws.

All covered devices collected pursuant to the provisions of this act shall be recovered in a manner that is in compliance with all applicable federal, state, and local laws.

Added by Laws 2008, c. 164, § 9, eff. Jan. 1, 2009.

§27A-2-11-610. State agency purchases or leases - Rules - Financial or proprietary information.

A. No state agency shall contract for the purchase of covered electronic devices manufactured by any manufacturer that is not on the Department of Environmental Quality's list of registered manufacturers or that has been otherwise determined noncompliant with the provisions of this act.

B. Any person who submits a bid for a contract with a state agency for the purchase or lease of covered devices must show that the manufacturer of the brand of covered device is in compliance with the Oklahoma Computer Equipment Recovery Act.

C. A state agency that purchases or leases covered devices shall require each prospective bidder to certify compliance with this act. Failure to provide such certification shall render the prospective bidder ineligible to bid on the procurement of covered devices.

D. In the case of contracts for the purchase of covered electronic devices through a competitive process, in the event that the bidder having the lowest price or best value offer will supply covered electronic devices manufactured by a manufacturer that is not included on the Department's list of manufacturers with beyond-brand collection plans under subsection B of Section 2-11-607 of this title and one or more other bidders will supply covered electronic devices manufactured by a manufacturer that is included on that list, the contracting entity shall award such contract to the lowest price or best value bidder that will supply covered electronic devices manufactured by a manufacturer that is included on that list.

E. The Office of Management and Enterprise Services shall promulgate rules to implement the provisions of this section.

F. Financial or proprietary information submitted to the Department under this act is exempt from public disclosure, in accordance with state law.

Added by Laws 2008, c. 164, § 10, eff. Jan. 1, 2009. Amended by Laws 2012, c. 304, § 106.

§27A-2-11-611. Liability under other laws.

Nothing in this act is intended to exempt any person, firm or corporate entity from liability otherwise arising under applicable law.

Added by Laws 2008, c. 164, § 11, eff. Jan. 1, 2009.

§27A-2-12-101. Short title.

Sections 1 through 11 of this act shall be known and may be cited as the "Oklahoma Lead-based Paint Management Act".

Added by Laws 1994, c. 321, § 1, eff. July 1, 1994.

§27A-2-12-102. Definitions.

For the purposes of the Oklahoma Lead-based Paint Management Act:

1. "Abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards

established by the Board. The term abatement includes but is not limited to:

a. the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil, and

b. all preparation, cleanup, disposal and postabatement clearance testing activities associated with such measures;

2. "Board" means the Environmental Quality Board;

3. "Certified lead-based paint contractor" means any individual who is certified by the Department as a lead-based paint reduction contractor, inspector or hazard evaluator or a combination thereof;

4. "Certified lead-based paint specialist" means a lead-based paint specialist certified by the Department;

5. "Child-occupied facility" means a building or portion of a building constructed prior to 1978, which is visited by a child six (6) years of age or younger for at least three (3) hours in one day on two (2) or more days in the same week, when the combined visiting time for that child totals six (6) hours or more in one week and at least sixty (60) hours in one year. The designated weekly period for this calculation begins on Sunday and ends on Saturday. The term "child-occupied facility" may include, but is not limited to, day-care centers, preschools and kindergarten classrooms;

6. "Deleading" means activities conducted by a lead-based paint contractor or specialist who offers to eliminate lead-based paint or lead-based paint hazards or to plan such activities;

7. "Department" means the Department of Environmental Quality;

8. "Executive Director" means the Executive Director of the Department of Environmental Quality;

9. "Federally assisted housing" means residential dwellings receiving project-based assistance pursuant to programs including, but not limited to:

a. Section 221(d)(3) or 236 of the National Housing Act,

b. Section 1 of the Housing and Urban Development Act of 1965,

c. Section 8 of the United States Housing Act of 1937, or

d. Sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949;

10. "Federally owned housing" means residential dwellings owned or managed by the federal agency, or for which a federal agency is a trustee or conservator. The term federal agency includes the federal Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the federal Department of Veterans Affairs,

the Department of the Interior, the federal Department of Transportation, and any other federal agency;

11. "Hazard evaluation" means an on-site investigation process established by the rules of the Board to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings. For purposes of this act, the term hazard evaluation shall be synonymous with the term risk assessment as used in Title X of the Residential Lead-based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et seq., Public Law No. 102-550;

12. "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs;

13. "Lead-based paint" means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or:

a. in the case of paint or other surface coatings in target housing, such lower level as may be established by the United States Secretary of Housing and Urban Development, as defined in Section 302(c) of the federal Lead-based Paint Poisoning Prevention Act, or

b. in the case of any other paint or surface coatings, such other level as may be established by the Board;

14. "Lead-based paint activities" means:

a. in the case of public property and private property, hazard evaluation assessment, inspection, deleading and abatement of lead sources or lead-based paint, lead-based paint hazards, lead-contaminated dust, or lead-contaminated soil, and demolition, and

b. in the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure, identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges and demolition;

15. "Lead-based paint contractor" means any individual or firm who performs or supervises or offers to perform or to supervise lead-based paint inspections, hazard evaluations, project designs, abatements or reduction;

16. "Lead-based paint reduction contractor" means any individual who performs or supervises lead-based paint services, including but not limited to hazard reduction, abatement, or deleading;

17. "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or lead-contaminated paint that is deteriorated or present in

accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the Board;

18. "Lead-based paint hazard evaluator" means an individual certified by the Department to perform lead-based paint hazard evaluations;

19. "Lead-based paint inspector" means an individual certified by the Department to perform a surface-by-surface investigation to determine the presence of lead-based paint and provide a report explaining the results of the investigation;

20. "Lead-based paint services" means any lead-based paint hazard evaluation, detection, reduction, renovation, remodeling, abatement, on-site testing, or any other lead-based paint activities which may create a lead-based paint hazard;

21. "Lead-based paint specialist" means any worker or other person directly and substantially involved in the performance of lead-based paint services and who has satisfactorily completed the required level of lead-based paint training from accredited training providers and programs, or in the case of out-of-state providers and programs, from Department-recognized and approved providers and programs. For the purposes of this article, the term lead-based paint specialist shall be synonymous with the term abatement worker or worker as used in Title X of the Residential Lead-based Paint Hazards Reduction Act of 1992, 42 U.S.C., Section 4851 et seq., Public Law No. 102-550;

22. "Lead-contaminated dust" means surface dust in residential or commercial dwellings that contains an area or mass concentration of lead in excess of levels determined by the Board to pose a threat of adverse human health effects;

23. "Lead-contaminated soil" means bare soil on residential or commercial real property that contains lead at or in excess of the levels determined to be hazardous to human health by the Board;

24. "Lead-hazard detection" means the identification of lead-based paint hazards;

25. "Reduction" or "lead-hazard reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement;

26. "Residential dwelling" means:

a. a single-family dwelling, including attached structures such as porches and stoops, or

b. a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons; and

27. "Target housing" means any housing constructed prior to 1978. In the case of jurisdictions which banned the sale or use of

lead-based paint prior to 1978, the United States Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.

Added by Laws 1994, c. 321, § 2, eff. July 1, 1994. Amended by Laws 1997, c. 114, § 1, emerg. eff. April 15, 1997.

§27A-2-12-201. Promulgation of rules by Environmental Quality Board - Consistency with federal law.

A. The Environmental Quality Board shall promulgate rules governing lead-based paint services which will:

1. Enable any lead-based paint contractor meeting the standards and criteria established by the Board, including satisfactory completion of required training in applicable courses offered by Department of Environmental Quality-accredited training providers and programs or an out-of-state provider or program recognized and approved by the Department, to become certified by the Department;

2. Require that any lead-based paint reduction contractor, inspector or hazard evaluator or specialist performing or offering to perform lead-based paint services on target housing or child-occupied facilities is certified prior to the performance of any such service;

3. Ensure that persons holding themselves out to be certified lead-based paint contractors or certified lead-based paint specialists have been certified as such by the Department; and

4. Provide for accreditation of approved training providers and programs located in this state.

B. Such rules shall:

1. Contain standards for performing lead-based paint activities taking into account reliability, effectiveness and safety;

2. Contain specific requirements for the accreditation of lead-based paint training programs and the instructors of such programs including, but not limited to:

a. minimum requirements for the accreditation of training providers,

b. minimum training curriculum requirements,

c. minimum training hour requirements,

d. minimum hands-on training requirements,

e. minimum trainee competency and proficiency requirements, and

f. minimum requirements for training program quality control;

3. Set training requirements for certified lead-based paint contractors and lead-based paint specialists and require that such training be provided by Department-accredited training providers and programs, or by out-of-state providers and programs recognized and approved by the Department. Such requirements shall allow for differences in the training needs of such contractors and specialists in lead-based paint services in target housing and child-occupied

facilities and in applicable state and municipal regulatory waste disposal requirements;

4. Provide that training requirements applicable to lead-based paint specialists establish minimum acceptable levels of training and periodic refresher training for each class of specialists;

5. Require that all lead-based paint training programs shall include, but not be limited to, a hands-on component and instruction on the health effects of lead exposure, the use of personal protective equipment, workplace hazards and safety problems, reduction and abatement methods and work practices, decontamination procedures, cleanup and waste disposal procedures, lead monitoring and on-site testing methods, and legal rights and responsibilities;

6. Set forth requirements for certification of lead-based paint contractors and specialists. Such requirements shall include, but are not limited to, applications therefor, bonding and education, training, examination and experience prerequisites;

7. Establish a system of training for all personnel who render review and inspection services for the Department in order to assure uniform statewide application of rules; and

8. Identify guidelines, based on federal regulations, for the determination of adverse human health effects posed by lead-based paint hazards.

C. Rules promulgated by the Board shall not apply to railroad bridges owned or leased by a railroad.

D. 1. The Board shall establish a system of nonrefundable fees to be charged for certification of lead-based paint contractors and specialists, accreditation of approved Oklahoma training programs and training providers, recognition and approval of out-of-state accredited training programs and training providers, any training or other program related to lead-based paint services conducted by the Department, and for services rendered by the Department in connection with such certification, accreditation, recognition and approval, and programs.

2. The Board shall base its schedule of fees upon the costs of services provided.

3. The state and political subdivisions thereof, shall be exempt from any certification fees required by rules of the Board if an affidavit is filed with the Department stating that the applicant is employed by the state or political subdivision thereof and shall only be performing lead-based paint services for the state or political subdivision employer. Any such employee who performs or offers to perform lead-based paint services as a certified lead-based paint contractor or specialist for persons other than his or her state or political subdivision employer shall be subject to certification fees upon such performance or offer.

E. Any rules promulgated by the Board shall be consistent with federal laws and regulations relating to lead-based paint services

specified by the Residential Lead-based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et seq., Public Law No. 102-550, to ensure consistency in regulatory action. Such rules shall not be more restrictive than corresponding federal regulations unless such stringency is specifically authorized by this article. The Board shall have the right to revise its rules and procedures from time to time to assure that lead-based paint projects continue to be eligible for federal funding by meeting the state certification program standards and other requirements that may from time to time be promulgated by federal agencies that have jurisdiction over lead-based paint hazards.

Added by Laws 1994, c. 321, § 3, eff. July 1, 1994. Amended by Laws 1997, c. 114, § 2, emerg. eff. April 15, 1997.

§27A-2-12-202. Department of Environmental Quality - Official state agency designation - Power and duty.

A. The Department of Environmental Quality is hereby designated as the official agency of this state for purposes of cooperating with, and implementing the state lead-based paint reduction and regulation program under the jurisdiction of, the federal Environmental Protection Agency.

B. In addition to authority under the Oklahoma Environmental Quality Code, the Department shall have the power and duty to:

1. Issue, renew, reactivate and renew, reinstate, modify, suspend, revoke, or refuse to issue, renew, reactivate and renew, reinstate, or modify certification pursuant to the provisions of the Oklahoma Lead-based Paint Management Act;

2. Cooperate with others in facilitating the development of educational and training programs, examinations, and community outreach materials, and cooperate with those who conduct educational and training programs or prepare materials related to lead-based paint activities and associated subjects;

3. Conduct, and determine the criteria for the successful completion of, certification examinations and provide for the confidentiality of examinations and individual scores;

4. Issue, renew, reinstate, modify, suspend, revoke, or refuse to issue, renew, reinstate, or modify accreditation to lead-based paint training programs and the providers of such programs, and recognize and approve out-of-state training programs and providers;

5. Enforce the provisions of this article, rules promulgated thereunder, and orders, accreditations and certifications issued pursuant thereto;

6. Collect and analyze samples to determine the presence and condition of lead-based paint as necessary for the enforcement of this article;

7. Convene and coordinate an interagency task force which shall meet on a regular basis to exchange information regarding lead poisoning prevention and lead-hazard control matters;

8. Establish liaison with other states having a state certification program to assure consistency of program requirements, in order to facilitate reciprocity of certification and accreditation among the several states;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers pursuant to the Oklahoma Lead-based Paint Management Act including, but not limited to, contracts with the United States, other states, agencies and political subdivisions of this state;

10. Accept grants from the United States government, its agencies and instrumentalities, and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary and desirable; and

11. Otherwise exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Oklahoma Lead-based Paint Management Act and the rules of the Board promulgated thereto.

Added by Laws 1994, c. 321, § 4, eff. July 1, 1994.

§27A-2-12-301. Certification - Waiver - Renewal.

A. An applicant who has paid the required nonrefundable certification fees and has complied with the requirements of this article and rules promulgated thereunder, including, but not limited to, education, training, experience and examination prerequisites, shall be certified by the Department of Environmental Quality.

B. The Department may waive some or all of its testing, training, experience, or examination requirements for certification if the applicant presents a currently valid certificate or license issued to him by another state or certifying agency or institution or national nonprofit organization for lead-based paint services, if the Department finds that the certification requirements of the issuer in effect at the time of issuance are equivalent to its certification requirements; provided, however, that no certification shall be issued under this subsection unless the holder of the certificate would be issued a similar certificate or license by such other state, certifying agency, or organization under substantially the same conditions.

C. Any certificate issued under this section shall be renewed by the April 1 occurring not more than one year after the date of the most recent date of issuance, renewal, reactivation or reinstatement. Thereafter, the certificate may be renewed for a one-year period beginning April 1 and ending March 31 of the following year.

D. A certificate shall be renewed upon approval of the Department. Application for such renewal shall be submitted to the Department on forms prescribed by the Department, shall be accompanied by a nonrefundable renewal fee as set by the Board and shall include documentation that the applicant has met the annual renewal requirements of the Department. The Department shall allow a thirty-day grace period for such renewals without payment of late fees, provided the applicant submits the required renewal fee and qualifies for such renewal.

E. A certificate which is not so renewed shall expire on April 30 after the thirty-day grace period, and shall have no further validity unless the Department, upon receipt of an application from the holder of the expired certificate within one (1) year after the certificate's March 31 renewal date, reactivates and renews such certificate. Such reactivation and renewal application shall include the submission of data on forms prescribed by the Department, nonrefundable renewal and reactivation late fees as set by the Environmental Quality Board, and documentation that the applicant has met the Department's renewal requirements. A reactivated certificate may be renewed annually thereafter as provided in this section.

F. The holder of an expired and unreactivated certificate shall not be issued any new certificate unless the certificate holder applies and qualifies therefor pursuant to this article and rules promulgated thereunder.

G. Any certificate issued pursuant to the Oklahoma Lead-based Paint Management Act may contain such conditions or restrictions as the Department shall deem necessary or appropriate.

H. A certificate shall not be issued pursuant to the provisions of this article to any entity other than an individual or firm.

Added by Laws 1994, c. 321, § 5, eff. July 1, 1994. Amended by Laws 1997, c. 114, § 3, emerg. eff. April 15, 1997.

§27A-2-12-302. Prohibition on performing services or advertising as certified contractor, specialist unless properly certified - Official certification list - Health and safety information.

A. No lead-based paint contractor shall perform or offer to perform lead-based paint services upon any target housing or child-occupied facilities unless such person is certified by the Department prior to performing or offering to perform such services.

B. No individual shall advertise or otherwise present himself as a certified lead-based paint contractor or specialist, for purposes of offering to perform or performing lead-based paint services unless certified by the Department pursuant to this article and rules promulgated thereunder.

C. Certified lead-based paint contractors and specialists shall use only environmental sampling laboratories that are part of an effective voluntary accreditation program as determined by the

federal Environmental Protection Agency or which are federally certified to analyze for lead in paint films, soil and dust.

D. The Department shall maintain an official listing of the names and addresses of all certified lead-based paint contractors and specialists and make such list available to any person requesting it upon payment of a copying fee established by the Environmental Quality Board.

E. The State Department of Labor shall provide health and safety information on lead abatement to all lead-based paint contractors and specialists certified pursuant to the terms of this article.

Added by Laws 1994, c. 321, § 6, eff. July 1, 1994. Amended by Laws 1997, c. 114, § 4, emerg. eff. April 15, 1997.

§27A-2-12-303. Prohibition on advertising as accredited program or provider unless properly accredited - Out-of-state accreditation.

A. No person, agency, institution or organization shall advertise or otherwise present itself as an accredited lead-based paint training program unless accredited by the Department pursuant to this article and rules promulgated thereunder.

B. No individual shall advertise or otherwise present himself as an accredited lead-based paint training provider or instructor unless accredited for such purposes by the Department pursuant to this article and rules promulgated thereunder.

C. Any accreditation issued pursuant to this article may contain conditions as the Department shall deem necessary or appropriate.

D. Any program or training provider accreditation issued pursuant to this article and rules promulgated thereunder shall be renewable annually for the period September 1 through August 31 pursuant to rules promulgated by the Board.

E. 1. Upon application by an out-of-state training program or training provider, the Department may recognize and approve in part or in whole the current accreditation of the applicant if the Department finds that the state's accreditation requirements in effect at the time of accreditation are equivalent to the requirements of the Department; provided, however, that no such accreditation will be recognized and approved by the Department unless the applicant program or provider would be accredited by such other state under substantially the same conditions.

2. Recognition and approval of an out-of-state training program or training provider may be granted with such conditions as the Department shall deem necessary or appropriate.

Added by Laws 1994, c. 321, § 7, eff. July 1, 1994.

§27A-2-12-304. Issuance, renewal of certificate, accreditation - Refusal, revocation, suspension - Reapplication.

A. 1. The Department shall have power to refuse to issue or renew, in part or in whole, a certificate or accreditation or, after

notice and opportunity for an individual proceeding as provided in Article II of the Administrative Procedures Act and the Oklahoma Environmental Quality Code, and rules promulgated thereunder, revoke or suspend in part or in whole any certificate or accreditation for good cause including, but not limited to:

a. gross inefficiency or incompetence,

b. violation of any provisions of this article, rules promulgated thereunder or the terms or conditions of any certification, accreditation or order issued pursuant thereto, or

c. fraud or misrepresentation in obtaining a certificate or accreditation.

2. After the expiration of one (1) year after the Department's denial of an application for a new or renewed certification or accreditation, or for a reactivated and renewed certificate, or the Department's revocation of a certification or accreditation, the holder of such certificate or accreditation may make application to the Department for new certification or accreditation. After the expiration of one (1) year after the Department's suspension of a certification or accreditation, the holder may make application to the Department for reinstatement or new certification or accreditation. Such new issuance or reinstatement shall rest in the sound discretion of the Department.

B. The Department may withdraw in part or in whole its recognition and approval of any out-of-state training program or training provider at any time the program or provider does not qualify therefor pursuant to this article and rules of the Board.

Added by Laws 1994, c. 321, § 8, eff. July 1, 1994.

§27A-2-12-401. Education and public information program - Publication of informational pamphlet.

A. Consistent with the terms of federal funding agreements and the receipt of such funds by the Department for such information programs, the Executive Director shall institute an education and public information program, in order to inform the general public, and particularly parents of children residing in areas of significant exposure to sources of lead-based paint hazards, teachers, social workers and other human services personnel; owners of residential property, particularly property constructed previous to 1945; and health services personnel at major hospitals, of the dangers, frequency, and sources of lead-based paint hazards, and the methods of preventing such hazards.

B. Consistent with the terms of federal funding agreements and the receipt of such funds by the Department for such an information program, the Department, after notice and opportunity for comment, shall publish, and from time to time revise, a lead-based paint hazard information pamphlet to be used in connection with the

Oklahoma Lead-based Paint Management Act and Section 1018 of the federal Residential Lead-based Paint Hazard Reduction Act of 1992. The pamphlet shall:

1. Contain information regarding the health risks associated with exposure to lead;

2. Provide information on the presence of lead-based paint hazards in federally assisted, federally owned, and target housing;

3. Describe the risk of lead exposure for children under six (6) years of age, pregnant women, women of childbearing age, persons with respiratory disease or disabilities, persons involved in home renovation, and others residing in a dwelling with lead-based paint hazards;

4. Describe the risks of renovation in a dwelling with lead-based paint hazards;

5. Provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards;

6. Advise persons how to obtain a list of certified contractors;

7. State that a hazard evaluation or on-site inspection for lead-based paint is recommended prior to the purchase, lease, or renovation of target housing;

8. State that certain state and local laws may impose additional requirements related to lead-based paint in housing and provide a listing of federal, state, and local agencies in each state, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and

9. Provide such other information about environmental hazards associated with residential real property as the Department deems appropriate.

Added by Laws 1994, c. 321, § 9, eff. July 1, 1994.

§27A-2-12-402. Renovation, demolition and remodeling - Guidelines.

In order to reduce the risk of exposure to lead in connection with renovation, demolition and remodeling of target housing and child-occupied facilities, the Environmental Quality Board shall, consistent with the terms of federal funding agreements and the receipt of such funds by the Department of Environmental Quality for such development and dissemination, promulgate guidelines for the conduct of such renovation, demolition and remodeling activities which may create a risk of exposure to dangerous levels of lead. The Department shall disseminate such guidelines to persons engaged in such renovation, demolition and remodeling through hardware and paint stores, employee organizations, trade groups, state and local agencies, and through other appropriate means.

Added by Laws 1994, c. 321, § 10, eff. July 1, 1994. Amended by Laws 1997, c. 114, § 5, emerg. eff. April 15, 1997.

§27A-2-12-501. Federal employment contingent upon federal funds.

Any full-time-equivalent employees employed by the Department pursuant to this article to be compensated with federal funds shall have their employment contingent upon the procurement of federal funds and shall be terminated when federal support of those positions is discontinued. All activities performed by these employees shall be discontinued upon their termination due to the lack of such federal funds.

Added by Laws 1994, c. 321, § 11, eff. July 1, 1994.

§27A-2-14-101. Short title.

Sections 1 through 12 of this act shall be known and may be cited as the "Oklahoma Uniform Environmental Permitting Act".

Added by Laws 1994, c. 373, § 1, eff. July 1, 1994.

§27A-2-14-102. Intent.

It is the intent of the Oklahoma Legislature that the Oklahoma Uniform Environmental Permitting Act provide for uniform permitting provisions regarding notices and public participation opportunities that apply consistently and uniformly to applications for permits and other permit authorizations issued by the Department of Environmental Quality.

Added by Laws 1994, c. 373, § 2, eff. July 1, 1994. Amended by Laws 1995, c. 285, § 11, eff. July 1, 1995.

§27A-2-14-103. Definitions.

For the purposes of the Oklahoma Uniform Environmental Permitting Act:

1. "Application" means a document or set of documents, filed with the Department of Environmental Quality for the purpose of receiving a permit or the modification, amendment or renewal thereof from the Department. "Application" includes any subsequent additions, revisions or modifications submitted to the Department which supplement, correct or amend a pending application;

2. "Council" means any advisory council authorized by the Legislature to recommend rules to the Environmental Quality Board;

3. "Draft permit" means a draft document prepared by the Department after it has found a Tier II or III application for a permit to be administratively and technically complete, pursuant to the requirements of the Oklahoma Environmental Quality Code and rules promulgated thereunder, and that such application may warrant the issuance, modification or renewal of the permit;

4. "Permit" means a permission required by law and issued by the Department, the application for which has been classified as Tier I,

II or III by the Board. The term "permit" includes but is not limited to:

a. specific types of permits and other Department authorizations including certifications, registrations, licenses and plan approvals, and

b. an approved variance from a promulgated rule; however, for existing facilities the Department may require additional notice and public participation opportunities for variances posing the potential for increased risk;

5. "Process meeting" means a meeting open to the public which is held by the Department to explain the permitting process and the public participation opportunities applicable to a specific Tier III application;

6. "Proposed permit" means a document, based on a draft permit and prepared by the Department after consideration of comments received on the draft permit, which indicates the Department's decision to issue a final permit pending the outcome of an administrative permit hearing, if any;

7. "Qualified interest group" means any organization with twenty-five or more members who are Oklahoma residents;

8. "Response to comments" means a document prepared by the Department after its review of timely comments received on a draft denial or draft permit pursuant to public comment opportunities which:

a. specifies any provisions of the draft permit that were changed in the proposed or final permit and the reasons for such changes, and

b. briefly describes and responds to all significant comments raised during the public comment period or formal public meeting about the draft denial or draft permit;

9. "Tier I" means a basic process of permitting which includes application, notice to the landowner and Department review. For the Tier I process a permit shall be issued or denied by a technical supervisor of the reviewing Division, a local representative of the Department, or the chief engineer of the Department provided such authority has been delegated thereto by the Executive Director;

10. "Tier II" means a secondary process of permitting which includes:

a. the Tier I process,

b. published notice of application filing,

c. preparation of draft permit or draft denial,

d. published notice of draft permit or draft denial and opportunity for a formal public meeting, and

e. public meeting, if any.

For the Tier II process, a permit shall be issued or denied by the Director of the reviewing Division or the chief engineer of the Department provided such authority has been delegated thereto by the Executive Director; and

11. "Tier III" means an expanded process of permitting which includes:

a. the Tier II process except the notice of filing shall also include an opportunity for a process meeting,
b. preparation of the Department's response to comments, and
c. denial of application, or
d. preparation of a proposed permit, published notice of availability of proposed permit and response to comments and of opportunity for an administrative permit hearing; and administrative permit hearing if any.

For the Tier III process a permit shall be issued or denied by the Executive Director.

Added by Laws 1994, c. 373, § 3, eff. July 1, 1994. Amended by Laws 1995, c. 285, § 12, eff. July 1, 1995; Laws 2015, c. 35, § 1, eff. Nov. 1, 2015.

§27A-2-14-104. Applicability.

A. The Oklahoma Uniform Environmental Permitting Act shall apply to applications filed with the Department on or after July 1, 1996.

B. Applications subject to the Oklahoma Uniform Environmental Permitting Act shall continue to be subject to additional or more comprehensive notice and public participation opportunities set forth in rules of the Board promulgated pursuant to federal requirements for individual state permitting programs.

Added by Laws 1994, c. 373, § 4, eff. July 1, 1994. Amended by Laws 1995, c. 285, § 13, eff. July 1, 1995.

§27A-2-14-201. Rules for implementation.

A. The Board shall have the authority to promulgate rules to implement the Oklahoma Uniform Environmental Permitting Act for each tier which will to the greatest extent possible:

1. Enable applicants to follow a consistent application process;
2. Ensure that uniform public participation opportunities are offered;
3. Provide for uniformity in notices required of applicants; and
4. Set forth procedural application requirements.

B. Such rules shall:

1. Designate applications as Tier I, II or III. In making such determinations, the Board and each recommending Council shall consider information and data offered on:

a. the significance of the potential impact of the type of activity on the environment,

b. the amount, volume and types of waste proposed to be accepted, stored, treated, disposed, discharged, emitted or land applied,

c. the degree of public concern traditionally connected with the type of activity,

d. the federal classification, if any, for such proposed activity, operation or type of site or facility, and

e. any other factors relevant to such determinations;

2. For purposes of this section, the Board and each recommending Council shall ensure that such designations are consistent with any analogous classifications set forth in applicable federal programs.

C. Such rules shall for each tier:

1. Set forth uniform procedures for filing an application;

2. Contain specific uniform requirements for each type of notice required by the Oklahoma Uniform Environmental Permitting Act; provided, however, that if notice and public participation opportunities are required, such requirements shall not exceed those set forth for the tier unless required otherwise by applicable federal regulations promulgated as rules of the Board or a holding of the Oklahoma Supreme Court;

3. Contain other provisions needed to implement and administer this article; and

4. Designate positions to which the Executive Director may delegate, in writing, the power and duty to issue, renew, amend, modify and deny permits.

D. Such rules shall be adopted by the Board by March 1, 1996.

Added by Laws 1994, c. 373, § 5, eff. July 1, 1994. Amended by Laws 1995, c. 285, § 14, eff. July 1, 1995.

§27A-2-14-202. Department of Environmental Quality - Powers and duties.

A. The Department is hereby authorized to implement and enforce the provisions of the Oklahoma Uniform Environmental Permitting Act and rules promulgated thereunder.

B. In addition to authority under the Oklahoma Environmental Quality Code, the Department shall have the power and duty to:

1. Evaluate applications for administrative and technical completeness pursuant to requirements of the Code and rules promulgated thereunder and, when necessary to determine such completeness, request changes, revisions, corrections, or supplemental submissions;

2. Evaluate notices related to applications for sufficiency of content and compliance and require that omissions or inaccuracies be cured;

3. Consider timely and relevant comments received;

4. Prepare responses to comments, draft and final denials, and draft, proposed and final permits;

5. Cooperate with federal agencies as is required for federal review or oversight of state permitting programs;

6. Consolidate processes related to multiple, pending applications filed by the same applicant for the same facility or site in accordance with rules of the Board; and

7. Otherwise exercise all incidental powers as necessary and proper to implement the provisions of the Oklahoma Uniform Environmental Permitting Act and rules promulgated thereunder.

Added by Laws 1994, c. 373, § 6, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 15, eff. July 1, 1996.

§27A-2-14-203. Repealed by Laws 1995, c. 285, § 26, eff. July 1, 1995.

§27A-2-14-301. Notice requirements.

A. Upon filing a Tier II or III application with the Department, the applicant shall publish notice of the filing as legal notice in one newspaper local to the proposed new site or existing facility. The publication shall identify locations where the application may be reviewed, including a location in the county where the proposed new site or existing facility is located.

B. For Tier III applications, the publication shall also include notice of a thirty-day opportunity to request, or give the date, time and place for, a process meeting on the permitting process. If the Department receives timely request and determines that a significant degree of public interest in the application exists, it shall schedule and hold such meeting. The applicant shall be entitled to attend the meeting and may make a brief presentation on the permit request. Any local community meeting to be held by the applicant on the proposed facility or activity for which a permit is sought may, with the agreement of the Department and the applicant, be combined with the process meeting authorized by this paragraph.

C. The provisions of this section shall not stay the Department's review of the application.

Added by Laws 1994, c. 373, § 8, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 16, eff. July 1, 1996.

§27A-2-14-302. Draft denial or draft permit - Notice requirements - Public review.

A. Upon conclusion of its technical review of a Tier II or III application within the permitting timeframes established by rules promulgated by the Board, the Department shall prepare a draft denial or draft permit.

1. Notice of a draft denial shall be given by the Department and notice of a draft permit shall be given by the applicant.

2. Notice of the draft denial or draft permit shall be published as legal notice in one newspaper local to the proposed new site or existing facility. The notice shall identify places where the draft denial or draft permit may be reviewed, including a location in the county where the proposed new site or existing facility is located, and shall provide for a set time period for public comment and for the opportunity to request a formal public meeting on the respective draft denial or draft permit. Such time period shall be set at thirty (30) days after the date the notice is published unless a longer time is required by federal regulations promulgated as rules by the Board. In lieu of the notice of opportunity to request a public meeting, notice of the date, time, and place of a public meeting may be given, if previously scheduled.

B. Upon the publication of notice of a draft permit, the applicant shall make the draft permit and the application, except for proprietary provisions otherwise protected by law, available for public review at a location in the county where the proposed new site or existing facility is located.

Added by Laws 1994, c. 373, § 9, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 17, eff. July 1, 1996.

§27A-2-14-303. Public meeting - Procedure.

The Department shall expeditiously schedule and hold a formal public meeting if the Department receives written timely request for such meeting, pursuant to the provisions of Section 2-14-302 of this title, and determines there is a significant degree of public interest in the draft denial or draft permit.

1. Notice of the meeting shall be given to the public at least thirty (30) days prior to the meeting date.

2. The public meeting shall be held at a location convenient to and near the proposed new site or existing facility not more than one hundred twenty (120) days after the date notice of the draft denial or draft permit was published.

3. At the meeting, any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements.

4. The public comment period shall automatically be extended to the close of the public meeting. Upon good cause shown, the presiding officer may extend the comment period further to a date certain by so stating at the meeting.

5. Such meeting shall not be a quasi-judicial proceeding.

6. The applicant or a representative of the applicant shall be present at the meeting to respond to questions.

Added by Laws 1994, c. 373, § 10, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 18, eff. July 1, 1996.

§27A-2-14-304. Issuance or denial of final permit - Administrative procedures.

A. For draft permits or draft denials for Tier II applications on which no comment or public meeting request was timely received and on which no public meeting was held, the final permit shall be issued or denied.

B. For draft permits or draft denials for Tier II applications on which comment or a public meeting request was timely received or on which a public meeting was held, the Department, after considering the comments, shall prepare a response to comments and issue the draft permit as is or as amended or make final denial.

The response to comments shall be prepared within ninety (90) days after the close of the public comment period unless extended by the Executive Director upon a determination that additional time is required due to circumstances outside the control of the Department. Such circumstances may include, but shall not be limited to, an act of God, a substantial and unexpected increase in the number of applications filed, additional review duties imposed on the Department from an outside source, or outside review by a federal agency.

C. For a draft permit for a Tier III application, after the public comment period and the public meeting, if any, the Department shall prepare a response to comments and either issue a final denial in accordance with paragraph 2 of this subsection or prepare a proposed permit.

1. When a proposed permit is prepared, the applicant shall publish notice, as legal notice in one newspaper local to the proposed new site or existing facility, of the Department's tentative decision to issue the permit. Such notice shall identify the places where the proposed permit and the Department's response to comments may be reviewed, including a location in the county where the proposed new site or existing facility is located and shall offer a twenty-day opportunity to request an administrative hearing to participate in as a party. The opportunity to request a hearing shall be available to the applicant and any person or qualified interest group who claims to hold a demonstrable environmental interest and who alleges that the construction or operation of the proposed facility or activity would directly and adversely affect such interest.

If no written administrative hearing request is received by the Department by the end of twenty (20) days after the publication date of the notice, the final permit shall be issued.

2. If the Department's final decision is to deny the permit, it shall give notice to the applicant and issue a final denial in accordance with subsection F of this section.

D. When an administrative hearing is timely requested on a proposed permit in accordance with subsection C of this section, all

timely requests shall be combined in a single hearing. The hearing shall be a quasi-judicial proceeding and shall be conducted by an Administrative Law Judge in accordance with Article 2 of the Administrative Procedures Act, the Code and rules promulgated by the Environmental Quality Board.

1. The applicant shall be a party to the hearing.

2. The Department shall schedule a prehearing conference within sixty (60) days after the end of the hearing request period.

3. The Department shall move expeditiously to an evidentiary proceeding in which parties shall have the right to present evidence before the Department on whether the proposed permit and the technical data, models and analyses, and information in the application upon which the proposed permit is based are in substantial compliance with applicable provisions of the Code and rules promulgated thereunder and whether the proposed permit should be issued as is, amended and issued, or denied.

4. Failure of any party to participate in the administrative proceeding with good faith and diligence may result in a default judgment with regard to that party; provided however, that no final permit shall be issued solely on the basis of any such judgment.

E. If the Department decides to reverse its initial draft decision, it shall withdraw the draft denial or draft permit and prepare a draft permit or draft denial, as appropriate. Notice of the withdrawal of the original draft and preparation of the revised draft shall be given as provided in Section 2-14-302 of this title. The Department shall then re-open the comment period and provide additional opportunity for a formal public meeting on the revised draft as described in Section 2-14-303 of this title.

F. Upon final issuance or denial of a permit for a Tier III application, the Department shall provide public notice of the final permit decision and the availability of the response to comments, if any.

G. Any appeal of a Tier III final permit decision or any final order connected therewith shall be made in accordance with the provisions of the Code and the Administrative Procedures Act.

H. Any applicant, within ten (10) days after final denial of the application for a new original permit on which no final order was issued, may petition the Department for reconsideration on the grounds stated in subsection A of Section 317 of Title 75 of the Oklahoma Statutes as if the denial was an order. Disposition of the petition shall be by order of the Executive Director according to subsections B and D of Section 317 of Title 75 of the Oklahoma Statutes.

Added by Laws 1994, c. 373, § 11, eff. July 1, 1996. Amended by Laws 1995, c. 285, § 19, eff. July 1, 1996; Laws 2002, c. 227, § 3, emerg. eff. May 9, 2002.

§27A-2-14-305. General permits.

For common and routine permit applications, the Department of Environmental Quality may expedite the permitting process by issuing permits of general applicability, hereafter identified as "general permits". General permits shall be subject to all the Tier II administrative procedures including the public participation requirements. The administrative process for rulemaking shall not be applicable to the issuance of general permits. Individual applicants may obtain authorization through the Tier I process to conduct an activity covered by a general permit. General permits are limited to activities under the Tier I and Tier II classifications.

Added by Laws 1997, c. 200, § 1, eff. July 1, 1997.

§27A-2-14-401. Repealed by Laws 2002, c. 227, § 4, emerg. eff. May 9, 2002.

§27A-2-15-101. Short title.

Sections 2-15-101 through 2-15-110 of this title shall be known and may be cited as the "Oklahoma Brownfields Voluntary Redevelopment Act".

Added by Laws 1996, c. 356, § 1, emerg. eff. June 14, 1996. Amended by Laws 2009, c. 48, § 1, eff. July 1, 2009.

§27A-2-15-102. Purpose of act—Construction.

A. The Oklahoma Legislature hereby declares that the purpose of the Oklahoma Brownfields Voluntary Redevelopment Act is to:

1. Provide for the establishment of a voluntary program by the Department of Environmental Quality;

2. Foster the voluntary redevelopment and reuse of brownfields by limiting the liability of property owners, lenders, lessees, and successors and assigns from administrative penalties assessed by the Department and civil liability with regard to the remedial actions taken by the participant for environmental contamination caused by pollution, as required by a consent order, if the remedial action is not performed in a reckless or negligent manner; and

3. Provide for a risk-based system for all applicable sites based on the proposed use of the site.

B. The Oklahoma Brownfields Voluntary Redevelopment Act shall not be construed to authorize or encourage any person or other legal entity to cause or increase pollution, to avoid compliance with state and federal laws and regulations concerning pollution or to in any manner escape responsibility for maintaining environmentally sound operations.

Added by Laws 1996, c. 356, § 2, emerg. eff. June 14, 1996. Amended by Laws 2004, c. 141, § 3, eff. Nov. 1, 2004; Laws 2009, c. 48, § 2, eff. July 1, 2009.

NOTE: Laws 2004, c. 111, § 3 repealed by Laws 2005, c. 1, § 27, emerg. eff. March 15, 2005.

§27A-2-15-103. Definitions.

For purposes of the Oklahoma Brownfields Voluntary Redevelopment Act:

1. "Participant" means any person who or entity which:
   a. has acquired the ownership, operation, management, or control of a site through foreclosure or under the terms of a bona fide security interest in a mortgage or lien on, or an extension of credit for, a brownfields site and which forecloses on or receives an assignment or deed in lieu of foreclosure or other indicia of ownership and thereby becomes the owner of a brownfield,
   b. possesses a written expression of an interest to purchase a brownfield and the ability to implement a brownfield redevelopment proposal,
   c. is the legal owner in fee simple of a brownfield,
   d. is a tenant on or lessee of the brownfield site, or
   e. is undertaking the remediation of a brownfield site;

2. "Brownfield" means an abandoned, idled or underused industrial or commercial facility or other real property at which expansion or redevelopment of the real property is complicated by pollution;

3. "Certificate of Completion" means a document issued by the Department of Environmental Quality pursuant to Section 2-15-106 of this title upon a determination that a participant has successfully completed agency-approved risk-based remediation. A Certificate of Completion is not a permit as defined in Section 2-14-103 of this title;

4. "Certificate of No Action Necessary" means a document issued by the Department of Environmental Quality pursuant to Section 2-15-106 of this title upon a determination that no remediation is deemed necessary for the expansion or redevelopment of the property for a planned use. A Certificate of No Action Necessary is not a permit as defined in Section 2-14-103 of this title;

5. "Consent order" means an order entered into by the Department of Environmental Quality and one or more participants, binding the parties to specified authorizations, activities, duties, obligations, responsibilities and other requirements;

6. "Demonstrated pattern of uncorrected noncompliance" means a history of noncompliance by the participant with state or federal environmental laws or rules or regulations promulgated thereto, as evidenced by past operations clearly indicating a reckless disregard for the protection of human health and safety, or the environment;

7. "Land use disclosure" means the Certificate of Completion or the Certificate of No Action Necessary, issued by the Department of Environmental Quality, which is required to be filed in the office of the county clerk of the county wherein the site is situated pursuant to Section 2-15-107 of this title. The land use disclosure shall include those items required in Section 2-7-123 of this title;

8. “Pollution” means the same as the term is defined in Section 2-1-102 of this title;

9. "Remediation" means activities necessary to clean up, mitigate, correct, abate, minimize, eliminate, control and contain pollution in compliance with a consent order from the Department of Environmental Quality;

10. "Risk-based remediation" means site assessment or site remediation, the timing, type, and degree of which are determined according to case-by-case consideration of actual or potential risk to human health and safety, or the environment from pollution of a brownfield site; and

11. “Site characterization” means the collection of sampling and non-sampling data to adequately delineate environmental contamination on property and support the risk evaluation and decision-making by the Department of Environmental Quality.

Added by Laws 1996, c. 356, § 3, emerg. eff. June 14, 1996. Amended by Laws 2004, c. 141, § 4, eff. Nov. 1, 2004; Laws 2009, c. 48, § 3, eff. July 1, 2009.

NOTE: Laws 2004, c. 111, § 4 repealed by Laws 2005, c. 1, § 28, emerg. eff. March 15, 2005.

§27A-2-15-104. Redevelopment program - Administration - Voluntary nature of program - Regulatory entities not to require evidence of participation - Ineligible persons - Rules.

A. The Department of Environmental Quality may establish and implement a voluntary redevelopment program for brownfields. In administering the Oklahoma Brownfields Voluntary Redevelopment Act, the Department shall:

1. Approve site-specific work plans for site characterization;

2. Approve site-specific remediation plans for each site as necessary, using a risk-based system;

3. Review and inspect site characterization and remediation activities and reports;

4. Use risk-based remediation procedures as determined by the agency to establish cleanup levels;

5. Evaluate engineering and institutional controls for function and performance;

6. Develop and implement rules and procedures for the review and processing of Brownfields Voluntary Redevelopment project applications for obtaining funds allocated to the state from the

Federal Clean Water Act and other state and federal funds available for Brownfields Voluntary Redevelopment projects; and

7. Audit completed projects to ensure compliance with use restrictions.

B. Any brownfields program established pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act shall be a voluntary program.

C. No state governmental entity regulating any person or institution shall require evidence of participation in the Oklahoma Brownfields Voluntary Redevelopment Act.

D. The provisions of the Oklahoma Brownfields Voluntary Redevelopment Act shall not apply to any person who is:

1. Responsible for taking corrective action on the real property pursuant to orders or agreements issued by the federal Environmental Protection Agency;

2. Not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of regulated substances; or

3. Has a demonstrated pattern of uncorrected noncompliance.

E. 1. The Environmental Quality Board shall promulgate rules necessary to implement the Oklahoma Brownfields Voluntary Redevelopment Act.

2. The Department is specifically authorized to promulgate emergency rules necessary pursuant to the Administrative Procedures Act to implement the provisions of the Oklahoma Brownfields Voluntary Redevelopment Act.

3. Such rules shall include but not be limited to provision for work plans, consent orders, notice and public participation opportunities, brownfield remediation plans and no action necessary determinations issued by the Department.

Added by Laws 1996, c. 356, § 4, emerg. eff. June 14, 1996. Amended by Laws 1999, c. 381, § 1, emerg. eff. June 8, 1999; Laws 2009, c. 48, § 4, eff. July 1, 2009.

§27A-2-15-105. Remediation proposals or no action necessary determinations - Application - Factors considered.

A. One or more participants may submit a proposal to the Department of Environmental Quality for risk-based remediation of a brownfield site or for a no action necessary determination.

B. The proposal shall, as a minimum, include:

1. A site characterization, including:

a. site description and historical information about the former uses of the property, including any past environmental permits issued for the site,

b. analytical results from a laboratory certified by the Department or other data which characterize the soil, groundwater or surface water at the site,
c. information concerning the nature and extent of any contamination caused by pollution at the site and any possible impacts on areas contiguous to the site,
d. delineation of contaminants on the property and their concentrations and depths,
e. delineation of potential off-site migration of contaminants,
f. identification of pertinent environmental conditions on the site and in the region,
g. identification of groundwater, surface water, and other environmental resources and uses in the area,
h. identification of potential exposure pathways and potential receptors,
i. identification of adjacent property uses,
j. an accurate metes and bounds legal description of the property,
k. latitude and longitude of the main entrance,
l. statistically relevant background environmental media samples or peer-reviewed published background data, and
m. any data the Department believes is relevant to the reuse of the property;

2. The current and proposed uses of the property;

3. An analysis of the human and environmental pathways to exposure from pollution at the site based on the future use of the property as proposed by the participant;

4. Alternatives for cleanup, if remediation is planned;

5. Potential for redevelopment to impact the remedy;

6. A plan for any after-action monitoring or maintenance of the brownfield which is to occur after issuance of the Certificate of Completion or Certificate of No Action Necessary;

7. Any engineering or institutional controls necessary to protect the remedy over time and plans for financial assurance for the controls to remain in effect;

8. A plan for remediating any pollution on the brownfield or a proposal that no remedial action is necessary considering the present level of contamination and the proposed future use of the property;

9. A long-term management plan for any on-site disposal facilities; and

10. The current and proposed use of groundwater on and near the site.

C. Remediation or proposal for a no action necessary determination shall be based on the potential risk to human health and safety and to the environment posed by the pollution at the site, considering the following factors:

1. The proposed use of the brownfield;

2. The possibility of movement of the pollution in a form and manner which would result in exposure to humans and to the surrounding environment at levels which exceed calculated site-specific cleanup levels or, if off-site, applicable standards, or which represent an unreasonable risk to human health and safety or the environment as determined by the Department; and

3. The potential risks associated with the remediation proposal or no action necessary determination and the economic and technical feasibility and reliability of such proposal or determination.

Added by Laws 1996, c. 356, § 5, emerg. eff. June 14, 1996. Amended by Laws 2004, c. 141, § 5, eff. Nov. 1, 2004; Laws 2009, c. 48, § 5, eff. July 1, 2009.

NOTE: Laws 2004, c. 111, § 5 repealed by Laws 2005, c. 1, § 29, emerg. eff. March 15, 2005.

§27A-2-15-106. Public meetings or hearings not authorized - Zoning - Rejection or return of applications - Consent orders - No action necessary determinations - Applicability of orders or determinations - Written statement of reasons for disapproval - Certificates of Completion or No Action Necessary - Records - Archives and records law inapplicable.

A. The Department of Environmental Quality is not authorized to hold any public meeting or hearing to require information, make any determination, or in any manner consider the zoning or rezoning for any proposed redevelopment of a site. The Department shall assume that any proposed redevelopment of the site meets or will meet any zoning requirements.

B. The Department may reject or return a proposal if:

1. A federal requirement precludes the eligibility of the site;

2. The proposal is not complete and accurate; or

3. The participant is ineligible under the provisions of the Oklahoma Brownfields Voluntary Redevelopment Act or any rules promulgated pursuant thereto.

C. The Department may enter into a consent order with the participant for characterization and remediation of a site if the Department concludes that the remediation will:

1. Attain a degree of control of pollution pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act, other applicable Department rules and standards, and all applicable state and federal laws as determined by the Department; and

2. For constituents not governed by paragraph 1 of this subsection, reduce concentrations such that the property does not present an unreasonable risk, as determined by the Department, to human health and safety or to the environment based upon the property's proposed use.

D. The Department may make a no action necessary determination if the proposal as required by the Oklahoma Brownfields Voluntary Redevelopment Act indicates the existence of pollution which, given the proposed use of the property, does not pose an unreasonable risk to human health and safety or to the environment as determined by the Department.

E. The consent order and the no action determination apply only to conditions caused by pollution on the property, to applicable state or federal laws and to applicable rules and standards promulgated by the Environmental Quality Board that existed at the time of submission of the proposal.

F. If a proposal is disapproved by the Department, the Department shall promptly provide the participant with a formal written statement of the reasons for such denial.

G. 1. If the Department determines that the participant has successfully completed the requirements specified by the consent order, the Department shall certify the completion by issuing to the participant a Certificate of Completion. The certificate shall list the use specified in the consent order for the site and shall comply with Section 2-7-123 of this title. The certificate shall also include provisions stating that:

a. the Department shall not pursue administrative penalties and civil actions against the participant, lenders, lessees, and successors and assigns associated with actions taken to remediate pollution which is the subject of the consent order,

b. the participant and all lenders, lessees, and successors and assigns shall not be subject to civil liability with regard to the remedial actions taken by the participant for pollution, as required by the consent order if the remedial action is not performed in a reckless or negligent manner,

c. no person responsible for pollution who has not participated in the voluntary remediation process shall be released from any liability, and

d. the Certificate of Completion shall remain effective as long as the property is in substantial compliance with the consent order, Certificate of Completion and any institutional controls placed on the property.

2. If the Department determines that no remediation action is deemed necessary for the site, the Department shall issue the participant a Certificate of No Action Necessary. The certificate shall list the use specified in the proposal for the site. The certificate shall also include provisions stating that:

a. the Department shall not pursue any administrative penalties or civil actions against the participant, lenders, lessees, and successors and assigns associated

with the determination that no action is necessary to remediate the pollution which is the subject of the certificate,

b. the participant and all lenders, lessees, and successors and assigns shall not be subject to civil liability with regard to the determination that no action is necessary to remediate the site,

c. no person responsible for pollution who has not participated in the proposal process for a no action necessary determination shall be released from any liability,

d. the Certificate of No Action Necessary shall remain effective as long as the site is in substantial compliance with the certificate and any institutional controls placed on the property as determined by the Department, and

e. the issuance of the Certificate of No Action Necessary shall not be construed or relied upon in any manner as a determination by the Department that the brownfield has not been or is not environmentally polluted.

H. The Department shall keep and maintain a copy of the proposal, work plan, consent order, any other correspondence, record, authorization, and report received by the Department, and an official copy of the Certificate of Completion or the Certificate of No Action Necessary pursuant to the provisions of the Oklahoma Brownfields Voluntary Redevelopment Act relating to the site in an accessible location.

I. Chapter 10A of Title 67 of the Oklahoma Statutes shall not apply to any records or copies required to be kept and maintained pursuant to this section.

Added by Laws 1996, c. 356, § 6, emerg. eff. June 14, 1996. Amended by Laws 2004, c. 141, § 6, eff. Nov. 1, 2004; Laws 2009, c. 48, § 6, eff. July 1, 2009.

NOTE: Laws 2004, c. 111, § 6 repealed by Laws 2005, c. 1, § 30, emerg. eff. March 15, 2005.

§27A-2-15-107. Land use disclosures - Filing - Violation of authorized uses.

A. 1. All land use disclosures shall be filed in the land records by the participant in the office of the county clerk where the site is located.

2. Within thirty (30) days of receipt of the Certificate of Completion or the Certificate of No Action Necessary, the participant shall submit to the Department of Environmental Quality an official copy of the land use disclosure filed with the county clerk in the county in which the site is located.

3. Failure to record the land use disclosure with the county clerk and submit the official copy to the Department as required by this section shall render the Certificate of Completion or Certificate of No Action Necessary voidable.

B. Whoever knowingly converts, develops or uses a brownfield site in violation of an authorized use as specified in the land use disclosure shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Dollars ($1,000.00), imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment. Each day such violation continues shall be considered a separate offense.

Added by Laws 1996, c. 356, § 7, emerg. eff. June 14, 1996. Amended by Laws 2009, c. 48, § 7, eff. July 1, 2009.

§27A-2-15-108. Release of liability from administrative penalties or civil actions.

A. 1. The Department of Environmental Quality shall not assess against a participant administrative penalties or pursue civil actions associated with the pollution which is the subject of the consent order or no action necessary determination if:

a. the participant is in compliance with the consent order during remediation or with the Certificate of No Action Necessary, and

b. the participant is in compliance with any post-certification conditions or requirements specified in the consent order.

2. After issuance of the Certificate of Completion or Certificate of No Action Necessary, the Department shall not assess administrative penalties or pursue civil actions regarding the pollution which is the subject of the consent order or no action necessary determination against any lender, lessee, or successor or assign if the lender, lessee, or successor or assign is in compliance with any post-certification conditions or requirements as specified in the consent order or Certificate of No Action Necessary.

B. 1. Failure of the participant and any lenders, lessees, or successors or assigns to materially comply with the consent order entered into pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act shall render the consent order or the Certificate of Completion or the Certificate of No Action Necessary voidable.

2. Submission of any false or materially misleading information by the participant knowing such information to be false or misleading shall render the consent order, Certificate of Completion, or Certificate of No Action Necessary voidable.

C. 1. A participant to whom a Certificate of Completion or a Certificate of No Action Necessary has been issued pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act and such participant’s lenders, lessees, or successors or assigns or any other

person, this state or a local political subdivision thereof or any other legal entity acquiring, in good faith, the property which was subject to the Oklahoma Brownfields Voluntary Redevelopment Act shall not be subject to civil liability regarding the pollution which was the subject of the consent order or certificate if the participant is in compliance with any post-certification conditions or requirements specified in the consent order or certificate.

2. Except as otherwise provided in this subsection, nothing in the Oklahoma Brownfields Voluntary Redevelopment Act shall be construed to limit or negate any other rights of any person from pursuing or receiving legal or equitable relief from the participant or any other person or legal entity causing or contributing to the pollution.

3. In those cases where a participant conducts a voluntary remediation in conjunction with a party responsible for the pollution, the responsible party shall also be released from liability to the same extent as the participant.

D. The release of liability from administrative penalties and any civil actions authorized by the Oklahoma Brownfields Voluntary Redevelopment Act shall not apply to:

1. Any pollution and consequences thereof that the participant causes or has caused outside the scope of the consent order or the certificate issued by the Department;

2. Any pollution caused or resulting from any subsequent redevelopment of the property;

3. Existing pollution not addressed prior to issuance of the Certificate of Completion or the Certificate of No Action Necessary; or

4. Any person responsible for pollution who has not participated in the voluntary remediation.

Added by Laws 1996, c. 356, § 8, emerg. eff. June 14, 1996. Amended by Laws 2004, c. 111, § 7, emerg. eff. April 15, 2004; Laws 2004, c. 381, § 5, emerg. eff. June 3, 2004; Laws 2009, c. 48, § 8, eff. July 1, 2009.

NOTE: Laws 2004, c. 141, § 7 repealed by Laws 2004, c. 381, § 6, emerg. eff. June 3, 2004.

§27A-2-15-109. Reimbursement of costs.

A. The Department of Environmental Quality may require the participant to reimburse the Department for reasonable costs for the review and oversight of any remediation, reports, field activities or other services or duties of the Department pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act which are performed by the Department prior to the issuance of the Certificate of Completion or the Certificate of No Action Necessary.

B. The Department may require the participant to reimburse the Department for reasonable costs for expenses incurred in auditing

completed projects to ensure compliance with use restrictions in the Certificate.
Added by Laws 1996, c. 356, § 9, emerg. eff. June 14, 1996. Amended by Laws 2009, c. 48, § 9, eff. July 1, 2009.

§27A-2-15-110. Prior applications and consent orders ratified - Continued reliance - Benefits and releases of liability to be part of consent order - Applicability of section.

A. Except as otherwise specified by this section, any consent order issued by the Department of Environmental Quality prior to the effective date of this act meeting the conditions and requirements established by the Department or as otherwise determined by the Department to be in compliance for such site is hereby ratified.

B. Any person who has entered into a consent order with the Department pursuant to this section may continue to rely upon the consent order if the person has accepted the conditions of and in other respects complies with the requirements so established and with the provisions of the consent order as determined by the Department.

C. Any benefits and releases of liability from administrative penalties and from civil action as provided by the Oklahoma Brownfields Voluntary Redevelopment Act shall apply and be made part of the Certificate of Completion or Certificate of No Action Necessary.

D. The provisions of this section shall apply only to consent orders issued after January 1, 1988.
Added by Laws 1996, c. 356, § 10, emerg. eff. June 14, 1996. Amended by Laws 2009, c. 48, § 10, eff. July 1, 2009.

§27A-2-16-101. Short title.

This act shall be known and may be cited as the “Oklahoma Refinery Revitalization Act”.
Added by Laws 2006, c. 261, § 1, eff. July 1, 2006.

§27A-2-16-102. Purpose.

The purpose of the Oklahoma Refinery Revitalization Act is to encourage the expansion of refining capacity within the State of Oklahoma by providing incentives for growth and by detailing an accelerated review and approval process of all regulatory approvals for certain refinery facilities. Additionally, the act seeks to provide legal and technical assistance to state agencies, which may have resources that are inadequate to meet refinery facility permit review demands.
Added by Laws 2006, c. 261, § 2, eff. July 1, 2006.

§27A-2-16-103. Definitions.

As used in the Oklahoma Refinery Revitalization Act:

1. "Executive Director" means the Executive Director of the Oklahoma Department of Environmental Quality;

2. "Administrator" means the Administrator of the Environmental Protection Agency;

3. "RPCA" means the Refinery Permitting Cooperative Agreement;

4. "Federal authorization" means any authorization required under federal law, including but not limited to, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, the Toxic Substances Control Act, the National Historic Preservation Act, the National Environmental Policy Act of 1969, and the Endangered Species Act, in order to site, construct, upgrade, or operate a refinery facility, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a federal, state, or local agency;

5. "Commission" means the Oklahoma Corporation Commission;

6. "Tax Commission" means the Oklahoma Tax Commission; and

7. "Refinery facility" means any facility designed and operated to receive, unload, store, process and refine raw crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof.

Added by Laws 2006, c. 261, § 3, eff. July 1, 2006.

§27A-2-16-104. Refinery Permitting Cooperative Agreement – Negotiations.

A. Not more than thirty (30) days after the effective date of the Oklahoma Refinery Revitalization Act, the Governor shall request the Administrator of the United States Environmental Protection Agency to enter into negotiations with the Executive Director of the Department of Environmental Quality for a Refinery Permitting Cooperative Agreement (RPCA) for the purposes set forth in this act. The RPCA shall be a memorandum of understanding as provided for in the Energy Policy Act of 2005. The Executive Director shall designate a senior official responsible for negotiations, and dedicate sufficient other staff and resources to ensure, full implementation of the purposes of this act and any rules promulgated pursuant to this act as allowed by state and federal legislation.

B. The Executive Director and the appropriate representative of any Indian tribe with jurisdiction over a potential refinery site, may be signatories to the RPCA negotiated pursuant to this section.

Added by Laws 2006, c. 261, § 4, eff. July 1, 2006.

§27A-2-16-105. Executive Director and staff – Enumerated duties and activities – Director authority.

A. Not more than thirty (30) days after the Executive Director of the Department of Environmental Quality and the Administrator of the United States Environmental Protection Agency become signatories to the Refinery Permitting Cooperative Agreement (RPCA) as provided for in Section 4 of this act, the following shall occur:

1. The Executive Director shall designate one or more employees of the Department of Environmental Quality with expertise relating to the siting and operation of refineries to provide legal and technical assistance to any permit applicants in accordance with the designations made in subsection E of this section; and

2. The Executive Director and the Administrator shall identify steps, including timelines, that each shall take to streamline the consideration of state and federal environmental permits for a new refinery facility.

B. Pursuant to the provisions of the RPCA, the Executive Director shall be authorized to:

1. Accept from a refiner a consolidated application for all permits required from the Environmental Protection Agency and the Department of Environmental Quality, to the extent consistent with applicable law and the RPCA;

2. Enter into memoranda of agreement with other state and federal agencies to coordinate consideration of refinery facility applications and permits; and

3. Enter into memoranda of agreement with state and federal agencies, under which state and federal review of refinery facility permit applications will be coordinated and concurrently considered, to the extent practicable.

C. The Executive Director is authorized to request financial assistance from the federal government to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of refinery permits.

D. The Executive Director is authorized to request technical, legal, or other assistance from the federal government to facilitate the state level review of applications for the construction of new refinery facilities.

E. The RPCA shall designate each state and federal agency that will provide technical and legal assistance relating to the siting and operation of refinery facilities, with respect to each of the following, if applicable:

1. The Clean Air Act (42 U.S.C. 7401 et seq.);

2. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

3. The Safe Drinking Water Act (42 U.S.C. 300f et seq.);

4. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

5. The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

6. The Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

7. The National Historic Preservation Act (16 U.S.C. 470 et seq.);

8. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

9. The Endangered Species Act (16 U.S.C. 1531 et seq.).

Added by Laws 2006, c. 261, § 5, eff. July 1, 2006.

§27A-2-16-106. Coordinated state and federal authorization and review process.

A. Upon the written request of a prospective applicant for authorization of a refinery facility in the State of Oklahoma, the Department of Environmental Quality shall act as the lead state agency for the purpose of coordinating all applicable state and federal authorizations and environmental reviews of the refining facility. To the maximum extent practicable under applicable state and federal law, the Executive Director of the Department of Environmental Quality shall coordinate the state and federal authorization and review process with any federal, state, tribal, and local agencies responsible for conducting separate permitting and environmental reviews of the refining facility.

B. 1. The Executive Director, in coordination with the state agencies and, as appropriate, with federal, tribal and local agencies that are willing to coordinate their separate permitting and environmental reviews with the state permitting and reviews process, shall establish a schedule with prompt and binding intermediate and ultimate deadlines for the review of, and state authorization decisions relating to, refinery facility siting and operation applications.

2. Prior to establishing the schedule, the Executive Director shall provide an expeditious preapplication process that allows applicants to confer with the agencies involved and to have each agency communicate to the prospective applicant within sixty (60) days:

a. the likelihood of approval for a potential refinery facility, and

b. key issues of concern for the agencies and the local community.

3. The Executive Director shall consider the preapplication findings under paragraph 2 of this subsection when setting the schedule and shall ensure that once an application has been submitted with the necessary information, as determined by the Executive Director, a draft permit shall be completed within six (6) months or, where circumstances require otherwise, as soon as thereafter practicable. An applicant may request that the permitting process be stopped at anytime by agreement with the Executive Director and Administrator.

4. If a state administrative agency does not complete a refinery application authorization process in accordance with the schedule established by the Executive Director pursuant to this subsection, the applicant may pursue remedies set forth in subsection F of this section.

C. 1. The RPCA shall address the coordination of all applicable state and federal actions necessary for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if applicable, and shall identify the entity responsible for preparing any environmental impact statement or any other form of environmental review that is required.

2. If the United States Environmental Protection Agency determines an environmental impact statement is required, the Department of Environmental Quality shall work with the Agency to prepare a single environmental impact statement, which shall consolidate the environmental reviews of all state and federal agencies considering any aspect of the refinery facility covered by the environmental impact statement.

D. Each state agency considering an aspect of the siting or operation of a refinery facility in the State of Oklahoma shall cooperate with the Department of Environmental Quality and comply with the deadlines established by the Department in the preparation of an environmental impact statement or such other form of environmental review that is required.

E. The Department of Environmental Quality shall, with the cooperation of state and federal administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Department, by a state administrative agency or officer acting under delegated federal authority, or by a federal administrative agency with respect to the siting or operation of a refinery facility in the state. The record shall be the exclusive record for any state administrative proceeding that is an appeal or review of any refinery facility siting or operation decision made or action taken.

F. If a state agency has denied state authorization required for a refinery facility in the state, or has failed to act by a deadline established by the Director pursuant to subsection B of this section, the applicant may file an appeal with the Secretary of Energy and Environment or the successor cabinet secretary having authority over the Department of Environmental Quality. Based on the record maintained pursuant to subsection E of this section, and in consultation with the affected state agency, the Secretary may then either order the immediate issuance of the necessary state authorization with appropriate conditions, or deny the appeal. The Secretary shall issue a decision within sixty (60) days after the filing of the appeal. In making a decision under this subsection, the Secretary shall adhere to applicable requirements of state and

federal law, including each of the laws referred to in subsection E of Section 5 of this act. Any judicial appeal of the decision of the review panel shall be to an Oklahoma court of competent jurisdiction as allowed under the Constitution of the State of Oklahoma.
Added by Laws 2006, c. 261, § 6, eff. July 1, 2006. Amended by Laws 2014, c. 174, § 1, eff. Nov. 1, 2014.

§27A-2-16-107. Construction of act.

Nothing in the Oklahoma Refinery Revitalization Act shall be construed to waive the applicability of any environmental laws and rules to any refinery facility.
Added by Laws 2006, c. 261, § 7, eff. July 1, 2006.

§27A-3. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§27A-3-1-101. Short title.

This chapter shall be known and may be cited as the "Conservation District Act".
Added by Laws 1971, c. 346, § 15-101, operative July 1, 1971. Amended by Laws 1993, c. 145, § 204, eff. July 1, 1993. Renumbered from Title 82, § 1501-101 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-1-102. Legislative determination - Declaration of policy.

In recognition of the ever-increasing demands on the renewable natural resources of the state and of the need to preserve, protect and develop such resources at such a rate and at such levels of quality as will meet the needs of the people of the state, it is hereby declared to be the policy of the State of Oklahoma to provide for the conservation of the renewable natural resources of this state, and for the control and prevention of soil erosion, and for the prevention of floodwater and sediment damages, and for furthering the conservation, development, utilization and disposal of water, and thereby to preserve and develop natural resources, control floods, conserve and develop water resources and water quality, prevent impairment of dams and reservoirs, preserve wildlife, preserve natural beauty, promote recreational development, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this state. It is further the policy of the Legislature to authorize conservation districts established under the Conservation District Act to serve as the primary local unit of government responsible for the conservation of the renewable natural resources of this state, and competent to administer, in close cooperation with landowners and occupiers, with local governmental units, and with agencies of the government of this state and of the United States, projects, programs and activities suitable for effectuating the policy of the Conservation District

Act. Provided, however, in those areas included within the existing jurisdiction of planning commissions created pursuant to the provisions of Titles 11 and/or 19, of the Oklahoma Statutes or their successors, such districts shall serve as the collateral units of government so responsible.

Added by Laws 1971, c. 346, § 15-102, operative July 1, 1971. Amended by Laws 1993, c. 145, § 205, eff. July 1, 1993. Renumbered from Title 82, § 1501-102 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-1-103. Definitions.

As used in the Conservation District Act:

1. "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of the Conservation District Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth;

2. "Director" means a member of the governing body of a conservation district, elected or appointed in accordance with the provisions of the Conservation District Act;

3. "Commission" means the Oklahoma Conservation Commission;

4. "State" means the State of Oklahoma;

5. "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state;

6. "United States" or "agencies of the United States" includes the United States of America, and any department, agency or instrumentality of the federal government;

7. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them;

8. "Due notice" which shall be in conformance with the Administrative Procedures Act means notice published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the district, or, if no such publication of general circulation is available, by posting at five conspicuous places within the district, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates;

9. "District cooperator" means any person that has entered into a cooperative agreement with a conservation district for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his or her control;

10. "Renewable natural resources", "natural resources" or "resources" include land, soil, water, vegetation, trees, natural beauty, scenery and open space;

11. "Conservation" includes conservation, development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and the disposal of excess surface waters;

12. "Cost-Share program" means the assumption by the state of a proportional share of the cost of installing conservation structures, conservation practices or best management practices on lands for public and environmental benefits;

13. "Best management practices" means a control method or combination of control methods that is determined to be the most effective and practicable means of preventing soil loss from erosion or reducing the amount of nonpoint source pollution from a given land use;

14. "Nonpoint source" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

15. "Pollution" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

16. "Nonpoint source working group" means an advisory group established by the Conservation Commission to provide input into the state's nonpoint source management and assessment program and is open to federal, state and local environmental agencies and natural resource agencies and other interested groups;

17. "Watershed" means an area of land that drains to a given point;

18. "Blue Thumb Program" means a nonpoint source educational program emphasizing water quality education, including volunteer monitoring;

19. "Soil science" means the science which:

a. is the study of physical, chemical, and biological processes taking place in both naturally occurring and reconstructed unconsolidated material formed by the alteration of parent rock due to exposure at the earth's surface, and

b. includes sampling, measuring, identification, characterization, classification, and mapping of soil materials and migration of water solute, air and other gaseous components in the unsaturated portion of the earth; and

20. "Soil scientist" means a person who:

a. has earned a baccalaureate or higher degree in a field of soil science from an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty (30)

semester hours or forty-five (45) quarter hours of undergraduate work in a field of biological, physical, or earth science with a minimum of fifteen (15) semester hours of core soil science courses, and

b. has a specific and continuous record of related and verifiable soil science work experience for two (2) years. Publications in a soil science publication or prior qualifications as an expert witness in administrative or judicial proceeding, hearing or trial shall be prima facie verification of experience related to soil science.

Added by Laws 1971, c. 346, § 15-103, operative July 1, 1971. Amended by Laws 1981, c. 170, § 1, emerg. eff. May 13, 1981; Laws 1993, c. 145, § 206, eff. July 1, 1993. Renumbered from Title 82, § 1501-103 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1997, c. 217, § 4, eff. July 1, 1997; Laws 1998, c. 5, § 12, emerg. eff. March 4, 1998; Laws 1998, c. 271, § 1, eff. July 1, 1998. NOTE: Laws 1997, c. 24, § 1 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§27A-3-2-101. How constituted.

A. There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in the Conservation District Act, the Oklahoma Conservation Commission, which commission shall succeed to all the powers, duties and property of the State Soil Conservation Board. The Commission shall consist of five (5) members whose qualifications and manner of appointment shall be hereinafter designated. The State of Oklahoma is hereby divided into five state areas for the purpose of selecting the members of the Oklahoma Conservation Commission. Each of the state areas shall be composed of the following counties:

State Area No. 1 comprising fifteen counties:

Cimarron	Woodward	Blaine
Texas	Dewey	Alfalfa
Beaver	Canadian	Grant
Harper	Woods	Garfield
Ellis	Major	Kingfisher

State Area No. 2 comprising fifteen counties:

Kay	Oklahoma	Love
Noble	Cleveland	Seminole
Logan	McClain	Garvin
Payne	Lincoln	Murray
Pawnee	Pottawatomie	Carter

State Area No. 3 comprising sixteen counties:

Osage	Rogers	Cherokee
Creek	Wagoner	Sequoyah
Washington	Muskogee	Adair

Tulsa	Craig	Delaware
Okmulgee	Mayes	Ottawa
Nowata		

State Area No. 4 comprising fifteen counties:

Roger Mills	Custer	Comanche
Beckham	Washita	Cotton
Greer	Kiowa	Grady
Harmon	Tillman	Stephens
Jackson	Caddo	Jefferson

State Area No. 5 comprising sixteen counties:

Okfuskee	Atoka	Latimer
Hughes	Bryan	Pushmataha
Pontotoc	Pittsburg	Choctaw
Johnston	McIntosh	Le Flore
Marshall	Haskell	McCurtain
Coal		

B. The entire territory of this state shall be included within conservation districts.

C. The Governor shall appoint one member from each of the five state areas as herein created, and each such member so appointed shall be, at the time of his appointment a Conservation District Director. Each member of the Oklahoma Conservation Commission shall be a Conservation District Director during the entire term as a Commission member. No fewer than three members of said Board shall be actively engaged in the practice of farming and/or ranching or shall derive at least a majority of their income from farming and/or ranching. As a condition to their appointment, such members shall be residents of the state area from which they are appointed. Such appointments shall be made by the Governor and shall be subject to confirmation by the Senate and such appointments shall be made by the Governor within thirty (30) days after the expiration of the terms of office of said members. Each member shall serve for a period of five (5) years, and shall be removed only for cause. In the event of a vacancy, the vacancy shall be filled in the same manner as the original appointment was made and by the same appointing authority.

D. The Commission shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings and promulgate such rules and regulations as may be necessary for the execution of its functions under the Conservation District Act.

Added by Laws 1971, c. 346, § 15-201, operative July 1, 1971. Amended by Laws 1993, c. 145, § 207, eff. July 1, 1993. Renumbered from Title 82, § 1501-201 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-2-102. Perpetuation of soil and water conservation districts.

All soil and water conservation districts organized on the date of the adoption of the Conservation District Act are perpetuated and shall continue to exist as conservation districts under the Conservation District Act.
Added by Laws 1971, c. 346, § 15-301, operative July 1, 1971. Amended by Laws 1993, c. 145, § 208, eff. July 1, 1993. Renumbered from Title 82, § 1501-301 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-2-103. Executive Director, technical experts and employees - Office space.

A. The Commission:

1. May employ an Executive Director and any technical experts and other agents and employees, permanent and temporary, as may be required, and shall determine their qualifications, duties, and compensation;

2. May call upon the Attorney General of the state for any legal services as may be required. In addition, the Commission, if it determines that it is needed, may employ or appoint attorneys or in-house counsel to advise or represent the Commission; and

3. Shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, any powers and duties as it may deem proper.

B. Offices shall be provided by the Office of Management and Enterprise Services in Oklahoma City. Upon request of the Commission for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the Commission members of the staff or personnel of the agency or institution of learning, and make any special reports, surveys, or studies as the Commission may request.
Added by Laws 1971, c. 346, § 15-202, operative July 1, 1971. Amended by Laws 1983, c. 304, § 166, eff. July 1, 1983; Laws 1993, c. 145, § 209, eff. July 1, 1993. Renumbered from § 1501-202 of Title 82 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2011, c. 264, § 8; Laws 2012, c. 304, § 107.

§27A-3-2-103a. Temporary employees.

A. For the purposes of the Oklahoma Conservation Commission, seasonal employees employed by the Commission who work less than nine hundred ninety-nine (999) hours in a twelve-month period shall be considered temporary employees and shall be unclassified. The Commission may employ seasonal employees throughout the calendar year.

B. The Commission, in its annual budget request, shall include a summary of the use of project labor, which shall include the number

of workers employed under the provisions of this section and the total wages paid to these employees.
Added by Laws 2015, c. 391, § 2, emerg. eff. June 4, 2015.

§27A-3-2-104. Chairman, quorum and expenses.

The Commission shall reorganize annually and select a chairman from among its members who shall serve for one (1) year from the date of selection. A member of the Commission shall hold office so long as such member retains the office by virtue of which he shall be serving on the Commission. A majority of the Commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the Commission shall be entitled to receive reimbursement for traveling expenses necessarily incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.
Added by Laws 1971, c. 346, § 15-203, operative July 1, 1971. Amended by Laws 1985, c. 178, § 79, operative July 1, 1985; Laws 1993, c. 145, § 210, eff. July 1, 1993. Renumbered from Title 82, § 1501-203 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-2-105. Bonds of employees and officers - Records - Annual audit.

The Commission shall:

1. Provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property;

2. Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and

3. Provide for and submit to an annual audit of its records and accounts of receipts and disbursements.
Added by Laws 1971, c. 346, § 15-204, operative July 1, 1971. Amended by Laws 1993, c. 145, § 211, eff. July 1, 1993. Renumbered from Title 82, § 1501-204 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-2-106. Powers and duties of Commission.

A. In addition to other powers and duties specified by law and except as otherwise provided by law, the Oklahoma Conservation Commission shall have the power and duty to:

1. Offer the assistance as may be appropriate to the directors of conservation districts in the carrying out of any of their powers and programs and to:

a. assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under the Conservation District Act,
b. review district programs,

c. coordinate the programs of the several districts and resolve any conflicts in such programs, and

d. facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties and other public agencies;

2. Keep the directors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between the districts and cooperation between them;

3. Review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, or interstate, or other public or private agency, organization or individual, and advise the districts concerning the agreements or forms of agreements;

4. Secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of the districts and to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of the Conservation District Act;

5. Disseminate information throughout the state concerning the activities and programs of the conservation districts and to make available information concerning the needs and the work of the conservation districts and Commission to the Governor, the Legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies and the general public;

6. Serve along with conservation districts as the official state agencies for cooperating with the Natural Resources Conservation Service of the United States Department of Agriculture and carrying on conservation operations within the boundaries of conservation districts;

7. Cooperate with and give such assistance as it deems necessary and proper to conservancy districts, watershed associations and other special purpose districts in the State of Oklahoma for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation pursuant to the provisions of the Federal Watershed Protection and Flood Prevention Act, as amended;

8. Recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the conservation districts and to:

a. administer the provisions of the Conservation District Act hereafter enacted by the Legislature appropriating

funds for expenditure in connection with the activities of conservation districts,

b. distribute to conservation districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services,

c. issue rules establishing guidelines and suitable controls to govern the use by conservation districts of funds, property and services, and

d. review all budgets, administrative procedures and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations;

9. Enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources;

10. Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, receive from these agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs and to arrange for and participate in conferences necessary to avoid conflict among plans and programs, to call attention to omissions and to avoid duplication of effort;

11. Compile information and make studies, summaries, and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis;

12. Except as otherwise assigned by law, carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and represent the state in matters affecting such resources;

13. Assist conservation districts in obtaining legal services from state and local legal officers;

14. Require annual reports from conservation districts, the form and content of which shall be developed by the Commission in consultation with the district directors;

15. Establish by rules, with the assistance and advice of the State Auditor and Inspector, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts;

16. Conduct workshops for district directors to instruct them on the subjects of district finances, the Conservation District Law and related laws, and their duties and responsibilities as directors;

17. Assist and supervise districts in carrying out their responsibilities in accordance with the Oklahoma laws;

18. Have power, by administrative order, upon the written request of the board of directors of the conservation district or districts involved, with a showing that such request has been approved by a majority vote of the members of each of the boards involved, to:

a. transfer lands from one district established under the provisions of the Conservation District Act to another,

b. divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of the Conservation District Act, and

c. consolidate two or more districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single district under the provisions of the Conservation District Act;

19. Except as otherwise provided by law, act as the management agency having jurisdiction over and responsibility for directing nonpoint source pollution prevention programs outside the jurisdiction or control of cities or towns in Oklahoma. The Commission, otherwise, shall be responsible for all identified nonpoint source categories except silviculture, urban storm water runoff and industrial runoff;

20. Establish and maintain an Equipment Revolving Fund for the purpose of loaning conservation districts funds to purchase equipment to be used for the installation of conservation practices. The fund shall consist of all monies appropriated to, deposited in or credited to the fund;

21. Establish and maintain a Conservation District Consolidation Fund for the purpose of providing financial assistance to conservation districts who choose to consolidate as outlined in subparagraph c of paragraph 18 of this subsection. The fund shall consist of all monies appropriated to, deposited in or credited to the fund;

22. Administer cost-share programs for the purpose of carrying out conservation or best management practices on the land to benefit the public through the prevention or reduction of soil erosion and nonpoint source pollution and through general resource management. The Commission is not authorized to implement mandatory compliance with management practices, except as otherwise provided by law, to abate agricultural nonpoint source pollution;

23. Plan watershed-based nonpoint source pollution control activities, including the development and implementation of conservation plans for the improvement and protection of the resources of the state;

24. Provide assistance to the Oklahoma Water Resources Board on lake projects through stream and river monitoring, assessing watershed activities impacting lake water quality and assisting in the development of a watershed management plan;

25. Maintain the activities of the state's nonpoint source working group;

26. Prepare, revise and review Oklahoma's nonpoint source management program and nonpoint source assessment report in coordination with other state environmental agencies and compile a comprehensive assessment for the state every five (5) years. The management program and assessment report shall be distributed to the Governor, Secretary of Environment, the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

27. Under the direction of the Office of the Secretary of the Environment, develop and implement the state's nonpoint source water quality monitoring strategy in coordination with other environmental agencies;

28. Monitor, evaluate and assess waters of the state to determine the condition of streams and rivers impacted by nonpoint source pollution. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs;

29. Administer the Blue Thumb Program;

30. Enter into agreements or contracts for services with any of the substate planning districts recognized by the Oklahoma Department of Commerce;

31. Cooperate with the federal government, or any agency thereof, to participate in and coordinate with federal programs that will yield additional federal funds to the state for programs within the jurisdiction of the Conservation Commission. This participation shall be subject to the availability of state funds;

32. Implement pilot projects and programs, subject to the availability of funds, that will demonstrate the latest technologies and applications in conservation programs that may provide direct or residual benefits to conservation practices in the state; and

33. Promulgate rules necessary, expedient, or appropriate to carry out the purposes, objectives, or provisions or appropriate to the performance of the Conservation District Act and the Oklahoma Carbon Sequestration Enhancement Act and:

a. may establish and collect fees for services provided pursuant to the Conservation District Act and the

Oklahoma Carbon Sequestration Enhancement Act, including any services for the certification or verification of sustainable agricultural production practices including but not limited to the Natural Resources Conservation Service Soil Condition Index, and

b. shall promulgate all rules establishing fees in accordance with the Administrative Procedures Act, which fees shall be fair and equitable to all parties concerned.

B. Nothing in this act shall take away any of the present duties or responsibilities delegated by law or constitution to other environmental agencies.

Added by Laws 1971, c. 346, § 15-205, operative July 1, 1971. Amended by Laws 1979, c. 30, § 159, emerg. eff. April 6, 1979; Laws 1981, c. 170, § 2, emerg. eff. May 13, 1981; Laws 1993, c. 145, § 212, eff. July 1, 1993. Renumbered from § 1501-205 of Title 82 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1997, c. 217, § 5, eff. July 1, 1997; Laws 1998, c. 271, § 2, eff. July 1, 1998; Laws 2008, c. 110, § 1, emerg. eff. May 2, 2008.

§27A-3-2-106a. Conservation Commission Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Conservation Commission Revolving Fund (#405)". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Conservation Commission from appropriations, fees, charges, penalties, and any other sources that are not designated for deposit to any other fund as authorized by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Conservation Commission to perform the duties imposed by the Commission by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2004, c. 441, § 1. Amended by Laws 2012, c. 304, § 108.

NOTE: Editorially renumbered from § 2-106a of Title 27A to provide consistency in numbering.

§27A-3-2-106b. Conservation Commission Tar Creek Mine Reclamation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Conservation Commission Tar Creek Mine Reclamation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year

limitations, and shall consist of all monies received by the Conservation Commission from appropriations, fees, charges, penalties, federal grants and any other sources including interest earned from the income in the fund that are designated for deposit to such fund or designated for duties associated with the Tar Creek superfund project. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Conservation Commission to perform the duties imposed on the Commission by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2004, c. 441, § 2. Amended by Laws 2012, c. 304, § 109.

NOTE: Editorially renumbered from § 2-106b of Title 27A to provide consistency in numbering.

§27A-3-2-107. Establishment and maintenance - Reports - List of permit approvals.

A. The Conservation Commission may establish and maintain an environmental and natural resources geographic data base system. Such system shall include but not be limited to pollution complaints filed with the state environmental agencies and state agencies with limited environmental responsibilities, resolutions of complaints and such other data as funds become available and as may be desirable and necessary to provide public access to specific site information.

B. Not more than once each month, each state environmental agency and state agency with limited environmental responsibilities shall submit to the Conservation Commission a report listing the environmental pollution complaints received during the previous month. The report shall include the name of the complainant, if known, the address of the complainant, the location involved in the complaint, the name of the person or company and address thereof alleged to be responsible for the pollution and how the complaint was resolved. The report shall be in such form and made in such manner as is required by the Commission. The report shall be in writing or may be submitted in electronic data or machine-readable form at the discretion of the Commission.

C. The Commission shall annually submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor containing the total number of pollution complaints filed, the total number of complaints and type of complaints addressed by each state environmental agency, the total number of such complaints resolved, the total number of complaints remaining to be resolved, the average time frame for resolving such complaints, and the historical comparison of complaint resolution in

previous years, and any other information which the Commission believes is pertinent in regard to pollution complaints.

D. The Conservation Commission may recover costs incurred in duplicating any reports made pursuant to the provisions of this section.

E. The Department of Environmental Quality shall routinely provide the Conservation Commission with a list of permit approvals for inclusion in the Commission's data base.

Added by Laws 1992, c. 398, § 20, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 213, eff. July 1, 1993. Renumbered from Title 82, § 1501-450 by Laws 1993, c. 145, § 359, eff. July 1, 1993; Laws 1999, c. 413, § 17, eff. Nov. 1, 1999.

§27A-3-2-108. Wetlands Management Strategy - Exclusive jurisdiction - Contents - Submission to Legislature and other officials.

A. The Commission is hereby given exclusive jurisdiction to prepare a Wetlands Management Strategy for the State of Oklahoma. The Strategy shall:

1. Define wetlands;
2. Enumerate their beneficial uses;
3. Identify and inventory wetlands within this state;
4. Recommend measures to mitigate losses of wetlands;
5. Provide measures to protect wetlands; and
6. Define standards for critical wetlands and measures to ensure protection of property rights of landowners.

B. Upon completion, the Conservation Commission is to forward the Wetlands Management Strategy for the State of Oklahoma and to submit said Strategy to the President Pro Tempore of the Oklahoma Senate, the Speaker of the Oklahoma House of Representatives, and to the Secretary of the Environment or successor secretary position.

Added by Laws 1990, c. 243, § 1. Amended by Laws 1993, c. 145, § 214, eff. July 1, 1993. Renumbered from Title 82, § 1621 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-2-109. Concentrated Animal Feeding Operation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission, to be designated the "Concentrated Animal Feeding Operation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of cost-share monies received by the Commission from the Concentrated Animal Feeding Operation Program. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the general operation of the Commission. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1994, c. 251, § 4, eff. Sept. 1, 1994. Amended by Laws 2012, c. 304, § 110.

§27A-3-2-110. Oklahoma Conservation Commission Infrastructure Revolving Fund

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Oklahoma Conservation Commission Infrastructure Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Conservation Commission from the apportionment of gross production tax revenues as prescribed by Section 1004 of Title 68 of the Oklahoma Statutes.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Conservation Commission for the purpose of the rehabilitation of watershed dams and, for the Conservation Cost Share Program and the Conservation Reserve Enhancement Program.

D. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

E. No more than thirty percent (30%) of the monies in the fund shall be used for the payment of administrative expenses, salary or any other continuing obligation of the Oklahoma Conservation Commission; provided, however, such monies shall not be used for salary increases for employees.

Added by Laws 2006, 2nd Ex. Sess., c. 43, § 3, eff. July 1, 2006. Amended by Laws 2009, c. 305, § 3, eff. July 1, 2009; Laws 2012, c. 304, § 111; Laws 2016, c. 226, § 1.

§27A-3-3-101. Status and powers.

A district perpetuated by the provisions of the Conservation District Act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers.

Added by Laws 1971, c. 346, § 15-501, operative July 1, 1971. Amended by Laws 1993, c. 145, § 215, eff. July 1, 1993. Renumbered from Title 82, § 1501-501 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-102. Board of directors - Officers - Filing notice of organization - Quorum - Voting.

A. At the first meeting following each annual election, the board of directors shall organize and shall select and designate a chair, vice-chair and a treasurer. Notice of the new organization

shall be filed with the Conservation Commission annually as prescribed by the Commission.

B. A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination.

Added by Laws 1971, c. 346, § 15-416, operative July 1, 1971. Amended by Laws 1993, c. 145, § 216, eff. July 1, 1993. Renumbered from Title 82, § 1501-416 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 2, emerg. eff. May 2, 2008.

§27A-3-3-103. Secretary, technical experts and other employees - Legal assistance - Delegation of powers - Copies of ordinances, rules and regulations, etc., to Commission.

A. The directors of a district may employ a secretary, technical experts and other employees as necessary and determine their duties and compensation. Employees of a conservation district are at-will employees.

B. The district attorney within whose jurisdiction a majority of the area of the district is situated shall act as legal advisor for the board of directors and shall afford the board like representation as is now provided for other county officers. The directors may call upon the Attorney General of the state for such legal services as they may require, or may employ their own counsel.

C. The directors may delegate, to their chair, to one or more directors, or to one or more agents or employees such powers and duties as they may deem proper.

D. The directors shall furnish to the commission copies of such ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under the Conservation District Act.

Added by Laws 1971, c. 346, § 15-419, operative July 1, 1971. Amended by Laws 1993, c. 145, § 217, eff. July 1, 1993. Renumbered from Title 82, § 1501-419 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 3, emerg. eff. May 2, 2008.

§27A-3-3-104. Bonds - Records - Audits.

The directors shall provide for:

1. The execution of surety bonds for all employees and officers who shall be entrusted with funds or property;

2. The keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and

3. An annual audit or, at the Commission's discretion, a review or compilation in compliance with standards promulgated by the American Institute of Certified Public Accountants, provided that a complete audit shall be conducted at least every three (3) years of the receipts and disbursements which shall be filed with the

commission and with the county clerk of each county within the conservation district.
Added by Laws 1971, c. 346, § 15-420, operative July 1, 1971. Amended by Laws 1987, c. 208, § 34, operative July 1, 1987; Laws 1987, c. 236, § 63, emerg. eff. July 20, 1987; Laws 1993, c. 145, § 218, eff. July 1, 1993. Renumbered from Title 82, § 1501-420 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-105. Powers and duties.

A. In addition to other powers and duties provided by law, a conservation district and the directors thereof shall have the power and duty to:

1. Obtain such information as may be necessary to the proper carrying out of duties and powers prescribed in the Conservation District Act, by making surveys and investigations relating to the conservation of renewable natural resources, and the preventive and control measures and works of improvement needed; provided, however, that such surveys and investigations shall not be undertaken except in cooperation with the State Conservation Commission or with the government of this state or any of its agencies, or with the United States or any of its agencies;

2. Conduct operations for the conservation of renewable natural resources within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which the conservation of renewable natural resources may be carried out;

3. Carry out preventive and control measures and works of improvement for the conservation of renewable natural resources within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation and changes in use of land on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;

4. Cooperate or enter into agreements with, and, within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier of lands within the district, subject to such conditions as the directors may deem necessary to advance the purposes of the Conservation District Act;

5. Obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real

or personal, or rights or interests therein; to maintain, administer and improve any properties acquired; and to:

a. receive income from such properties and to expend such income in carrying out the purposes and provisions of the Conservation District Act, and

b. sell, lease or otherwise dispose of any of its property or interests therein, all in furtherance of the purposes and provisions of the Conservation District Act; provided that in all cases when lands or interests therein are deemed by the directors to be necessary for upstream flood control purposes to carry out the purposes of the Conservation District Act and which cannot otherwise be acquired, the district shall be vested with the power of eminent domain and may condemn and acquire such lands as provided by the laws of this state governing the acquisition of lands by railroad corporations;

6. Make available, on such terms as it shall prescribe, to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such landowners and occupiers to carry on operations upon their lands for the conservation of renewable natural resources;

7. Construct, improve, repair, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations or activities authorized in the Conservation District Act;

8. Develop resource conservation programs and annual work plans as provided in the Conservation District Act;

9. Acquire by purchase, lease or otherwise, and to administer any project or program concerned with the conservation of renewable natural resources located within its boundaries undertaken by any federal, state or other public agency; and to:

a. accept donations, gifts and contributions, in money, services, materials or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source, and

b. use or expend such moneys, services, materials or other contributions in carrying out the purposes of the Conservation District Act, and

c. enter into contracts and negotiate with any agency of the United States or the State of Oklahoma in any plan related to the conservation of renewable natural resources;

10. Sue and be sued in the name of the district; and to:

a. have a seal, which seal shall be judicially noticed,

b. make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and

c. make, and from time to time amend and repeal, rules and regulations not inconsistent with the Conservation District Act to carry into effect its purposes and powers; and

11. Carry workers' compensation insurance, in its discretion, on any or all its employees, regardless of the nature of the work in which such employee or employees are engaged, such insurance to be carried with the State Insurance Fund, and to be paid for by each district out of the funds of such district.

B. As a condition to the extending of any benefits under the Conservation District Act to or the performance of work upon any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the use of such lands as may be consistent with the purposes of the Conservation District Act.

C. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state.

D. Soil and water conservation district directors have the authority to accept appointment to serve as members of local, municipal, county, regional and state planning agencies, boards, commissions and authorities and districts may participate in the funding thereof and performance of works and projects thereunder.

Added by Laws 1971, c. 346, § 15-502, operative July 1, 1971. Amended by Laws 1975, c. 71, § 1, emerg. eff. April 18, 1975; Laws 1993, c. 145, § 219, eff. July 1, 1993. Renumbered from Title 82, § 1501-502 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-106. Authority to obtain loan or grant.

A conservation district:

1. Shall be authorized to obtain a loan or grant of any funds, property, equipment or services which any state or federal agency or local governmental unit may be authorized to lend or grant for any of the purposes of the Conservation District Act; and

2. May enter into such contract, loan agreement or other administrative arrangement as may be lawfully required in connection with any such loan or grant; and in connection with any such loan or grant may pledge, encumber or obligate any property or income of the district.

Added by Laws 1971, c. 346, § 15-504, operative July 1, 1971. Amended by Laws 1993, c. 145, § 220, eff. July 1, 1993. Renumbered

from Title 82, § 1501-504 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-107. District as local agency.

A. Any district organized under the Conservation District Act shall have power to serve as a local agency for operating and maintaining any project or program concerned with the conservation of renewable natural resources that is administered by any local, state, interstate or federal public agency, by entering into a contract or other appropriate administrative arrangement with the agency administering such project or program.

B. In serving as such local agency for any such project or program, the district may use any authority or funds available to it under the Conservation District Act which are required for such purposes.

C. 1. Any agency of the government of this state and any local political subdivision of this state is hereby authorized to make such arrangements with any district, through contract, regulation or other appropriate means, wherever it believes that such arrangements will promote administrative efficiency or economy.

2. In connection with any such arrangements, any state or local agency or political subdivision of this state is authorized, within the limits of funds available to it, to contribute funds, equipment, property or services to any district; and to collaborate with a district in jointly planning, constructing, financing or operating any work or activity provided for in such arrangements and in jointly acquiring, maintaining and operating equipment or facilities in connection therewith.

D. Any district may receive funds, property, equipment and services from any local, state, interstate or federal public agency, or from private donors, for use in serving as the local agency for operating and maintaining a program or project under any such contract or other arrangement.

Added by Laws 1971, c. 346, § 15-503, operative July 1, 1971. Amended by Laws 1993, c. 145, § 221, eff. July 1, 1993. Renumbered from Title 82, § 1501-503 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-108. Long-range program and annual work plan - Annual report - Dissemination of works and activities information.

A. 1. Each district organized under the Conservation District Act shall prepare and keep current a long-range program for the conservation of all the renewable natural resources of the district. The program shall be directed toward conservation of resources for their best uses and in a manner that will best meet the needs of the district and the state, and be consistent with the best uses of the renewable natural resources of the state.

2. The program shall include:

a. an inventory of all renewable natural resources in the district,

b. a compilation of current resource needs,

c. projections of future resource requirements,

d. priorities for various resource activities,

e. projected timetables, and

f. provisions for coordination with other resource programs.

B. The district shall also prepare an annual work plan, that shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range program that are of the highest priorities.

C. 1. Every district shall publish an annual report of its plans, programs, activities, budget, receipts, and expenditures.

2. The report shall include therein:

a. descriptions of its official Resources Conservation Program,

b. the current annual program related thereto, and

c. the status of all activities initiated under the program.

3. Each district:

a. shall submit copies of each annual report to the Governor of the state and to the State Conservation Commission, which shall furnish a copy thereof to the appropriate state legislative officers, in accordance with rules concerning the reports to be issued by the Commission,

b. shall make copies of the reports, and summaries and digests thereof, available to all federal, state and local cooperating agencies and shall make suitable distribution to the general public, and

c. may publish additional information and reports as may be necessary and appropriate.

D. Every district shall, through public hearings, publications and other means, keep the general public, and all operators or occupiers of land within the district, informed of the works and activities planned and administered by the district, of the purposes these will serve, of the income and expenditures of the district, the purposes for which the funds are expended, and of the results achieved annually by the district.

E. Each district shall submit to the Commission its proposed long-range program and annual work plans for adoption, rejection, modification or revision.

Added by Laws 1971, c. 346, § 15-601, operative July 1, 1971. Amended by Laws 1993, c. 145, § 222, eff. July 1, 1993. Renumbered

from Title 82, § 1501-601 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 4, emerg. eff. May 2, 2008.

§27A-3-3-109. Status of district's conservation plan.

A. The long-range resource conservation program, together with the supplemental annual work plans, developed by each district under the foregoing procedures shall have official status as the authorized program of the district, and it shall be published by the district as its "Resources Conservation Program". Copies shall be made available by the district to the appropriate counties, municipalities, special purpose districts and state agencies, and shall be made available in convenient places for examination by any public or private interest concerned. Summaries of the program and selected material therefrom shall be distributed as widely as feasible for public information.

B. Counties, municipalities and other public agencies of the state that are authorized by law to adopt zoning ordinances shall give the directors of the appropriate district opportunity to review and comment on proposed zoning ordinances and amendments affecting renewable natural resources and their uses directly affecting rural areas not within the jurisdictional area of any incorporated municipalities, metropolitan area, planning commission, or their successors.

C. The districts shall submit from time to time to any public agency authorized to adopt zoning ordinances applicable to any area within the district its recommended provisions for inclusion in zoning ordinances, where such provisions would help achieve the land use or other objectives of the district's Resources Conservation Program.

Added by Laws 1971, c. 346, § 15-604, operative July 1, 1971. Amended by Laws 1993, c. 145, § 223, eff. July 1, 1993. Renumbered from Title 82, § 1501-604 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-110. Repealed by Laws 2008, c. 110, § 14, emerg. eff. May 2, 2008.

§27A-3-3-111. Cooperation with districts.

It is policy of the Legislature to require mutual cooperation and assistance among the governing officers of the counties, cities, other municipalities, conservation districts, other special purpose districts and other political subdivisions of the state in all activities directly affecting the conservation of the renewable natural resources of this state, within the broad definition of these terms given in the Conservation District Act.

Added by Laws 1971, c. 346, § 15-506, operative July 1, 1971. Amended by Laws 1993, c. 145, § 225, eff. July 1, 1993. Renumbered

from Title 82, § 1501-506 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-112. Cooperation between districts.

A. Any two or more districts organized under the provisions of the Conservation District Act may cooperate with one another in the exercise of any or all powers conferred in the Conservation District Act, and expend locally earned district funds in furtherance of such cooperation.

B. Any two or more districts may engage in joint activities by agreement between or among them in planning, financing, constructing, operating, maintaining and administering any program or project concerned with the conservation of renewable natural resources. The districts concerned may make available for purposes of the agreement any funds, property, personnel, equipment or services available to them under the Conservation District Act.

C. Any district may enter into such agreements with a district or districts in adjoining states to carry out such purposes if the law in such other states permits the districts in such states to enter into such agreements.

D. The Commission shall have authority to propose, guide and facilitate the establishment and carrying out of any such agreements.

Added by Laws 1971, c. 346, § 15-505, operative July 1, 1971. Amended by Laws 1993, c. 145, § 226, eff. July 1, 1993. Renumbered from Title 82, § 1501-505 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-113. Procedure.

A. The districts shall invite the appropriate counties, municipalities and special purpose districts or other governmental units to designate liaison representatives for consultation on each other's programs and plans for resource conservation. The counties, municipalities, special purpose districts and other governmental units are hereby authorized to appoint such liaison representatives and to participate in the preparation and coordination of local planning and programming for resource conservation. The districts shall designate liaison representatives to advise and consult with such other local agencies.

B. The districts shall consult and cooperate with state, regional, interstate and federal agencies to promote harmony and the avoidance of conflict in the programs and plans for resource conservation developed and carried out by any of them. The districts, other local agencies and the agencies of the government of this state shall provide for liaison and consultation among them for all programs that have direct impact on natural resources, including plans for public land acquisition and management, schools, dams and reservoirs, and other water management structures, highway locations,

public utilities and subdivisions. Districts shall hold similar consultations with public and private agencies planning, constructing or operating transportation or communication facilities.

C. State agencies, the districts and other local agencies are authorized to make available to each other maps, reports and data in their possession that are useful in the preparation of their respective programs and plans for resource conservation. The districts shall keep the state and local agencies fully informed concerning the status and progress of the preparation of their resource conservation programs and plans.

D. The districts shall hold public hearings at appropriate times in connection with the preparation of programs and plans, shall give careful consideration to the views expressed and problems revealed in hearings, and shall keep the public informed concerning their programs, plans and activities. Agencies and individuals shall be invited to submit proposals for consideration at such hearings. The districts may supplement such hearings with meetings, referenda and other suitable means to determine the wishes of interested parties and the general public in regard to current and proposed plans and programs of a district. They shall confer with public and private agencies, individually and in groups, to give and obtain information and understanding of the impact of district operations upon agriculture, forestry, water supply and quality, flood control, particular industries, commercial concerns and other public and private interests, both rural and urban.

Added by Laws 1971, c. 346, § 15-602, operative July 1, 1971. Amended by Laws 1993, c. 145, § 227, eff. July 1, 1993. Renumbered from Title 82, § 1501-602 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-114. Purpose - Rules - Definition.

A. The Oklahoma Conservation Commission is hereby authorized to establish and administer a conservation cost-share program as funds become available. The conservation cost-share program shall provide monies to eligible persons for the purpose of implementing conservation or best management practices on such eligible land as described in conservation management plans according to rules promulgated by the Commission.

B. The Commission shall promulgate rules governing the cost-share program.

C. To implement the program, the Commission shall require conservation districts to enter into contracts for eligible projects on eligible land detailing the eligible person's responsibilities.

D. For purposes of the conservation cost-share program:

1. "Eligible person" means any individual, partnership, corporation, legally recognized Indian tribe, estate, or trust who as

an owner, lessee, tenant, or operator participates in the care and/or management of land within a conservation district;

2. "Eligible land" means:

a. privately owned land within the state,

b. land owned by the state or a political subdivision of the state,

c. land owned by corporations which are partly owned by the United States,

d. land temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farm Service Agency, the U.S. Department of Defense, or by any other government agency,

e. any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it, and

f. noncropland owned by the United States on which practices are performed by private persons where such practices directly conserve or benefit nearby or adjoining privately owned lands of the persons performing the practices and such persons maintain and use such federally owned noncropland under agreement with the federal agency having jurisdiction thereof; and

3. "Eligible projects" means conservation practices determined to be needed by a conservation district to:

a. improve or protect water quality,

b. reduce soil erosion,

c. accomplish both the objectives described in subparagraphs a and b of this paragraph, or

d. reduce feral swine population by use of electronic hog traps.

Added by Laws 1998, c. 271, § 3, eff. July 1, 1998. Amended by Laws 2019, c. 308, § 1, eff. Nov. 1, 2019.

§27A-3-3-115. Conservation Cost-Share Fund.

A. There is hereby created within the State Treasury a cost-share fund for the Oklahoma Conservation Commission to be designated the "Conservation Cost-Share Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Conservation Commission to implement and maintain the conservation cost-share program.

B. The Conservation Cost-Share Fund shall consist of:

1. Money received by the Conservation Commission in the form of gifts, grants, reimbursements, donations, industry contributions, state appropriations, funds allocated by federal agencies for cost-

share programs and such other monies specifically designated for the cost-share program. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the conservation cost-share program; and

2. Interest attributable to investment of money in the Conservation Cost-Share Fund.

C. All donations or other proceeds received by the Commission pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Conservation Cost-Share Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The monies deposited in the Conservation Cost-Share Fund shall at no time become part of the general budget of the Conservation Commission or any other state agency. Except for any administration costs incurred in development and implementation of the cost-share program, no monies from the fund shall be transferred for any purpose to any other state agency or any account of the Conservation Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

Added by Laws 1998, c. 271, § 4, eff. July 1, 1998. Amended by Laws 2012, c. 304, § 112.

§27A-3-3-116. Applications.

A. The Conservation Commission shall require applicants to submit information, forms and reports as are necessary to properly and efficiently administer the conservation cost-share program.

B. Persons may apply to a conservation district for cost-share funds for eligible conservation projects in the State of Oklahoma, in accordance with rules promulgated by the Commission. To be eligible for reimbursement for a cost-share project, an eligible person must:

1. File a conservation plan approved by the conservation district in which the applicant's land is located; and

2. Enter into a contract with a conservation district detailing the responsibilities of the person.

C. Applications for funds shall be approved or denied by the conservation district in accordance with criteria promulgated by the Commission.

Added by Laws 1998, c. 271, § 5, eff. July 1, 1998.

§27A-3-3-117. Financial or general obligation of state - Construction of act.

Nothing in this act or in the contract executed pursuant to Section 3 of this act shall be interpreted or construed to constitute a financial or general obligation of the state. No state revenue

shall be used to guarantee or pay for any damages to property or injury to persons as a result of the provisions of this act or the contract.
Added by Laws 1998, c. 271, § 6, eff. July 1, 1998.

§27A-3-3-201. Directors.

A. The governing body of the district shall consist of five (5) directors, elected or appointed as provided in the Conservation District Act.

B. 1. Three directors shall be elected for a term of three (3) years and shall be elected for staggered terms beginning July 1 and ending June 30.

2. The three elected directors' positions shall be designated as position number one, position number two and position number three by the Commission.

3. To be eligible for election as a director of a conservation district, a person must be a registered voter in the district, and must be a cooperator of the district.

C. Two directors for each district shall be appointed by the Commission to serve a term of two (2) years beginning July 1 and ending June 30. The Commission shall issue a certificate of appointment to all appointed directors. Initially one director shall serve for a period of one (1) year and one director for a period of two (2) years.

D. Any director may be removed from office by the Commission, upon notice and hearing, for neglect of duty or for malfeasance in office.

E. All vacancies in the office of an elected or appointed director shall be filled for the unexpired term by the Commission.

F. Directors shall be entitled to be reimbursed by the district for actual expenses incurred in the official performance of their duties.

G. District directors may be paid a per diem for attending monthly district board meetings not to exceed Fifty Dollars ($50.00) per meeting as established by the Oklahoma Conservation Commission.

H. If any director shall, during their term of office as director, be elected or appointed to any county or state elective office, or if they shall file as a candidate for the nomination to be elected to any such other office, their office as director shall become vacant and the vacancy shall be filled by appointment of the Commission. Provided, that a district director may also serve on a board of education of a school district.
Added by Laws 1971, c. 346, § 15-415, operative July 1, 1971. Amended by Laws 1993, c. 145, § 228, eff. July 1, 1993. Renumbered from Title 82, § 1501-415 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1999, c. 370, § 1, eff. Sept. 1, 1999; Laws

2003, c. 479, § 6, eff. July 1, 2003; Laws 2008, c. 110, § 5, emerg. eff. May 2, 2008.

§27A-3-3-202. Advisory committees.

A. The board of directors shall appoint such advisory committees as may be needed to assure the availability of appropriate channels of communication to the board, to persons affected by district operations, and to local, regional, state and interstate special purpose districts and agencies responsible for community planning, zoning or other resource development activities.

B. The district shall keep such committees informed of its work, and such advisory committees shall submit recommendations from time to time to the board of directors.

Added by Laws 1971, c. 346, § 15-421, operative July 1, 1971. Amended by Laws 1993, c. 145, § 229, eff. July 1, 1993. Renumbered from Title 82, § 1501-421 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-301. Date of election - Eligible voters.

A. There shall be an election each year in every conservation district on the first Tuesday in June, which is hereby designated as Conservation District Day, to elect one director in each district.

B. All registered voters in a district shall be eligible to vote in the election.

Added by Laws 1971, c. 346, § 15-403, operative July 1, 1971. Amended by Laws 1972, c. 50, § 1, emerg. eff. Mar. 15, 1972; Laws 1993, c. 145, § 230, eff. July 1, 1993. Renumbered from Title 82, § 1501-403 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 6, emerg. eff. May 2, 2008.

§27A-3-3-302. Notice of filing period.

Each district shall give due notice of the filing period for election of district directors, during the first three (3) weeks in April, setting forth the period in which notifications and declarations of candidacy are to be filed.

Due notice shall be given in each district of the election. The last publication of the notice shall be not less than five (5) days before the date of the election. Said notice shall set forth the purpose, time, date, and polling places for the election.

Added by Laws 1971, c. 346, § 15-405, operative July 1, 1971. Amended by Laws 1993, c. 145, § 231, eff. July 1, 1993. Renumbered from Title 82, § 1501-405 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 7, emerg. eff. May 2, 2008.

§27A-3-3-303. Filing period, notification and declaration of candidacy.

Any person found eligible by the Commission to be elected a district director shall have their name placed on the official ballot, upon filing with the Commission a notification and declaration of candidacy, during the first two weeks in May. The notification and declaration shall be in the form prescribed by the Commission.

Added by Laws 1971, c. 346, § 15-406, operative July 1, 1971. Amended by Laws 1993, c. 145, § 232, eff. July 1, 1993. Renumbered from Title 82, § 1501-406 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 8, emerg. eff. May 2, 2008.

§27A-3-3-304. Election of directors.

A. The Conservation Commission shall designate the polling places in the district.

B. The names of all candidates who have filed a proper notification and declaration and have been found eligible by the Commission within the time herein designated shall be printed on a ballot prescribed by the Commission.

C. The Commission shall declare the candidate receiving the largest number of votes cast in an election, elected.

D. When two or more candidates receive the same number of votes cast, a runoff election shall be held within thirty (30) days from date of the first election in the manner prescribed above.

E. The Commission shall prescribe rules for holding elections pursuant to the provisions of this section, pay for the elections, supervise the conduct and shall publish the results.

F. When only one qualified candidate files a notification and declaration of candidacy for the office of director in a district as provided herein, no election shall be necessary and the Commission shall declare the person elected.

G. The Commission shall issue a certificate to all elected directors signifying their election to the office of director of their district.

Added by Laws 1971, c. 346, § 15-407, operative July 1, 1971. Amended by Laws 1993, c. 145, § 233, eff. July 1, 1993. Renumbered from Title 82, § 1501-407 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2008, c. 110, § 9, emerg. eff. May 2, 2008.

§27A-3-3-401. Change of name.

The name of any district may be changed by resolution of the board of directors thereof. Said resolution shall be submitted to the Commission, which shall present same to the Secretary of State who shall, if the Secretary of State finds that such name is not identical or so nearly similar to the name of another conservation district as to lead to confusion or uncertainty, file the resolution and issue a new certificate to the district showing the new name.

Added by Laws 1971, c. 346, § 15-303, operative July 1, 1971. Amended by Laws 1993, c. 145, § 234, eff. July 1, 1993. Renumbered from Title 82, § 1501-303 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-402. Certificate of Secretary of State as evidence.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of a district, the district shall be deemed to have been established in accordance with the provisions of the Conservation District Act upon proof of the issuance of a certificate of organization to a soil conservation district or a soil and water conservation district by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action or proceeding and shall be proof of the filing and contents thereof.

Added by Laws 1971, c. 346, § 15-304, operative July 1, 1971. Amended by Laws 1993, c. 145, § 235, eff. July 1, 1993. Renumbered from Title 82, § 1501-304 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-403. Filing, recording, certification - Fees and charges.

A conservation district shall not be liable for any fees or charges in connection with the filing, recording or indexing, in the office of the county clerk of any county of this state, of any instrument in favor of such district, or in connection with the certification, by such county clerk, of any copy of any instrument on file or of record in the office of such county clerk, desired by such district, but all such instruments presented by such district or the directors thereof for filing or recording shall be filed, recorded and indexed without charge, and such copies of instruments necessary by such district or the directors thereof shall be certified free of charge.

Added by Laws 1971, c. 346, § 15-509, operative July 1, 1971. Amended by Laws 1993, c. 145, § 236, eff. July 1, 1993. Renumbered from Title 82, § 1501-509 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-404. County funds may be appropriated.

In those counties of the state which contain in whole or in part a conservation district, the county excise board may, at it discretion, upon request of the directors of such conservation district, appropriate money from the county general fund for use by the district or districts serving the particular county from which the appropriation is made.

Added by Laws 1971, c. 346, § 15-507, operative July 1, 1971. Amended by Laws 1993, c. 145, § 237, eff. July 1, 1993. Renumbered

from Title 82, § 1501-507 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-3-3-405. Fund created.

There is hereby created a revolving fund to be known as the Small Watersheds Flood Control Fund. Said fund shall consist of all monies appropriated to, deposited in or credited to said fund.
Added by Laws 1971, c. 346, § 15-701, operative July 1, 1971. Renumbered from Title 82, § 1501-701 by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§27A-3-3-406. Control.

The Small Watersheds Flood Control Fund shall be under the control and supervision of the Oklahoma Conservation Commission and shall be paid on its itemized form which shall be audited by the said board and, upon final approval, vouchers which are payable from said fund shall be forwarded to the Director of the Office of Management and Enterprise Services, who shall audit the same and, upon approval thereof, warrants shall be issued according to law, and said warrants shall be paid by the State Treasurer from the said fund.
Added by Laws 1971, c. 346, § 15-703, operative July 1, 1971. Renumbered from § 1501-703 of Title 82 by Laws 1993, c. 324, § 56, eff. July 1, 1993. Amended by Laws 2012, c. 304, § 113.

§27A-3-3-407. Allocation of funds.

A. The Commission shall have authority to allocate to any conservation district in this state, from the Small Watersheds Flood Control Fund, such sum or sums as in the judgment of the said Commission may be necessary to enable such district to acquire real property or easements needed by such district to permit such district to install upstream flood control structures on rivers and streams and the tributaries thereof, including cooperative projects between such district and the United States government.

B. Monies from the fund may also be used for costs associated with the rehabilitation of flood control structures, including, but not limited to, landrights.
Added by Laws 1971, c. 346, § 15-704, operative July 1, 1971. Renumbered from Title 82, § 1501-704 by Laws 1993, c. 324, § 56, eff. July 1, 1993. Amended by Laws 1999, c. 370, § 2, eff. Sept. 1, 1999.

§27A-3-3-408. Requirements for funds to be expended.

None of the funds in the Small Watersheds Flood Control Fund shall be expended until eighty percent (80%) of the easements are obtained for the watershed project in which the money from the fund is to be used.

Added by Laws 1971, c. 346, § 15-705, operative July 1, 1971. Renumbered from Title 82, § 1501-705 by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§27A-3-3-409. Restriction on use of funds.

No funds from the Small Watersheds Flood Control Fund shall be used to acquire, by condemnation, lands under and existing valid oil and gas mining lease from which oil and/or gas are being produced.

Added by Laws 1971, c. 346, § 15-706, operative July 1, 1971. Renumbered from Title 82, § 1501-706 by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§27A-3-3-410. Payment of insurance premiums for employees.

The Oklahoma Conservation Commission is hereby authorized to equitably apportion and pay dependent health insurance premiums for local conservation district employees from funds appropriated for such purpose.

Added by Laws 1999, c. 370, § 5, eff. Sept. 1, 1999.

§27A-3-3-411. "Operation and maintenance" or "operate and maintain" - Interpretation.

A. Oklahoma has a large number of preventive and control measures and works of improvement that are operated and maintained by conservation districts and their assigns throughout the state. These preventive and control measures and works of improvement include, but are not limited to, flood control dams, erosion control practices, and channels constructed with the assistance of the United States Department of Agriculture (USDA) through USDA’s watershed programs.

B. Pursuant to the Conservation District Act, the phrase “operation and maintenance” or “operate and maintain” as used in a variety of contractual documents, easements, statutes, rules, and other legal authority by the conservation districts and their assigns shall be interpreted to:

1. Encompass the terms repair, modification, alteration, rehabilitation, upkeep, upgrade, improvement, construction, reconstruction, decommission, and inspection; and

2. Benefit the state and conservation districts.

Added by Laws 2008, c. 110, § 10, emerg. eff. May 2, 2008.

§27A-3-3-412. Operation and maintenance of structures for flood control.

Except as otherwise provided by state or federal law, a conservation district’s responsibility for the operation and maintenance of any structure for the purpose of flood control pursuant to any contractual, statutory, regulatory or other legal authority or obligation, shall not be deemed to include maintaining,

protecting or improving the quality of any soil, air, groundwater or surface water or biota affected by, near or comprising any part of the structure, including any water, soil or sediment pooled, impounded or diverted by the structure, including but not limited to, monitoring, limiting, or abating or otherwise controlling or eliminating any point source or nonpoint source pollution or any other biological, chemical, radiological or physical contamination by any source or mechanism.
Added by Laws 2008, c. 110, § 11, emerg. eff. May 2, 2008.

§27A-3-3-413. Directors' participation in health or dental insurance plans.

Directors of a conservation district may elect to participate in the health or dental insurance plan offered by the conservation district to its employees as provided for in the State and Education Employees Group Insurance Act. The conservation district director shall pay the full cost of the insurance premium for the coverage at the rate prescribed by and pursuant to the terms and conditions of the health or dental plan.
Added by Laws 2008, c. 110, § 12, emerg. eff. May 2, 2008.

§27A-3-3-414. Transfer of employee service time.

A conservation district employee who transfers to a state agency shall not lose the service time the employee has accrued for the purposes of calculating longevity benefits and leave benefits.
Added by Laws 2008, c. 110, § 9, emerg. eff. May 2, 2008.

§27A-3-3-501. Creation of program - Purpose.

A. The Oklahoma Conservation Commission is hereby authorized to establish and administer the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program as funds become available and otherwise appropriated. The Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program shall provide monies to eligible communities and rural water districts for the purpose of implementing conservation or best management practices on such eligible land pursuant to priority watershed work or Conservation Reserve Enhancement Program (CREP) work, or watershed rehabilitation or watershed operation and maintenance work in accordance to rules promulgated by the Commission.

B. The Commission shall promulgate rules as necessary to implement the provisions of this act.
Added by Laws 2008, c. 167, § 1, eff. July 1, 2008.

§27A-3-3-502. Revolving fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the

"Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Conservation Commission in the form of gifts, grants, reimbursements, donations, industry contributions, state appropriations, funds allocated by federal agencies for cost-share programs and such other monies specifically designated for the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the Municipal Infrastructure Conservation Cost-Share Program; and interest attributable to investment of money in the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Revolving Fund.

C. All donations or other proceeds received by the Commission pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Revolving Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Conservation Commission for the purpose of matching municipal or rural water district funds for the rehabilitation of watershed dams and for the Conservation Cost-Share Program and the Conservation Reserve Enhancement Program pursuant to the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program.

E. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

F. No more than five percent (5%) of the monies in the fund shall be used for the payment of administrative expenses, salary or any other continuing obligation of the Oklahoma Conservation Commission.

Added by Laws 2008, c. 167, § 2, eff. July 1, 2008. Amended by Laws 2012, c. 304, § 114.

§27A-3-4-101. Short title – Legislative findings and intent.

A. This article shall be known and may be cited as the "Oklahoma Carbon Sequestration Enhancement Act".

B. The Oklahoma Legislature finds that:

1. Increasing levels of carbon dioxide and other gases in the atmosphere have led to growing interest in national and international

forums for implementing measures to slow and reverse the buildup of such atmospheric constituents. These measures may include, but are not limited to, the establishment of systems of trading in carbon dioxide credits or adoption of practices, technologies, or other measures which decrease the concentration of carbon dioxide in the atmosphere and improve air quality;

2. Carbon sequestration practices have great potential to increase carbon sequestration and help offset the impact of carbon dioxide emissions on carbon dioxide concentrations in the atmosphere; and

3. It is in the interest of the citizens of this state that the Oklahoma Conservation Commission document and quantify carbon sequestration associated with carbon sequestration practices.

C. It is the intent of the Legislature that such efforts to document and quantify carbon sequestration associated with carbon sequestration practices will enhance the ability of the state's landowners, well owners and mineral owners to participate in any system of carbon dioxide emissions marketing or trading that may be developed in the future.

D. For purposes of this act, "carbon sequestration practices" and "carbon capture and storage practices" shall mean and include:

1. Improved agricultural practices, including, but not limited to, decreasing soil tillage, planting and managing vegetation, growing agricultural crops or managing any existing vegetated area;

2. Improved natural resources conservation practices, including, but not limited to, vegetation, revegetation, forestation, afforestation and reforestation on rangeland and other agricultural and nonagricultural lands;

3. Practices involving the capture and sequestration or storage of carbon dioxide emissions through carbon dioxide injection in producing oil or gas wells, abandoned oil or gas wells, or other wells;

4. Other improved methods of stewardship for the natural resources of Oklahoma; and

5. Other methods of sequestering, displacing or avoiding carbon dioxide emissions approved by the Oklahoma Conservation Commission.

Added by Laws 2001, c. 81, § 1, emerg. eff. April 16, 2001. Amended by Laws 2003, c. 221, § 1, emerg. eff. May 20, 2003; Laws 2011, c. 264, § 2.

§27A-3-4-102. Oklahoma Conservation Commission - Duties.

The Oklahoma Conservation Commission shall:

1. Encourage the production of educational and advisory materials regarding carbon sequestration and storage and the opportunities to participate in any system of carbon dioxide emissions trading or marketing that may be developed in the future; and

2. Identify areas of research needed to better understand and quantify carbon sequestration and storage involved in carbon sequestration practices within the state.

Added by Laws 2001, c. 81, § 2, emerg. eff. April 16, 2001. Amended by Laws 2002, c. 273, § 1, emerg. eff. May 20, 2002; Laws 2003, c. 221, § 2, emerg. eff. May 20, 2003; Laws 2011, c. 264, § 3.

§27A-3-4-103. Acceptance of public and private funds.

The Oklahoma Conservation Commission may apply for and accept grants, gifts, or other sources of public and private funds to carry out the purposes of the Oklahoma Carbon Sequestration Enhancement Act.

Added by Laws 2001, c. 81, § 3, emerg. eff. April 16, 2001. Amended by Laws 2003, c. 221, § 3, emerg. eff. May 20, 2003; Laws 2011, c. 264, § 4.

§27A-3-4-104. Carbon Sequestration Assessment Cash Fund.

The "Carbon Sequestration Assessment Cash Fund" is hereby created. The fund shall be used by the Oklahoma Conservation Commission to carry out the Oklahoma Carbon Sequestration Enhancement Act. The State Treasurer shall credit to the fund any money appropriated to the fund by the Legislature and any money received as gifts, grants, or other contributions from public or private sources obtained for the purposes of the Oklahoma Carbon Sequestration Enhancement Act.

Added by Laws 2001, c. 81, § 4, emerg. eff. April 16, 2001.

§27A-3-4-105. Carbon sequestration certification program - Applications - Fees.

A. The Oklahoma Conservation Commission is hereby authorized to establish and administer the carbon sequestration certification program. The purposes of the program are to provide a mechanism for creating and preserving carbon reserves in this state by encouraging voluntary practices that protect or improve natural resources, to enable Oklahomans to participate in market-based programs for natural resource protection, to provide a mechanism for Oklahomans to benefit from the ecosystem services they provide, to verify carbon sequestration or storage associated with carbon sequestration practices, and to issue carbon sequestration certificates associated with carbon sequestration practices that the Commission determines qualify for such certificates.

B. The Commission, in consultation with the Department of Environmental Quality and with the advice of the carbon sequestration stakeholder groups appointed by the Commission, shall develop and promulgate rules as necessary to administer, implement and enforce the provisions of this act, including, but not limited to, developing and implementing uniform standards and criteria for verifying carbon

sequestration and storage associated with carbon sequestration practices and issuing carbon sequestration certificates associated with approved carbon sequestration practices. In promulgating the rules, the Commission shall develop the program to be as consistent as possible with other governmental programs designed to create carbon reserves for the purpose of voluntarily reducing greenhouse gases or designed to certify carbon sequestration practices.

C. In order for carbon sequestration to be verified and certified under this section, an applicant shall file an application with the Commission. Along with the application, the applicant shall submit a resource management plan, or a project plan as applicable, detailing activities that will increase or maintain existing trapped carbon including, but not limited to, improved forest management, alteration of or changes in silviculture practices, and growing of designated crops and any other such practices including, but not limited to, the capture and sequestration of carbon dioxide emissions through injection of carbon dioxide underground.

D. The Commission shall require applicants to submit such information, forms, and reports as are necessary to properly and efficiently administer the program.

E. Prior to granting a carbon sequestration certificate, the Commission shall adopt criteria associated with the approved carbon sequestration practice for which an application is submitted. In addition, the Commission shall determine, based upon compliance with the site criteria, the volume or numerical amount of credits or offsets achievable by the specific carbon sequestration practice.

F. Applications for a carbon sequestration certificate shall be approved or denied in accordance with criteria promulgated by the Commission.

G. The Commission is authorized to establish fees associated with the carbon sequestration certification program.

Added by Laws 2002, c. 273, § 2, emerg. eff. May 20, 2002. Amended by Laws 2003, c. 221, § 4, emerg. eff. May 20, 2003; Laws 2011, c. 264, § 5.

§27A-3-4-106.1. Oklahoma State Facilities Energy Conservation Program.

A. There is hereby created the Oklahoma State Facilities Energy Conservation Program.

B. As used in this section:

1. "State agency" means any office, officer, bureau, board, commission, counsel, unit, division, body, authority or institution of the executive branch of state government, whether elected or appointed and shall include institutions within The Oklahoma State System of Higher Education. Technology Center School Districts shall not be subject to the provisions of this act but are encouraged to

implement local district energy conservation efforts as approved by the local technology center board;

2. "State facilities" or "facilities" means buildings or assets owned or operated by a state agency which have a heating, ventilation, or air conditioning system or utility services;

3. "Program" means the Oklahoma State Facilities Energy Conservation Program;

4. "Director" means the Director of the Office of State Finance; and

5. "IPMVP" means the International Performance Measurement and Verification Protocol.

C. All state facilities shall be subject to the provisions of the Oklahoma State Facilities Energy Conservation Program. The Director of the Office of State Finance, or a designee selected by the Director, shall oversee the development and implementation of the Program, including the selection of the most qualified vendor or vendors by utilizing a request for proposal to contract for the development and implementation of an organizational behavior-based or performance-based energy conservation program.

D. The objectives and scope of the Program and the request for proposal shall be to:

1. Promote a centralized effort to gather information pertaining to energy use in state facilities and designate knowledgeable personnel to prioritize projects and make recommendations for conservation implementation;

2. Benchmark state facilities energy usage prior to implementation of the Program and measure energy conservation savings utilizing commercially available energy accounting software that adheres to the IPMVP;

3. Target a cumulative energy savings of not less than twenty percent (20%) by the year 2020 when compared to the 2012 fiscal year utility expenditures. The express purpose of the targeted energy savings shall be to capitalize on opportunities for organizational behavior-based or performance-based energy conservation efforts and existing equipment and building optimization while maintaining or improving the operational environment during times when facilities are occupied;

4. When reasonably feasible, consider working with local utilities in implementing energy reduction efforts and to utilize utility demand side management and energy efficiency programs to further capture energy efficiency potential;

5. Provide an annual reconciliation of the costs versus the savings resulting from the Program as determined by the Director utilizing the selected energy accounting software;

6. Fully fund the Program within existing state agency budgets through savings generated by reducing energy costs;

7. Endeavor to utilize, when reasonably possible, existing personnel to implement the Program at state facilities, provided that compensation costs for additional personnel or additional compensation costs for existing personnel dedicated exclusively to implementation of the Program shall be funded from the savings generated by the Program;

8. Include implementation of a formalized organizational behavior-based or performance-based energy conservation program;

9. Evaluate existing facility energy accounting systems and determine if the existing systems or a commercially available energy accounting software program will be utilized to measure savings from the Program in a way that adheres to the IPMVP;

10. Seek to obtain ENERGY STAR recognition for facilities that comply with the necessary requirements as established by the United States Environmental Protection Agency;

11. Provide for an initial fee-free period of not less than twelve (12) months during which foundational elements of the Program are established and energy savings are generated before any fee payments are due to a selected vendor; and

12. Provide for free ongoing support from the vendor beyond the initial term of the Program, if the state substantially continues implementation of the Program.

E. Upon implementation of the Program, all state agencies shall input historical utility cost data into an IPMVP-adherent energy accounting software database on a monthly basis and shall deliver an annual report on the progress and cost savings of the Program to the Director within ninety (90) days after the end of each fiscal year.

F. Upon notification by a state agency, the Director shall consider any organizational behavior-based or performance-based energy conservation programs under contract with a state agency prior to August 24, 2012, to be in compliance with the provisions of this section.

G. Compliance with the Program shall not prohibit any state agency from entering into a performance-based efficiency contract for capital improvements pursuant to Section 318 of Title 62 of the Oklahoma Statutes. The Director is authorized to work with state agencies to develop a separate statewide plan for capital improvements for performance-based efficiency contracts pursuant to the provisions of Section 318 of Title 62 of the Oklahoma Statutes.

Added by Laws 2012, c. 212, § 1. Amended by Laws 2015, c. 81, § 1, emerg. eff. April 17, 2015; Laws 2016, c. 207, § 1, emerg. eff. April 26, 2016.

§27A-3-4-106. Repealed by Laws 2012, c. 212, § 2.

NOTE: Subsequent to repeal, this section was amended by Laws 2012, c. 304, § 115 to read as follows:

A. Each state agency shall develop and implement an energy efficiency and conservation plan. Each agency shall designate an employee to develop such plan and the Office of Management and Enterprise Services, if requested, shall assist state agencies in developing such plans. The Office of Management and Enterprise Services and each state agency shall make every effort to include in the plans strategies that:

1. Reduce energy consumption, including both electrical and fuel consumption;

2. Provide for purchasing preferences for the acquisition of energy-efficient products, including, but not limited to, Energy Star-compliant appliances;

3. Evaluate and, where appropriate, utilize on-site renewable energy for space conditioning and water heating, including, but not limited to, solar water heating and geothermal heat pumps in all new and replacement buildings and major renovations of buildings;

4. Provide for purchasing preferences for the acquisition of vehicles that utilize alternative fuel sources, including, but not limited to, compressed natural gas, hybrid power or biofuels; and

5. Provide a preference for the utilization of alternative energy sources, including, but not limited to, biofuels, solar, geothermal, hydrogen, compressed natural gas and wind.

B. The Office of Management and Enterprise Services shall serve as a repository for the energy efficiency and conservation plans of each agency. The Office of Management and Enterprise Services shall research and use best available methods to aid agencies in implementing the plans.

§27A-3-5-101. Short title - Legislative findings and intent.

A. This act shall be known and may be cited as the "Oklahoma Carbon Capture and Geologic Sequestration Act".

B. The Legislature finds and declares that:

1. Carbon dioxide is a valuable commodity to the citizens of the state, particularly for its value in enhancing the recovery of oil and gas and for its use in other industrial and commercial processes and applications;

2. Carbon dioxide is a gas produced when carbon is oxidized by any process, including the combustion of material that contains carbon such as coal, natural gas, oil and wood, all of which exist in abundance in our state, and the production and use of which form one of the foundations of our state’s economy;

3. Carbon dioxide is currently being released into the atmosphere in substantial volumes;

4. In 1982, Oklahoma became the first state in the Union to inject anthropogenic carbon dioxide underground. Since that time, the continued injection of carbon dioxide has benefited the citizens of the state by assisting enhanced oil recovery efforts. When carbon dioxide is injected for enhanced oil recovery and not otherwise vented, emitted or removed, such carbon dioxide is sequestered and/or stored underground;

5. In its first 100 years, Oklahoma produced approximately 15 billion barrels of oil. The Department of Energy for the United States has determined that Oklahoma has the potential to produce at

least 9 billion barrels of oil and possibly as much as 20 billion barrels of oil through the use of carbon dioxide in enhanced oil recovery. To fully produce those natural resources, additional regulation is not necessary or appropriate but state incentives may be helpful;

6. Storage of carbon dioxide in geological formations is an effective and feasible strategy to deposit, store or sequester large volumes of carbon dioxide over long periods of time;

7. Geologic storage and sequestration of carbon dioxide allows for the capture of carbon dioxide emissions and the orderly withdrawal of the carbon dioxide as appropriate or necessary, thereby allowing carbon dioxide to be available for commercial, industrial, or other uses, including enhanced oil or gas recovery;

8. The transportation of carbon dioxide to, and the storage or sequestration of carbon dioxide in, underground geological formations for beneficial use or reuse in industrial and commercial applications is expected to increase in the United States and in Oklahoma due to initiatives by federal, state and local governments, industry and commerce, and other interested persons, and may present an opportunity for economic growth and development for the state; and

9. It remains in the public interest for carbon dioxide to be injected underground in this state. The geologic sequestration and storage of anthropogenic carbon dioxide for purposes other than injection for enhanced oil or gas recovery will benefit the citizens of the state.

C. It is the intent of the Legislature that:

1. Efforts to capture, purify, compress, transport, inject, and store or sequester carbon dioxide will enhance the production of oil and natural gas in the state, further the development and production of natural resources in the state, and provide opportunities for economic growth and development for the state; and

2. In the event the State of Oklahoma establishes a unitization process to support the establishment of CO_2 sequestration facilities in this state, the Corporation Commission shall regulate all aspects of such process, including being responsible for making any necessary findings concerning the suitability of the reservoir targeted for carbon sequestration, whether its use for such purpose is in the public interest, and the impact of that use on the oil, gas, coal-bed methane and mineral brine resources in the State of Oklahoma.

Added by Laws 2009, c. 429, § 1, emerg. eff. June 1, 2009.

§27A-3-5-102. Definitions.

As used in the Oklahoma Carbon Capture and Geologic Sequestration Act:

1. "Agency" means the Corporation Commission or the Department of Environmental Quality, as the case may be and as described in Section 3-5-103 of this title;

2. "Anthropogenic carbon dioxide" or "man-made carbon dioxide" means the carbon dioxide compound manufactured, mechanically formed or otherwise caused to occur, as a result of either:

a. a chemical process performed by or involving efforts of a person, or
b. separation of carbon dioxide from natural gas.

The term shall not include carbon dioxide that is naturally present in underground locations;

3. "Approved reservoir" means a reservoir that is determined by the Agency with jurisdiction to be suitable for the receipt, storage and/or sequestration of injected carbon dioxide therein;

4. "Carbon dioxide" or "CO_2" means an inorganic compound containing one carbon atom and two oxygen atoms, and exists as a gas at standard temperature and pressure. Carbon dioxide is an inert, stable, colorless, odorless, nontoxic, incombustible, inorganic gas that is dissolvable in water and is naturally present, such as in underground locations and in the atmosphere as a trace gas;

5. "Carbon sequestration" means long-term or short-term underground storage or sequestration of anthropogenic carbon dioxide in one or more reservoirs;

6. "CO_2 injection well" means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or another method and is used to inject or transmit anthropogenic carbon dioxide into one or more reservoirs;

7. "CO_2 capture and compression equipment" means the equipment, separation units, processing units, processing plants, pipe, buildings, pumps, compressors, meters, facilities, motors, fixtures, materials, and machinery, and all other improvements used in the operation of any of them, and property, real or personal, intangible or tangible, either attributable to or relating to, or located thereon, used for the purpose of:

a. capturing carbon dioxide from a source that produces anthropogenic carbon dioxide, and/or
b. compressing or otherwise increasing the pressure of anthropogenic carbon dioxide;

8. "CO_2 pipeline" means any pipeline, compressors, pumps, meters, facilities, valves, fittings, right-of-way markers, cathodic protection ground beds, anodes, rectifiers, and any other cathodic protection devices, and other associated equipment, appurtenances and fixtures located on, attributable to or used in connection with the same, and used for the purpose of transporting carbon dioxide for carbon sequestration in this state or another state, excluding:

a. CO_2 capture and compression equipment at the source of the carbon dioxide, and
b. pipelines that are part of a CO_2 sequestration facility;

9. "CO_2 sequestration facility" means the approved reservoir(s), and all associated underground equipment and pipelines, all associated surface buildings and equipment, and all associated CO_2 injection wells, utilized for carbon sequestration in a defined geographic boundary established by the Agency, excluding any:

a. CO_2 capture and compression equipment at the source of the carbon dioxide, and

b. CO_2 pipeline transporting carbon dioxide to the facility from a source located outside the geographic boundaries of the surface of the facility;

10. "CO_2 trunkline" means a CO_2 pipeline that both exceeds seventy-five (75) miles in distance and has a minimum pipe outside diameter of at least twelve (12) inches;

11. "Commission" means the Corporation Commission as established by Section 15 of Article 9 of the Oklahoma Constitution;

12. "Common source of supply" shall have the same meaning as in Section 86.1 of Title 52 of the Oklahoma Statutes;

13. "Department" means the Department of Environmental Quality as established by Section 2-3-101 et seq. of this title;

14. "Enhanced oil or gas recovery" means the increased recovery of hydrocarbons, including oil and gas, from a common source of supply achieved by artificial means or by the application of energy extrinsic to the common source of supply, such as pressuring, cycling, pressure maintenance or injection of a substance or form of energy, such as injection of water and/or carbon dioxide, including immiscible and miscible floods; provided that enhanced oil or gas recovery shall not include injection of a substance or form of energy for the sole purpose of either:

a. aiding in the lifting of fluids in the well, or

b. stimulation of the reservoir at or near the well by mechanical, chemical, thermal or explosive means;

15. "Facility operator" means any person authorized by the Agency to operate a CO_2 sequestration facility;

16. "Facility owner" means the person who owns the CO_2 sequestration facility;

17. "Gas" shall have the same meaning as in Section 86.1 of Title 52 of the Oklahoma Statutes;

18. "Governmental entity" means any department, commission, authority, council, board, bureau, committee, legislative body, agency, beneficial public trust, or other establishment of the executive, legislative or judicial branch of the United States, the State of Oklahoma, any other state in the United States, the District of Columbia, the Territories of the United States, and any similar entity of any foreign country;

19. "Oil" shall have the same meaning as in Section 86.1 of Title 52 of the Oklahoma Statutes;

20. "Person" means any individual, proprietorship, association, firm, corporation, company, partnership, limited partnership, limited liability company, joint venture, joint stock company, syndicate, trust, organization, committee, club, governmental entity, or other type of legal entity, or any group or combination thereof either acting in concert or as a unit;

21. "Private operator" means any person that is either a facility operator or an operator of a CO_2 pipeline, but that is neither a public utility nor a common carrier as such terms are defined by the Oklahoma Statutes; and

22. "Reservoir" means any portion of a separate and distinct geologic or subsurface sedimentary stratum, formation, aquifer, cavity or void, whether naturally occurring or artificially created, including an oil or gas formation, saline formation, or coal seam.

Added by Laws 2009, c. 429, § 2, emerg. eff. June 1, 2009. Amended by Laws 2011, c. 264, § 1.

§27A-3-5-103. Agency jurisdiction.

A. The Corporation Commission shall be the "Agency" for, and shall have exclusive jurisdiction over CO_2 sequestration facilities involving, and injection of CO_2 for carbon sequestration into, oil reservoirs, gas reservoirs, coal-bed methane reservoirs, and mineral brine reservoirs. The Commission shall have such jurisdiction regardless of whether such CO_2 sequestration facility or other injection of carbon dioxide involves enhanced oil or gas recovery.

B. The Department of Environmental Quality shall be the "Agency" for, and shall have exclusive jurisdiction over CO_2 sequestration facilities involving, and injection of CO_2 for carbon sequestration into all reservoirs other than those described in subsection A of this section, which shall include, but not be limited to, deep saline formations, unmineable coal seams where methane is not produced, basalt reservoirs, salt domes, and non-mineral bearing shales.

Added by Laws 2009, c. 429, § 3, emerg. eff. June 1, 2009.

§27A-3-5-104. Memorandum of understanding - Permits - Rules - Notice requirements - Powers and duties.

A. The Corporation Commission and the Department of Environmental Quality shall execute a Memorandum of Understanding to address areas in which the implementation of this act will require interagency cooperation or interaction, including procedures for directing applicants through the application process.

B. The operator of a CO_2 sequestration facility shall obtain a permit pursuant to this act from the Agency having jurisdiction prior to the operation of a CO_2 sequestration facility, after the Operator provides notice of the application for such permit pursuant to subsection D of this section, and the Agency has a hearing thereon upon request; provided that no permit pursuant to this act is

required if the facility operator obtains permission, by permit or order, by the Agency pursuant to the rules and regulations of the state's federally approved Underground Injection Control Program and such permission authorizes carbon sequestration or injection of carbon dioxide underground and incorporates any additional requirements adopted pursuant to subsection C of this section.

C. To the extent not already authorized by laws governing the state's federally approved Underground Injection Control Program, the Agency having jurisdiction may issue and enforce such orders, and may adopt, modify, repeal and enforce such rules, including establishment of appropriate and sufficient fees, financial sureties or bonds, and monitoring at CO_2 sequestration facilities, as may be necessary, for the purpose of regulating the drilling of CO_2 injection wells related to a CO_2 sequestration facility, the injection and withdrawal of carbon dioxide, the operation of the CO_2 sequestration facility, CO_2 injection well plugging and abandonment, removal of surface buildings and equipment of the CO_2 sequestration facility and for any other purpose necessary to implement the provisions of this act.

D. The applicant for any permit to be issued pursuant to this act shall give all surface owners and mineral owners, including working interest and royalty owners, of the land to be encompassed within the defined geographic boundary of the CO_2 sequestration facility as established by the Agency, and whose addresses are known or could be known through the exercise of due diligence, at least fifteen (15) days' notice of the hearing by mail, return receipt requested. The applicant shall also give notice by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the defined geographic boundary of the CO_2 sequestration facility, as established by the Agency, is situated. The applicant shall file proof of publication and an affidavit of mailing with the Agency prior to the hearing.

E. In addition to all other powers and duties prescribed in this act or otherwise by law, and unless otherwise specifically set forth in this act, the Agency having jurisdiction shall have the authority to perform any and all acts necessary to carry out the purposes and requirements of the federal Safe Drinking Water Act, as amended, relating to this state's participation in the federal Underground Injection Control Program established under that act with respect to the storage and/or sequestration of carbon dioxide.

Added by Laws 2009, c. 429, § 4, emerg. eff. June 1, 2009.

§27A-3-5-105. Carbon dioxide property rights - Obligations relieved - Jurisdiction.

A. Unless otherwise expressly provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document or by other law, carbon dioxide injected into a CO_2 sequestration facility is considered to be the personal property of the facility owner.

B. Absent a final judgment of willful abandonment rendered by a court of competent jurisdiction, or a regulatory determination of willful abandonment, carbon dioxide injected into a CO_2 sequestration facility is not considered to be the property of the owner of the surface or mineral estate in the land encompassing the geographic boundary of the CO_2 sequestration facility, or any person claiming under the owner of the surface or mineral estate.

C. The facility operator, with permission of the facility owner, may produce, take, extract or reduce to possession any carbon dioxide injected, stored or sequestered in a CO_2 sequestration facility. In the event an operator informs the Commission that it intends to conduct enhanced oil or gas recovery operations on a compulsory unit formed pursuant to Section 287.1 et seq. of Title 52 of the Oklahoma statutes, or its predecessor unitization act, then during the time that such unit is in operation, such operator shall be relieved of any obligation to either:

1. Plug and abandon any injection or production well within such unit that is intended to be used in such enhanced oil or gas recovery operations, unless required by the Commission pursuant to Section 53 of Title 17 of the Oklahoma Statutes; or

2. Remove any surface equipment that is associated with any such well and intended to be used in such enhanced oil or gas recovery operations, or both.

D. The Agency having jurisdiction over the injection of carbon dioxide under this act shall also have jurisdiction over a facility operator that produces, takes, extracts or reduces to possession any injected, stored or sequestered carbon dioxide in a CO_2 sequestration facility.

Added by Laws 2009, c. 429, § 5, emerg. eff. June 1, 2009.

§27A-3-5-106. Construction of act.

A. Nothing in this act shall supersede the provisions of the Oklahoma Carbon Sequestration Enhancement Act, Section 3-4-101 et seq. of Title 27A of the Oklahoma Statutes.

B. Nothing in this act shall alter the incidents of ownership, or other rights, of the owners of the mineral estate or adversely affect enhanced oil or gas recovery efforts in the state.

C. Any right granted to a facility operator pursuant to this act shall be without prejudice to the rights of any surface owner or mineral owner, including working interest and royalty owner, of the land encompassed within the defined geographic boundary of the CO_2 sequestration facility, as established by the Agency, to drill or

bore through the approved reservoir in a manner as shall comply with orders, rules and regulations issued for the purpose of protecting the approved reservoir against the escape of CO_2. For purposes of this subsection, the Agency with jurisdiction under other state law for regulating the well being drilled or bored through the approved reservoir is the Agency having jurisdiction to adopt orders and rules for such well in order to protect the CO_2 sequestration facility, regardless of which Agency has jurisdiction to permit the CO_2 sequestration facility pursuant to Section 3 of this act. If the Agency with jurisdiction under other state law for regulating the well being drilled or bored through the approved reservoir is not the Agency that has jurisdiction to permit the CO_2 sequestration facility pursuant to Section 3 of this act, then the former shall promptly notify the latter in writing of the receipt of an application for the drilling or boring of such a well and shall consider all timely submitted comments of the latter in approving, denying, or setting conditions for the well being drilled or bored. The additional cost of complying with such orders, rules or regulations in order to protect the CO_2 sequestration facility shall be borne by the facility operator.

D. Nothing in this act shall grant a private operator the right of condemnation or eminent domain for any purpose.

Added by Laws 2009, c. 429, § 6, emerg. eff. June 1, 2009.

§27A-4. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§27A-4-1-101. Short title - Purpose.

A. This article shall be known and may be cited as the "Oklahoma Emergency Response Act".

B. The purpose of the Oklahoma Emergency Response Act is to:

1. Provide a rapid, coordinated and effective network for response to dangerous substances incidents or events necessary to protect the public health and safety and the environment of this state, and to preserve property;

2. Provide direction and information to responders for the management of dangerous substances incidents or events;

3. Reduce duplication of effort between local, county and state entities; and

4. Organize, prepare and coordinate all state available manpower, materials, supplies, equipment, facilities and services necessary for dangerous substances response.

Added by Laws 1993, c. 145, § 238, eff. July 1, 1993.

§27A-4-1-102. Definitions.

For purposes of the Oklahoma Emergency Response Act:

1. "State environmental agency" includes:

a. the Oklahoma Water Resources Board,

b. the Corporation Commission,
c. the State Department of Agriculture,
d. the Oklahoma Conservation Commission,
e. the Department of Wildlife Conservation,
f. the Department of Mines and Mining,
g. the Department of Public Safety,
h. the Department of Labor,
i. the Department of Environmental Quality, and
j. the Department of Civil Emergency Management;

2. "Lead official" means the person designated by the contact agency to be the official in charge of the on-site management of the emergency;

3. "Emergency" means a sudden and unforeseeable occurrence or condition either as to its onset or as to its extent, of such severity or magnitude that immediate emergency response or action is necessary to preserve the health and safety of the public or environment or to preserve property;

4. "Dangerous substance" means explosives, gases, flammable liquids and solids, poisons, radioactive materials, hazardous materials, deleterious substances, oil, or other substance or material in a quantity or form capable of posing an unreasonable risk to public health and safety, property or to the environment;

5. "Release" means a leakage, seepage, discharge, emission or escaping of a dangerous substance into the environment of the state;

6. "Extreme emergency" means any emergency which requires immediate protective actions;

7. "Protective actions" are those steps deemed necessary by first responders to an extreme emergency to preserve the health and safety of the emergency responders, the public and the protection of the environment and property during an incident involving the release of a dangerous substance. Protective actions include but are not limited to area isolation, evacuation, dilution, cooling, encapsulation, chemical treatment and diking;

8. "First responder" means the first person to arrive at the scene of an incident involving the release of a dangerous substance who has the authority by virtue of that person's position as a local law enforcement officer, peace officer, fire protection officer or Oklahoma Highway Patrol Officer or other law enforcement officer;

9. "Contact agency" means a municipality, fire department or the Oklahoma Highway Patrol as determined by the location of an incident as follows:

	Location	Contact Agency
a.	Inside corporate municipal limits	Municipal Fire Department
b.	Outside corporate limits on private property	Closest Municipal Fire Department
c.	Outside corporate limits	Oklahoma Highway

on federal/state highway, public property, county road, or a railroad; | Patrol;

10. "Responsible party" means any person who owned, operated, or otherwise controlled activities at the facility at the time the incident or event involving releases of dangerous substances requiring protective actions occurred; and

11. "Facility" means:

a. any building, structure, installation, equipment, pipe or pipeline, including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or

b. any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise came to be located, or

c. any vessel, including every description of watercraft or other artificial conveyance used, or capable of being used, as a means of transportation on water.

Added by Laws 1993, c. 145, § 239, eff. July 1, 1993. Amended by Laws 1998, c. 207, § 1, eff. Nov. 1, 1998.

§27A-4-1-103. Duties of first responder and lead official - Toll free telephone number - Duties of Department of Environmental Quality and Department of Civil Emergency Management - Duties of responsible party.

A. For incidents or events involving releases of dangerous substances requiring protective actions, the first responder shall be responsible for initial evaluation of the incident and implementation of protective action measures.

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

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

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

E. If the first responder or the lead official believes the incident to be of a significant nature to threaten the public health,

safety or the environment, the first responder or lead official shall contact the Department of Environmental Quality as soon as is reasonably possible. The Department of Environmental Quality shall maintain a twenty-four-hour toll free statewide telephone number to report emergencies.

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

1. Provide technical information or advice to the lead official;

2. Provide for personnel for assistance in completing material identification;

3. Provide technical assistance on or initiate procedures for containment or suppression of the release;

4. Provide sampling and analysis of contaminated water or soil after the release has been contained or stabilized;

5. Notify the responsible party of the release; and

6. Oversee the planning of final containment, cleanup and recovery of dangerous materials.

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

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

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

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

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

J. The Department of Environmental Quality shall maintain a list of licensed highway remediation contractors.

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

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

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

Added by Laws 1993, c. 145, § 240, eff. July 1, 1993. Amended by Laws 1998, c. 207, § 2, eff. Nov. 1, 1998; Laws 2011, c. 161, § 1, eff. Nov. 1, 2011.

§27A-4-1-104. Liability for release of dangerous substance - Construction of act.

The provisions of the Oklahoma Emergency Response Act shall not be construed to effect or remove the liability of the person who owns the dangerous substance for injury or damages incurred as a result of the release of the dangerous substance.

Added by Laws 1998, c. 207, § 3, eff. Nov. 1, 1998.

§27A-4-1-105. Release of dangerous substance requiring protective action - Entry upon public or private property - Records or reports of incidents or events - Administrative warrants - Contempt.

A. During or after a release of a dangerous substance and as part of any required cleanup operations or remediation requirements, any duly authorized representative of the first responder, the contact agency, the Department of Civil Emergency Management or the Department of Environmental Quality shall have the authority to enter upon any private or public property for the purpose of responding to and stabilizing an incident or event involving a release of dangerous substances requiring protective action measures.

B. 1. The contact agency or the Department of Environmental Quality, as applicable, may require the establishment and maintenance of records and reports relating to the incident or event.

2. Copies of such records or reports shall be submitted to the requesting agency.

3. Any authorized representative of the contact agency or the Department of Environmental Quality, as applicable, shall be allowed access and may examine such records or reports.

C. 1. A contact agency or the Department of Environmental Quality may apply to and obtain from a judge of the district court, an order authorizing an administrative warrant or other warrant to enforce access to premises for the purpose of responding to and stabilizing an incident or event involving releases of dangerous substances requiring protective action measures or for the purpose of examining records or reports relating thereto.

2. Failure to obey an administrative warrant or other warrant of the district court may be punished by the district court as a contempt of court.

Added by Laws 1998, c. 207, § 4, eff. Nov. 1, 1998.

§27A-4-1-106. Prosecution of violations - Actions for injunctive relief - Jurisdiction - Penalties.

A. The Attorney General or the district attorney of the county where the release occurs may bring an action in a court of competent jurisdiction for the prosecution of a violation of the Oklahoma Emergency Response Act by the responsible party.

B. 1. Any action for injunctive relief to redress or restrain a violation of the Oklahoma Emergency Response Act by such responsible party may be brought by the district attorney of the county where the release occurred, as applicable, the contact agency, or the Attorney General or the Department of Environmental Quality on behalf of the State of Oklahoma.

2. It shall be the duty of the Attorney General or district attorney, if so requested, to bring such actions.

C. The court shall have jurisdiction to determine such action and to grant the necessary or appropriate relief including, but not limited to, mandatory or prohibitive injunctive relief and interim equitable relief, and for inhibiting emergency response to an incident, punitive damages.

D. A responsible party who violates any of the provisions of, or who fails to perform any duty imposed by, the Oklahoma Emergency Response Act shall, upon conviction, be guilty of a misdemeanor and may be punished by a fine of not less than Two Hundred Dollars ($200.00) and not more than Ten Thousand Dollars ($10,000.00) per day for each violation. Each day or part of a day upon which such violation occurs shall constitute a separate offense.

Added by Laws 1998, c. 207, § 5, eff. Nov. 1, 1998.

§27A-4-1-107. Board of Health - Authority to adopt rules and requirements.

The State Board of Health is authorized to adopt such rules and requirements as it deems necessary to establish adaptive standards of care where an extreme emergency exists as defined in the Oklahoma Emergency Response Act.
Added by Laws 2012, c. 39, § 1.

§27A-4-2-101. Short title.
This article shall be known and may be cited as the "Oklahoma Hazardous Materials Planning and Notification Act".
Added by Laws 1993, c. 145, § 241, eff. July 1, 1993.

§27A-4-2-102. Oklahoma Hazardous Materials Emergency Response Commission - Membership - Terms - Filling unexpired term - Powers and duties - Responsibilities, powers and duties of member agencies - Violations and penalties.
A. For purposes of implementing the provisions of Title III of the federal Superfund Amendments and Reauthorization Act of 1986, the Governor shall appoint or designate the members of the Oklahoma Hazardous Materials Emergency Response Commission.
B. The Oklahoma Hazardous Materials Emergency Response Commission, shall include at a minimum:
1. The Secretary of Safety and Security or designee;
2. The Commissioner of the Department of Public Safety or designee;
3. The State Fire Marshal or designee;
4. The Executive Director of the Department of Environmental Quality or designee;
5. The Director of the Department of Civil Emergency Management or designee;
6. One member representing the response community for a term of three (3) years; and
7. One member representing regulated industries for a three-year term, except the initial appointment shall only be for a two-year term.
C. An appointment shall be made by the Governor within ninety (90) days after the expiration of the term of any member due to resignation, death, or any cause resulting in an unexpired term. If no appointment is made within that ninety-day period, the Commission may appoint a provisional member to serve in the interim until the Governor acts.
D. The Commission shall have the power and duty to:
1. Appoint a chairman and vice-chairman;
2. Execute a Memorandum of Understanding subject to the Administrative Procedures Act with each member agency to designate responsibilities and conduct studies;
3. Require reports or plans from member agencies;

4. Advise, consult and coordinate with other agencies of the state and federal government;

5. Ensure that the State of Oklahoma remains in compliance with the requirements of Title III of the Superfund Amendments and Reauthorization Act;

6. Coordinate administrative penalties;

7. Coordinate development of annual budgets for each member agency's respective costs for administration and implementation of its responsibilities pursuant to the Oklahoma Hazardous Materials Planning and Notification Act; and

8. Coordinate with the local emergency planning committees.

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

1. The Oklahoma Department of Environmental Quality shall:

a. provide administrative support to the Oklahoma Hazardous Materials Emergency Response Commission,

b. review the activities of the local emergency planning committees, and serve as liaison between the Oklahoma Hazardous Materials Emergency Response Commission, the local emergency planning committees, and federal agencies, except as related to training funds from the federal emergency management agency,

c. administer a notification program pursuant to federal requirements for emergency releases of extremely hazardous substances and hazardous substances as identified by the federal Environmental Protection Agency. Notification shall include immediate notice of the release and written follow-up notice of response actions taken, risk analyses, and advice concerning medical treatment for exposure, and shall include releases from facilities subject to Title III of the Superfund Amendments and Reauthorization Act. The notification requirements shall be in addition to those required by other agencies,

d. administer and enforce the reporting requirements of Title III of the Superfund Amendments and Reauthorization Act pertaining to emergency planning notification, material safety data sheets, chemical lists, emergency and hazardous chemical inventory forms, and toxic chemical release forms,

e. serve as the industrial liaison and the repository for required information,

f. perform such environmental services as are necessary to validate required reports, and

g. receive and respond to requests for information under the Oklahoma Open Records Act;

2. The Oklahoma Department of Civil Emergency Management shall:

a. administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986,

b. receive and review emergency plans submitted by local emergency planning committees, make recommendations on revisions to the plans for coordination purposes, and facilitate the training for and the implementation of the plans, and

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

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

1. Require reports and plans;

2. Prescribe rules and regulations consistent with Title III of the Superfund Amendments and Reauthorization Act. Any rule or regulation promulgated by any member agency pursuant to the Oklahoma Hazardous Materials Planning and Notification Act shall not be more stringent than any federal act;

3. Adopt federal rules. Any rule or regulation promulgated by any member agency pursuant to the provisions of the Oklahoma Hazardous Materials Planning and Notification Act shall not be more stringent than any such federal rules;

4. Cause investigations, inquiries and inspections;

5. Prescribe penalties;

6. Assess administrative penalties;

7. Cause prosecution;

8. Accept, use, disburse and administer grants, allotments, gifts, devises for the purposes of facilitating emergency response performance in the state;

9. Provide public information as requested regarding emergency response implementation in the state; and

10. Work with other agencies where applicable, to eliminate redundancy in the reporting requirements of the various state, federal and local agencies enforcing hazardous materials handling, storage, spills and training.

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

H. The Oklahoma Hazardous Materials Emergency Response Commission shall:

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

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

Added by Laws 1989, c. 166, § 1, emerg. eff. May 8, 1989. Amended by Laws 1991, c. 292, § 2, eff. July 1, 1991; Laws 1993, c. 145, § 242, eff. July 1, 1993. Renumbered from § 689.1 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 2011, c. 161, § 2, eff. Nov. 1, 2011; Laws 2017, c. 55, § 1, eff. Nov. 1, 2017.

§27A-4-2-103. Local emergency planning committees - Membership - Officers - Rules - Request for public information - Responsibilities.

A. Each local emergency planning committee shall include, at a minimum, representation from each of the following groups or organizations:

1. Elected state and local officials;
2. Law enforcement;
3. Civil defense;
4. Fire fighting;
5. First aid;
6. Health;
7. Environmental;
8. Hospital;
9. Transportation personnel;
10. Broadcast and print media;
11. Community groups; and
12. Owners and operators of facilities which manufacture, store, or use in any manner those substances specified as extremely hazardous by the administrator of the federal Environmental Protection Agency.

B. The groups and organizations specified in subsection A of this section or any other person or group or organization may nominate an individual residing within the designated emergency planning district to serve on the local emergency planning committee. The names of such individuals shall be submitted to the Oklahoma Hazardous Materials Emergency Response Commission. From among the names of the individuals so submitted, the Oklahoma Hazardous Materials Emergency Response Commission shall appoint the membership of the local emergency planning committee.

C. The Oklahoma Hazardous Materials Emergency Response Commission may revise its designations and appointments under this subsection as it deems appropriate. In addition, interested persons, groups or organizations may petition the Oklahoma Hazardous Materials Emergency Response Commission to modify the membership of a local emergency planning committee.

D. The members of the local emergency planning committee shall meet to elect a chairman who shall hold office according to rules adopted by the committee. The committee shall establish rules by which it shall function. Such rules shall include provisions for

public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan. The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information. Such procedures shall include the designation of an official to serve as coordinator for information.

E. Each local emergency planning committee shall:

1. Complete preparation of an emergency plan in accordance with the federal Superfund Amendments and Reauthorization Act. After completion of an emergency plan under this paragraph for an emergency planning district, the local emergency planning committee shall submit a copy of the plan to the Oklahoma Hazardous Materials Emergency Response Commission. The Commission shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency planning districts. To the maximum extent practicable, such review shall not delay implementation of such plan. The committee shall review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require;

2. Evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources;

3. Comply with the Oklahoma Open Meeting Law; and

4. Take such other action as may be required by the Oklahoma Hazardous Materials Emergency Response Commission or as otherwise deemed necessary to implement the provisions of this act or the federal Superfund Amendments and Reauthorization Act.

Added by Laws 1993, c. 145, § 243, eff. July 1, 1993.

§27A-4-2-104. Member agencies - Annual budgets.

Each member agency, in cooperation with the Oklahoma Hazardous Material Emergency Response Commission, shall prepare an annual budget for the implementation and administration of its respective Commission responsibilities, and submit the same as an inclusion in its agency budget to the Oklahoma Legislature for appropriations to cover the costs of performance of the requirements of the Oklahoma Hazardous Materials Planning and Notification Act.

Added by Laws 1991, c. 292, § 4, eff. July 1, 1991. Amended by Laws 1993, c. 145, § 244, eff. July 1, 1993. Renumbered from Title 63, § 689.1B by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-4-2-105. Local emergency planning committees - Privileges and immunities.

A. The Legislature finds that individuals appointed to the local emergency planning committees pursuant to the Oklahoma Hazardous Materials Planning and Notification Act in developing effective comprehensive local emergency response plans serve to protect the health, safety, and welfare of the citizens and the environment of this state. The Legislature, in addition, finds that potential exposure to liability has a detrimental effect on the participation of the individuals on local emergency planning committees and that in order for these local emergency planning committees to function effectively, individuals serving on such committees shall be exempt from civil liability, except as otherwise provided by the Oklahoma Hazardous Materials Planning and Notification Act, for any act or omissions made in the performance of their official duties which resulted in direct or proximate harm to any person or property.

B. 1. Any individual serving on a local emergency planning committee pursuant to appointment by the Oklahoma Hazardous Materials Emergency Response Commission, any duly authorized alternate member to a local emergency planning committee shall be exempt from civil liability for any acts or omissions made in the performance of their official duties which resulted in the direct or proximate harm or injury to any person or property.

2. The immunity provided by this subsection shall only extend to the acts or omissions of the individual while serving in their designated, official capacity.

3. The immunity provided by this subsection shall not extend to intentional torts or grossly negligent acts or omissions of such individual or to the extent specifically stated in the federal Superfund Amendments and Reauthorization Act.

4. Any action taken by an individual serving on the committee within the scope of his authority pursuant to the provisions of the Oklahoma Hazardous Materials Planning and Notification Act shall be deemed to be the actions of the individual as a member of the committee and not the actions of such individual as a representative of the group or organization nominating such individual.

5. The nomination of any individual to serve on the committee by any group or organization specified in subsection G of Section 689.1 of this title shall not subject such group or organization to any civil liability as a result of such nomination.

Added by Laws 1989, c. 166, § 2, emerg. eff. May 8, 1989. Amended by Laws 1991, c. 292, § 3, eff. July 1, 1991; Laws 1993, c. 145, § 245, eff. July 1, 1993. Renumbered from Title 63, § 689.2 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-5. Renumbered as § 1-1-204 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-6. Renumbered as § 1-3-101 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-7. Renumbered as § 2-2-101 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-8. Renumbered as § 2-3-201 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-9. Renumbered as § 2-3-101 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-10. Renumbered as § 2-2-201 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-11. Renumbered as § 1-1-203 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-12. Renumbered as § 1-1-205 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1001. Renumbered as § 2-6-201 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1002. Renumbered as § 2-6-202 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1003. Renumbered as § 2-6-203 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1004. Renumbered as § 2-6-204 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1005. Renumbered as § 2-6-205 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1006. Renumbered as § 2-6-206 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-1011. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "State Beneficiary Public Trusts - Publicly Owned Treatment Works Act".

Added by Laws 1993, c. 217, § 1, eff. July 1, 1993.

§27A-1012. Legislative findings and declarations.

The Legislature hereby finds that there are one or more public trusts having the State of Oklahoma as beneficiary which hold permits issued under the National Pollution Discharge Elimination System (NPDES), pursuant to the Federal Water Pollution Control Act, as amended by the Federal Clean Water Act, 33 U.S.C., Section 1251 et seq. In some instances, the state beneficiary public trust holding the NPDES permit receives waste water streams from third parties into a central waste water treatment system owned and operated by the public trust, and treats the commingled waste streams in the central waste water treatment system before discharging the resulting effluent pursuant to an NPDES permit into navigable waters of the United States of America located in this state. A state beneficiary public trust such as described in the preceding sentence hereof shall be referred to in this act as a "Central Treatment Trust", or a "CTT". The Legislature finds that there is uncertainty as to whether treatment facilities owned and operated by a CTT constitute "treatment works" that are publicly owned within the meaning of 33 U.S.C., Sections 1292 and 1317(b). The Legislature declares that there is a need to provide a mechanism for resolving this uncertainty. The Legislature further declares that a CTT should have the authority to make the election provided for in Section 3 of this act, whereupon for purposes of owning and operating its waste water treatment facilities only, such a CTT shall have the powers granted to it by Section 4 of this act, and in conjunction therewith, the Department of Environmental Quality, subsequently referred to in this act as "Department", shall exercise the powers granted to it pursuant to Sections 4 and 5 of this act.
Added by Laws 1993, c. 217, § 2, eff. July 1, 1993.

§27A-1013. Central Treatment Trust (CTT) - Power to make election - CTT deemed "publicly owned treatment works" (POTW).

A Central Treatment Trust, as defined in Section 2 of this act, is hereby granted the authority, exercisable by a duly enacted resolution of its Board of Trustees, to elect that its waste water treatment facilities shall be deemed to constitute "treatment works" that are publicly owned within the meaning of 33 U.S.C., Sections 1292 and 1317(b). A CTT making such an election shall also be deemed to own a "publicly owned treatment works", or "POTW", within the meaning of 40 CFR, Section 403.3(o). Upon the adoption of a resolution exercising such election, the CTT shall promptly give notice of such official action and furnish a certified copy of the Board resolution to the United States Environmental Protection Agency, the Department and the Oklahoma Secretary of State.
Added by Laws 1993, c. 217, § 3, eff. July 1, 1993.

§27A-1014. Powers of CTT that makes election.

A Central Treatment Trust that makes the election provided for in Section 3 of this act shall have the following powers (terms used, but not defined, in this section, but defined in 40 CFR, Section 403.3, shall have the same meanings ascribed to them in 40 CFR, Section 403.3):

1. To develop a publicly owned treatment works pretreatment program consistent with and meeting the requirements of 40 CFR, Sections 403.8 and 403.9, and submit such POTW pretreatment program for approval to the appropriate approval authority specified in 40 CFR, Section 403.3(c);

2. To enter into a coordinating agreement with the Department pursuant to which the Department shall exercise the enforcement powers specified in Section 5 of this act with respect to the POTW owned and operated by such CTT. The coordinating agreement shall make provision for the CTT to gather data and information and report such data and information to the Department so as to aid and assist the Department in exercising said enforcement powers.

Added by Laws 1993, c. 217, § 4, eff. July 1, 1993.

§27A-1015. Powers of Department relating to POTW - Violations - Penalties - Power to halt or prevent discharge.

A. Once a Central Treatment Trust has made the election and given the notice specified in Section 3 of this act, and entered into the coordinating agreement with the Department as specified in paragraph 2 of Section 4 of this act, the Department, in addition to all of its other authority under state or federal law, shall have and shall exercise the enforcement powers specified in this section with respect to the POTW owned and operated by such CTT (terms used, but not defined, in this section, but defined in 40 CFR, Section 403.3, shall have the same meanings ascribed to them in 40 CFR, Section 403.3):

1. To issue permits to industrial users of the POTW, designed to:

a. limit and control their contributions of pollutants and allocate waste loads to the POTW so that the requirements of the CTT's NPDES permit and Oklahoma law will be met, and

b. require compliance by the industrial users with applicable pretreatment standards and requirements;

2. To require compliance by industrial users of the POTW with applicable pretreatment standards and requirements;

3. To deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, by industrial users to the POTW where such contributions would not meet applicable pretreatment standards or requirements or where such contributions would cause a violation of the CTT's NPDES Permit;

4. To require industrial users of the POTW to develop a compliance schedule for the installation of technology required to meet applicable pretreatment standards and requirements;

5. To require industrial users of the POTW to submit all notices and self-monitoring reports as are necessary to assess and assure compliance with pretreatment standards and requirements and with conditions and requirements of permits issued by the Department pursuant to paragraph 1 of this subsection;

6. To require industrial users of the POTW to meet any provisions of Oklahoma law applicable to the discharge of pollutants by an industrial user to a POTW;

7. To carry out all inspection, surveillance, sampling and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance by industrial users of the POTW with applicable pretreatment standards and requirements. Authorized representatives of the Department or of the CTT are hereby authorized in order to carry out the purposes specified above to enter any premises of any industrial user of the POTW which is contributing pollutants to the POTW, and in which a discharge source or treatment system is located or records are required by 40 CFR, Section 403.12 to be kept. The authority to enter upon the premises of any industrial user of the POTW granted in this paragraph is intended to, and shall, be as extensive as the authority provided under Section 308 of the Federal Clean Water Act; and

8. To promulgate rules reasonably required to implement paragraphs 1 through 7 of this subsection, and to conduct individual proceedings and to enter orders to enforce such rules and to enforce paragraphs 1 through 7 of this subsection.

B. For purposes of promulgating rules, conducting individual proceedings and issuing orders as provided in this section, the Department shall be subject to the provisions of the Oklahoma Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes; provided, that any person adversely affected by issuance of a rule, permit or order of the Department may, within thirty (30) days after such rule, permit or order becomes final, seek judicial review thereof; provided further, that the exclusive venue for such judicial review shall be the District Court of Oklahoma County; and provided further, that such judicial review shall be limited to review of the administrative record compiled before the Department, and shall be conducted by the court without a jury.

C. An industrial user of the POTW who violates any provision of this act or of any rule, permit or order of the Department issued pursuant to this section shall be subject to a civil penalty of not more than One Thousand Dollars ($1,000.00) per violation. Any violation which continues for more than one (1) day shall constitute a separate violation for each day of violation. If any such

penalties are not paid within thirty (30) days after administratively assessed by the Department, the Department shall bring suit in district court to recover such penalties. Penalties shall be paid to the Department for the benefit of the CTT.

D. The Department may sue an industrial user of the POTW for injunctive relief in any instance where an industrial user of the POTW violates or threatens to violate any provision of this act or of any rule, permit or order of the Department issued pursuant to this section. In any such suit, the court shall have jurisdiction to grant to the Department, without bond or other undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including temporary restraining orders, after notice and hearing, temporary injunctions or permanent injunctions.

E. The Department may sue for both civil penalties and injunctive relief, as authorized by subsections C and D of this section, in the same proceeding.

F. The venue of any suit brought by the Department pursuant to subsections C and D of this section shall be either the District Court of Oklahoma County, or the district court of the county where the CTT maintains its administrative offices and the POTW is located, at the Department's election.

G. In any proceeding by the Department to recover civil penalties, injunctive relief or both, the prevailing party shall be allowed to recover reasonable attorney fees, to be set by the court and taxed and collected as costs.

H. In addition to the remedies provided for in subsections C and D of this section, the Department shall have the following additional remedy: The Department shall have the authority (after informal notice to the affected industrial user) to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment of the health or welfare of persons. The Department shall also have the authority (which shall include notice to the affected industrial user and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW.

I. Nothing in this act shall directly or indirectly limit or supersede any jurisdiction of the Department or the United States Environmental Protection Agency under the Oklahoma Pollutant Discharge Elimination Act, the Oklahoma Environmental Quality Code, or any other federal or state statute or regulation.

J. The term "NPDES Permits" as used in this act shall include any permit, or interim, successor, renewal or substitute permit issued by the United States Environmental Protection Agency, or by the State of Oklahoma or an agency thereof in the event the State of

Oklahoma at some future date is authorized to administer the NPDES program in Oklahoma, pursuant to 33 U.S.C.A., Section 1342.
Added by Laws 1993, c. 217, § 5, eff. July 1, 1993.

§27A-1016. Cessation of powers of CTT and Department.

At such time as the Central Treatment Trust's National Pollution Discharge Elimination System permit terminates, and any application for issuance of an interim, successor, renewal or substitute permit has been finally rejected or abandoned, or the CTT's waste treatment system is sold or leased to a for-profit entity, the CTT shall so certify to the agencies designated in Section 3 of this act, whereupon all powers granted to the CTT and the Department under this act shall prospectively cease.
Added by Laws 1993, c. 217, § 6, eff. July 1, 1993.

§27A-1017. Construction of act - Effect on rights, powers, duties, etc. of CTT.

Nothing in this act shall directly or indirectly increase, decrease, limit or in any other manner affect the legal status, capacity, rights, powers or duties of any CTT in any area separate from its NPDES permit and the ownership and operation of its POTW.
Added by Laws 1993, c. 217, § 7, eff. July 1, 1993.

§27A-2001. Short title.

Sections 1 through 3 of this act shall be known and may be cited as the "Oklahoma Lead-Acid Battery and Used Motor Oil Recycling Act".
Added by Laws 1993, c. 341, § 1, eff. Sept. 1, 1993.

§27A-2002. Lead-acid battery retailers - Signs.

Any person offering lead-acid batteries for sale to end-use consumers shall post and maintain a sign at or near the point of display or sale to inform the public that lead-acid batteries are accepted for recycling. For purposes of this act, a "lead-acid battery" means a lead-acid electrical device used in boats, planes and motor vehicles.
Added by Laws 1993, c. 341, § 2, eff. Sept. 1, 1993.

§27A-2003. Motor oil retailers - Signs.

Any person offering motor oil for sale to end-use consumers shall post and maintain a sign at or near the point of display or sale to inform the public of the location of the nearest used oil collection center.
Added by Laws 1993, c. 341, § 3, eff. Sept. 1, 1993.

§27A-2100. Renumbered as § 2-10-503 of this title by Laws 1993, c. 324, § 57, eff. July 1, 1993.

§27A-2201. Short title.

This act shall be known and may be cited as the "Lead-Impacted Communities Relocation Assistance Act".

Added by Laws 2004, c. 371, § 1. Renumbered from § 7601 of Title 10 by Laws 2006, c. 226, § 6, emerg. eff. June 6, 2006.

§27A-2202. Legislative findings.

A. The Legislature recognizes that historic lead and zinc mining operations have caused severe environmental degradation in areas of this state. The Legislature further recognizes that this degradation has caused the United States Environmental Protection Agency to place large areas within the state, including entire municipalities, on its Superfund National Priorities List of the most seriously contaminated sites in the nation.

B. The Legislature finds that lead poses a unique threat to children six (6) years of age and younger. During this period of their development children are particularly vulnerable to neurological damage caused by lead exposure. The effects of this childhood exposure can continue throughout their lives.

C. The Legislature hereby finds and determines that, as shown by studies conducted by the State Department of Health and the United States Indian Health Service, children six (6) years of age and younger, living in the vicinity of these former mining areas, exhibit blood lead levels above the thresholds considered dangerous to human health, and continued exposure of such children to lead constitutes a significant danger to the health of such children in the future. Further, the Legislature hereby determines a need exists to remedy the problem, by providing incentives for families with children six (6) years of age and younger to relocate outside the area of contamination.

D. The Legislature further recognizes that much of the damage caused by historic lead and zinc mining has resulted in a serious subsidence risk in the affected areas. The United States Army Corps of Engineers has identified municipalities within those areas where the risk of subsidence poses an imminent risk to the public and the Legislature therefore finds that a need exists to remedy this problem by expanding the purpose of this act to provide incentives for those owning or leasing property in the affected areas to relocate to areas of greater safety.

Added by Laws 2004, c. 371, § 2. Amended by Laws 2006, c. 226, § 1, emerg. eff. June 6, 2006. Renumbered from § 7602 of Title 10 by Laws 2006, c. 226, § 6, emerg. eff. June 6, 2006.

§27A-2203. Relocation and rental assistance grants - Grants to municipalities, public entities and schools - Disposition of property.

A. The Department of Environmental Quality is hereby authorized to make grants, from monies appropriated for that purpose, to state beneficiary public trusts serving communities affected by historic lead and zinc mining and located within the boundaries of federal Superfund sites; provided, that any trust receiving such a grant shall accept the following grant conditions:

1. Funds shall be used to assist individuals or married couples living within the most affected area of the site and who are parents or legal guardians of children six (6) years of age and younger. For purposes of the Lead-Impacted Communities Relocation Assistance Act, "most affected area" shall mean the communities in which lead poses the greatest threat to children's health and shall include a reasonable buffer area around such communities. To be eligible for assistance under this subsection an individual or married couple shall have both:

a. continually resided in the most affected area of the site since December 1, 2003, and

b. on December 1, 2003, either been pregnant or had residing with them a child or children six (6) years of age and younger;

2. For those eligible for relocation assistance who have rented their living quarters since December l, 2003, and who can produce a valid rental contract or other proof of rental arrangement, assistance shall be in an amount equal to the average cost of twelve (12) months of rent for comparable housing elsewhere in the county. The trust shall provide such assistance in periodic payments and not in a single lump sum. In addition, eligible individuals or married couples shall receive reimbursement up to One Thousand Dollars ($1,000.00) for payment to a company in the moving business for at least two (2) years or for reimbursement of actual moving expenses as demonstrated by receipts. Recipients must agree, prior to accepting such assistance, that they will not again reside within one-half (1/2) mile of the most affected area of the site until the State Commissioner of Health formally determines that the area is safe for children six (6) years of age and younger;

3. For those individuals and married couples eligible for relocation assistance who have owned their homes since December l, 2003, the trust shall purchase their homes for an amount equal to the average cost of comparable housing elsewhere in the county. In addition, such individuals shall receive reimbursement up to One Thousand Dollars ($1,000.00) either for payment to a company in the moving business for at least two (2) years or for reimbursement of actual moving expenses as demonstrated by receipts. Recipients must agree, prior to accepting such assistance, that they will not again reside within one-half (1/2) mile of the most affected area of the site until the State Commissioner of Health formally determines that the area is safe for children six (6) years of age and younger;

4. In determining the purchase price of a recipient's home, the trust shall deduct any amounts received by the recipient in compensation for damage to the home caused by remedial action on the property; and

5. Funds shall also be used to assist landlords whose tenants take advantage of the relocation assistance provided in paragraph 2 of this subsection. Landlords shall be eligible for an amount equal to twelve (12) months of rent at a monthly rate equal to the average monthly rent received by the landlord for the vacated unit over the previous twelve (12) months. Recipients of such assistance must agree, prior to accepting such assistance, that they will not permit any family with children six (6) years of age and younger to occupy any vacated unit until the State Commissioner of Health formally determines that the area is safe for children of such an age.

6. The trust shall agree to place a restriction which shall run with the land on the deeds to all property obtained pursuant to paragraph 3 of subsection A of this section providing that the property may not be occupied by children six (6) years of age and younger until the State Commissioner of Health formally determines that the area is safe for children of such an age.

B. Beginning June 6, 2006, the Department of Environmental Quality is authorized to make grants to state beneficiary public trusts serving communities affected by historic lead and zinc mining and located within the boundaries of federal Superfund sites; provided that any trust receiving such a grant shall accept the following conditions:

1. Funds shall be used to assist those persons owning or renting property within the area of greatest subsidence risk. For purposes of the Lead-Impacted Communities Relocation Assistance Act, "area of greatest subsidence risk" shall mean the communities in which subsurface lead and zinc mine caverns pose the greatest threat to public safety and shall include a reasonable buffer area around such communities;

2. To be eligible for residential assistance under this subsection, an individual must have continually resided in the area of greatest subsidence risk since January 31, 2006. For those eligible for relocation assistance who have rented their living quarters since January 31, 2006, and who can produce a valid rental contract or other proof of rental arrangement, assistance shall be in an amount equal to the average cost of twelve (12) months of rent for comparable housing elsewhere in the county. The trust may, in its discretion, provide such assistance in periodic payments rather than in a single lump sum. In addition, eligible individuals may receive up to One Thousand Dollars ($1,000.00) for moving expenses. Recipients must agree, prior to accepting such assistance, that they will not again reside within the area of greatest subsidence risk

until the Secretary of the Environment determines that the area is safe for habitation;

3. For those individuals eligible for relocation assistance under this subsection who own their place of residence, the trust shall purchase such homes for an amount equal to the value of comparable housing elsewhere in the county. In addition, such individuals may receive up to One Thousand Dollars ($1,000.00) for moving expenses. Recipients must agree, prior to accepting such assistance, that they will not again reside within the area of greatest subsidence risk until the Office of the Secretary of the Environment determines that the area is safe for habitation;

4. To be eligible for commercial assistance under this subsection, an individual or legal entity must have continually operated in the area of greatest subsidence risk since January 31, 2006. For those eligible for relocation assistance who have rented their business or nonprofit organization premises continually since January 31, 2006, and who can produce a valid rental contract or other proof of rental arrangement, assistance shall be in an amount equal to the average cost of twelve (12) months of rent for comparable premises elsewhere in the county. The trust may, in its discretion, provide such assistance in periodic payments rather than in a single lump sum. In addition, such businesses or organizations may receive up to Two Thousand Dollars ($2,000.00) for moving expenses. Recipients must agree, prior to accepting such assistance, that they will not again operate within the area of greatest subsidence risk until the Office of the Secretary of the Environment determines the area is safe for occupation;

5. For those individuals or legal entities eligible for relocation assistance under this subsection that operate businesses or nonprofit organizations in structures they own which are located in the area of greatest subsidence risk, the trust shall purchase the property for an amount equal to the value of comparable commercial property elsewhere in the county. In addition, such businesses or organizations may receive up to Two Thousand Dollars ($2,000.00) for moving expenses. Recipients must agree, prior to accepting such assistance, that they will not again operate within the area of greatest subsidence risk until the Office of the Secretary of the Environment determines the area is safe for occupation; and

6. All other owners of real property in the area of greatest subsidence risk may be eligible under this subsection to sell their property to the trust for an amount equal to the value of comparable property elsewhere in the county.

C. Where application for relocation assistance is made by one of multiple owners or lessees of a particular property or rental unit, the sum of all payments for acquisition of such property shall not exceed the amount that would have been paid had the property belonged to a single owner and the sum of all rental assistance shall not

exceed the amount that would have been paid had the unit been rented by a single lessee.

D. Participation in the assistance program shall be voluntary. No person shall be required to relocate under the provisions of the Lead-Impacted Communities Relocation Assistance Act.

E. In addition to the relocation assistance program described in subsections A and B of this section, funds granted to the trust may be used for the following purposes:

1. To provide grants to municipalities, public trusts, or other public entities operating utility systems located within the most affected area of the site in order to lessen the debt burden on such entities as a result of the relocation of families pursuant to the Lead-Impacted Communities Relocation Assistance Act. The amount of such grants may be based on the outstanding debt of such entities and the proportion that the number of persons relocated bears to the total population of the community served by such entity; and

2. To benefit public school districts, public trusts, and other public entities located within the most affected area of the site or area of greatest subsidence risk;

F. Real property acquired by the trust pursuant to the relocation assistance provisions of the Lead-Impacted Communities Relocation Assistance Act may be utilized or disposed of in the manner that the trust determines shall best serve the public interest. Disposition of these properties shall not be subject to the requirements of Section 129.4 of Title 74 of the Oklahoma Statutes, but the disposition and future use of these properties shall be subject to any land use restrictions recorded pursuant to state and federal law in the land records of the county in which the property is located. The trust may transfer real property acquired under this act to any state or federal entity or other sovereign entity consistent with the requirements of Section 15 of Article X of the Oklahoma Constitution.

G. A trust receiving a grant from the Department of Environmental Quality shall be authorized to establish appropriate procedures for eligible residents to apply for the relocation assistance described in this section; provided, however, that such a trust must set a deadline requiring eligible residents to submit their initial application for assistance. The trust is further authorized to make reasonable use of grant funds for the administration of the relocation assistance program.

H. In addition to the expenditure of funds according to the provisions of the Lead-Impacted Communities Relocation Assistance Act, a trust receiving a grant from the Department of Environmental Quality, shall be authorized to seek and expend funds from any other source, whether public or private, to further the purposes of the trust. The funds granted to a trust by the state shall be transferred in periodic payments rather than a single lump sum.

I. Prior to determining what constitutes the most affected area or area of greatest subsidence risk, the trust shall consult with the Department of Environmental Quality, which shall provide a recommendation regarding what it believes the boundaries of such an area should be.

J. Any trust receiving funds under the Lead-Impacted Communities Relocation Assistance Act shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

K. At no time shall a majority of the trustees of a trust receiving funds under the Lead-Impacted Communities Relocation Assistance Act be residents of the most affected area or area of greatest subsidence risk. All trustees shall abstain from participating in any decision in which they have a direct pecuniary interest.

L. A trust receiving funds under the Lead-Impacted Communities Relocation Assistance Act is authorized to purchase property belonging to a trustee or a member of the trustee's immediate family provided such purchase meets the requirements of the Lead-Impacted Communities Relocation Assistance Act, such trustee discloses the trustee's interest in the transaction, such trustee plays no role in the discussions or vote approving such purchase and the value of the purchase is based upon an independent appraiser's determination of the value of comparable property elsewhere in the county.

M. Any person eligible to receive assistance under the provisions of the Lead-Impacted Communities Relocation Assistance Act prior to May 10, 2008, shall remain eligible to receive the same amount of assistance adjusted for the amount of any private insurance payments for storm related damage if applicable. Any property valuation or other type of relocation assistance assessment made for the purposes of the Lead-Impacted Communities Relocation Assistance Act shall be based on the value of property as it existed no earlier than January 31, 2006, and not later than May 10, 2008, and comparable to property elsewhere in the county. The trust shall be authorized to enact or amend any of its procedures or deadlines as necessary to implement the provisions of this subsection.

N. The trust shall establish priorities among those seeking assistance, making certain that those at the greatest risk for loss of life and property receive the highest priority. All assistance programs shall be contingent upon the availability of funds.

Added by Laws 2004, c. 371, § 3. Amended by Laws 2006, c. 226, § 2, emerg. eff. June 6, 2006. Renumbered from § 7603 of Title 10 by Laws 2006, c. 226, § 6, emerg. eff. June 6, 2006. Amended by Laws 2008, c. 299, § 1, emerg. eff. June 2, 2008; Laws 2013, c. 49, § 1, eff. July 1, 2013.

§27A-2204. Enforcement of reoccupation restrictions - Penalties - Injunction.

The restrictions on reoccupation or reestablishment described in subsections A and B of Section 2 of this act may be enforced by the trust in its own name or by the district attorney or the Attorney General in the name of the State of Oklahoma. Those violating such restrictions shall be liable for penalties in an amount equal to three times the amount they have received from the trust. This penalty shall be in addition to such injunctive relief as the court may order. Proceeds from such actions shall be used by the trust to further the trust purposes identified in the Lead-Impacted Communities Relocation Assistance Act.
Added by Laws 2004, c. 371, § 4. Amended by Laws 2006, c. 226, § 3, emerg. eff. June 6, 2006. Renumbered from § 7604 of Title 10 by Laws 2006, c. 226, § 6, emerg. eff. June 6, 2006.

§27A-2205. No property right or right in action created - Discretion of trust to determine affected areas and property values - Contracts with substate planning districts.

A. Neither the enactment of this act nor the grant of funds to a trust shall create any property right or right in action. The courts shall have no jurisdiction to entertain any action against a recipient trust, the State of Oklahoma, their officers or agents founded on a claim that the claimant should have received different or better treatment from the trust.

B. The determinations made by the trust pursuant to this relocation assistance program including, without limitation, determinations as to what constitutes the most affected area of the site, the area of greatest subsidence risk, the average rental cost of comparable housing, the average cost of comparable properties, the eligibility of any person for assistance, and the determination of the proper amount of such assistance, if any, shall be committed to the sole discretion of the trust based on the information available to it and shall not be subject to judicial review.
Added by Laws 2004, c. 371, § 5. Amended by Laws 2006, c. 226, § 4, emerg. eff. June 6, 2006. Renumbered from § 7605 of Title 10 by Laws 2006, c. 226, § 6, emerg. eff. June 6, 2006.

§27A-2206. Department of Health to monitor blood lead levels of children who remain in affected areas.

The State Department of Health shall carefully monitor the blood lead levels of children who remain within the most affected area, with particular attention to those who may take up residence in the most affected area after the institution of relocation assistance.
Added by Laws 2004, c. 371, § 6. Renumbered from § 7606 of Title 10 by Laws 2006, c. 226, § 6, emerg. eff. June 6, 2006.

§27A-2207. Ottawa Reclamation Authority - Termination.

On the effective date of this act, the Ottawa Reclamation Authority, created pursuant to Section 801, et seq., of Title 45 of the Oklahoma Statutes, shall be terminated, and all activities of the Authority shall cease, notwithstanding the provisions of the Oklahoma Sunset Law. Upon dissolution of the Authority, its assets and records, in their entirety, shall be transferred to the state beneficiary public trust created pursuant to the Lead-Impacted Communities Relocation Assistance Act.
Added by Laws 2006, c. 226, § 5, emerg. eff. June 6, 2006.

§27A-2250. Emergency Drought Relief Fund.

There is hereby created in the State Treasury a fund to be known as the "Emergency Drought Relief Fund". This fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the fund from state appropriations, gifts, grants, private donations or federal funding for the purpose of providing funding for emergency drought relief activities once a drought emergency has been declared.
Added by Laws 2013, c. 353, § 1, emerg. eff. May 29, 2013.

§27A-2251. Emergency Drought Commission.

In the event of a formal declaration of emergency drought conditions by the Governor, the Emergency Drought Commission shall be formed consisting of the Executive Director of the Oklahoma Conservation Commission, the Secretary of Agriculture and the Executive Director of the Oklahoma Water Resources Board. The Emergency Drought Commission shall determine the expenditures to be made from the Emergency Drought Relief Fund created in Section 1 of this act, subject to approval by the Governor and shall determine the appropriate agency to expend the funds. The Emergency Drought Commission shall also serve as a drought advisory panel to the Governor and the various state agencies. The activities of the Emergency Drought Commission shall continue until it is determined by the Governor that a drought emergency no longer exists in the state.
Added by Laws 2013, c. 353, § 3, emerg. eff. May 29, 2013.

§27A-2252. Availability of Emergency Drought Relief Fund.

The Emergency Drought Relief Fund shall be available for drought response activities within the state that may include but shall not be limited to:

1. Pond cleanup and construction;
2. Water conservation methods in production agriculture;
3. Providing of water for livestock;
4. Rural fire suppression activities as directed by the Oklahoma Department of Agriculture, Food, and Forestry;
5. Red cedar eradication;
6. Soil conservation;

7. Emergency infrastructure conservation and measures; and

8. Any other drought response activities identified by the Emergency Drought Commission.

Added by Laws 2013, c. 353, § 4, emerg. eff. May 29, 2013.