

Title 27A. Environment and Natural Resources
Chapter 4: Emergency Response Notification
Article I: Oklahoma Emergency Response Act

§ 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.

§ 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; and
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 Municipal Fire limits Department
 - b. Outside corporate Closest Municipal limits on private property Fire Department
 - c. Outside corporate limits Oklahoma Highway on federal/state highway, Patrol public property, county road, or a railroad;
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.

§ 4-1-103. First Responder to Incidents or Events Involving Releases of Dangerous Substances Requiring Protective Actions

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.

§ 4-1-104. Effect 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 damage incurred as a result of the release of the dangerous substance.

§ 4-1-105. Authority to Enter Private or Public Property - Records and Reports - Administrative Warrant

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 of 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.

§ 4-1-106. Authority of Attorney General to Prosecute Violations of Oklahoma Emergency Response Act

A. The Attorney General of 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 responsibility 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 the 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 violated 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.

For the full text of Title 27A. and historical data please visit:

<http://www.oscn.net/applications/OCISWeb/index.asp?level=1&ftdb=STOKSTA9#OklahomaEmergencyResponseAct>

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