

§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 on federal/state highway, public property, county road, or a railroad;	Oklahoma Highway 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;
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.

§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.