STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2227

BY: HUDSON and McCORKELL of the HOUSE

and

HOBSON of the SENATE

COMMITTEE SUBSTITUTE

(STATE ENVIRONMENTAL AGENCIES - CREATING THE OKLAHOMA ENVIRONMENTAL QUALITY ACT - CODIFICATION - EFFECTIVE DATES -

EMERGENCY)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 11 of this act shall be known and may be cited as the "Oklahoma Environmental Quality Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The purpose of the Oklahoma Environmental Quality Act is to provide for the orderly transfer and transition of environmental functions between the various state environmental agencies, the consolidation of certain regulatory programs, the reorganization of the Department of Pollution Control and the establishment of a statewide environmental agency structure which will:

1. Eliminate agency jurisdictional overlap and duplication of effort;

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

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

4. Better utilize state financial resources for environmental regulatory services.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3 of Title 27A, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Environmental Quality Act:

1. "Point source" means any discernible, confined and discrete conveyance or outlet including but not limited to any pipe, ditch, channel, tunnel or conduit from which pollutants are or may be discharged into waters of the state. The term "point source" shall not include agricultural storm water discharge and return flows from irrigated agriculture;

2. "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;

3. "Non-point-source" means the contamination of the environment with a pollutant for which the specific point of origin is not well defined; and

4. "State environmental regulatory agency" includes:

a. the Oklahoma State Department of Health,

b. the Oklahoma Water Resources Board,

c. the Corporation Commission,

d. the State Board of Agriculture,

e. the Conservation Commission,

f. the Department of Wildlife,

g. the Department of Mining and the Mining Commission,

h. the Department of Public Safety,

i. the Department of Labor, and

j. the Pollution Control Coordinating Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1992, the Director of the State Department of Pollution Control shall:

1. Insofar as authorized and provided by the Oklahoma Environmental Quality Act, provide for the orderly transfer by July 1, 1993, of responsibility, liabilities, property, records, personnel and any outstanding financial obligations or encumbrances to the Department of Environmental Quality, or to or from any other state environmental regulatory agency;

2. Lease office space as needed for purposes of implementing the Oklahoma Environmental Quality Act. Any such office space shall not be leased until April 1, 1993, or as otherwise provided by the Legislature;

3. During the transition period, investigate and review programs currently assigned or managed by each state environmental regulatory agency insofar as such programs relate to the areas and responsibilities transferred between the various environmental regulatory agencies provided by Section 6 of this act, to determine if such program is effective and necessary, whether the program is duplicative of or overlapping other programs and whether such program should be abolished, or combined or coordinated with other programs;

4. During the transition period, review statutory provisions for each state environmental regulatory agency to determine if such provisions need to be amended, repealed, or recodified to implement the provisions of the Oklahoma Environmental Quality Act;

5. Whenever the director deems appropriate, confer with the Attorney General or his assistants in connection with all legal matters and questions;

6. Develop an organizational chart for the Department of Environmental Quality detailing divisions, responsibilities, systems for complaint resolution and permit issuance; and

7. Take such other actions as may be reasonably necessary and appropriate to effectuate the orderly transition of programs and functions provided by the Oklahoma Environmental Quality Act.

B. Each state environmental regulatory agency transferring or receiving programs or functions pursuant to the Oklahoma Environmental Quality Act shall designate at least one full-time employee from their agency to assist the Director of the Department of Pollution Control for the orderly transfer of duties and responsibilities pursuant to this section.

C. Personnel transferred pursuant to the provisions of the Oklahoma Environmental Quality Act shall not be required to accept a lesser grade or salary than presently received. No entrance exam shall be required for persons so transferred. All such persons shall retain leave, sick, annual and compensatory time earned and any retirement benefits which have accrued during their tenure with the agency from which transferred.

D. The Director shall submit a budget request with the Office of State Finance for fiscal year 1994 for the Department of Environmental Quality pursuant to Section 41.29 of Title 62 of the Oklahoma Statutes.

E. By February 1, 1993, the Director shall submit a written report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate consisting of:

1. The organizational framework of the Department of Environmental Quality;

2. A listing of positions to be transferred to the Department of Environmental Quality and job qualifications for those positions;

3. A list of local conservation districts which desire to contract with the Department of Environmental Quality as environmental service providers;

4. In cooperation and coordination with the Conservation Commission, types of programs necessary for the training of such local conservation district employees;

5. Contractual needs of the Oklahoma State Department of Health or of local county health departments to fulfill health-related services on a local basis if any personnel or positions are so transferred;

6. Fiscal analysis and impact to the budgets of each state environmental regulatory agency transferring functions or employees, or both, to the Department of Environmental Quality;

7. Transfer, transition and implementation costs for the Department of Environmental Quality;

8. Implementation schedule for orderly transfer of specified duties to the Department of Environmental Quality;

9. In conjunction and with the cooperation of each state environmental regulatory agency as applicable, implementation schedule, costs, agency framework and personnel or positions to be transferred for other agencies receiving or losing positions or functions pursuant to the provisions of this act; and

10. Such other information as may be deemed necessary by the Director and environmental task force pursuant to subsection F of this section.

F. In developing the organizational framework of the Department of Environmental Quality and for such other areas of responsibility designated pursuant to the provisions of this section, the Director of the Department of Pollution Control shall work in conjunction and cooperation with the environmental task force created pursuant to Senate Bill No. 326 of the 1st Session of the 43rd Oklahoma Legislature. The Director shall request either of the co-chairmen

to call such meetings of the task force as necessary, to receive and provide input into the development of the Department of Environmental Quality. A summary of the comments and explanation of changes or lack of any changes made in such development of the Department of Environmental Quality as a result of comments, suggestions or testimony received at such meetings shall be included in the report required to be submitted pursuant to subsection D of this section.

G. Either of the co-chairmen of the environmental task force shall call a meeting or meetings at the request of the Director of the Department of Pollution Control for providing assistance to, and input into, the development of the Department of Environmental Quality. In addition, either of the co-chairmen may call such meetings as may otherwise be required to provide comments, input or advice on the completed transition plan of the Department of Environmental Quality for approval by the Legislature during the 1st Session of the 44th Oklahoma Legislature.

H. As applicable, each state environmental regulatory agency shall cooperate with the Director of the Department of Pollution Control in providing information and such other assistance as may be requested by the Director in the orderly transition and transfers required by the provisions of the Oklahoma Environmental Quality Act.

I. During the transition period, authority for decisions relating to the transfer or receipt of duties and responsibilities pursuant to the Oklahoma Environmental Quality Act shall reside with the Director of the Department of Pollution Control. Final authority relating to the transfer on receipt of duties and responsibilities pursuant to the Oklahoma Environmental Quality Act shall reside with the Legislature. The Legislature shall review the completed transition plan developed by the Director in conjunction

with the environmental task force during the 1st Session of the 44th Oklahoma Legislature.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Through June 30, 1993, the Pollution Control Coordinating Board shall continue to be responsible for implementation of the Pollution Control Coordinating Act of 1968. Effective July 1, 1993, the Pollution Control Coordinating Board shall be abolished.

B. In addition to powers and duties specified by law, the Pollution Control Coordinating Board shall develop by January 1, 1993, a standardized complaint resolution system with regards to classifications of complaints, timely response and procedure mechanisms for resolving pollution complaints received by the various environmental regulatory agencies.

SECTION 6. Effective July 1, 1993, the following state environmental regulatory agencies shall have the specified jurisdictional areas of environmental responsibilities:

SECRETARY OF ENVIRONMENT

The Secretary of Environment or successor cabinet position shall have the following jurisdictional areas of environmental responsibilities;

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

2. Disbursement of federal environmental funds. Such funds shall be disbursed to each state environmental regulatory agency based upon its statutory duties and responsibilities relating to environmental areas. Such funds shall be distributed to the appropriate environmental regulatory agency within thirty (30) days of its receipt by the Secretary without any assessment of administrative fees.

DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department of Pollution Control, hereinafter named the Department of Environmental Quality, shall have the following jurisdictional areas of environmental responsibility:

1. Except for permits otherwise issued by the federal Environmental Protection Agency, all point source discharges requiring a federal National Pollutant Discharge Elimination Systems Permit;

2. Non-point-source discharges for industrial and municipal facilities;

3. Groundwater quality and protection;

4. Operator certification (wastewater/waste treatment plants);

5. Public water supplies;

6. Underground injection control for other than saltwater disposal or secondary or tertiary oil recovery;

7. Air quality except for indoor air quality;

8. Controlled industrial waste and solid waste;

9. Superfund;

10. Radioactive waste;

11. Sewage treatment and municipal waste facilities;

12. Emergency response except for present authority granted to the Department of Civil Defense;

13. Environmental planning;

14. Environmental laboratory services;

15. Hazardous substances; and

16. Wellhead protection.

OKLAHOMA STATE DEPARTMENT OF HEALTH

A. The Oklahoma State Department of Health shall have the following jurisdictional areas of environmental responsibility:

1. Occupational licensing services functions;

2. Food protection services; and

3. Radiation and special hazards services.

B. The Oklahoma State Department of Health shall contract with the Department of Environmental Quality for the performance of local services necessary and required by the retained jurisdictional environmental responsibilities.

C. Any existing jurisdiction of the Oklahoma State Department of Health over point source and non-point-source discharges, underground injection, air quality, sewage and municipal waste facilities, hazardous substances, emergency response, solid waste, controlled industrial waste, operator certification of waste/wastewater treatment, Superfund and public water supplies shall be transferred to the Department of Environmental Quality.

D. Any existing jurisdiction of the Oklahoma State Department of Health over wastewater prioritization shall be transferred to the Oklahoma Water Resources Board.

E. Any existing jurisdiction of the Oklahoma State Department of Health over indoor air quality and asbestos, except for asbestos analysis, shall be transferred to the Department of Labor as a function of its occupational safety and health jurisdiction.

OKLAHOMA WATER RESOURCES BOARD

A. 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;

6. Wastewater prioritization;

7. Water quality standards;

8. Well drillers/pump installers licensing; and

9. Clean lakes that are over 10,000 surface acres.

B. Any existing jurisdiction of the Oklahoma Water Resources Board over point source and non-point-source pollution and groundwater quality including, but not limited to, wellhead protection programs shall be transferred to the Department of Environmental Quality.

C. Any existing jurisdiction of the Oklahoma Water Resources Board over underground storage tanks shall be transferred to the Corporation Commission.

STATE DEPARTMENT OF AGRICULTURE

A. The Department of Agriculture shall have the following jurisdictional areas of environmental responsibility:

1. Non-point-source jurisdiction for agriculture, agri-business, silviculture, feed yards and animal waste;

2. Pesticide control;

3. Forestry and nurseries; and

4. Fertilizer.

B. Any existing jurisdiction of the Department of Agriculture over point source and non-point-source discharges requiring a federal National Pollutant Discharge Elimination Systems Permit shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit.

CORPORATION COMMISSION

A. The Corporation Commission shall have the following jurisdictional areas of environmental responsibility:

1. Non-point-source jurisdiction of oil and gas drilling, development, production, and processing;

2. Transportation (motor and pipeline);

3. Saltwater injection;

4. Brine production;

5. Underground storage tanks (L.U.S.T. Trust Fund, Indemnity Program, and Regulation);

6. Aboveground storage tanks (commercial);

7. Oil and gas regulation except as otherwise provided by paragraph B of this subheading.

B. Any existing jurisdiction of the Corporation Commission over point source discharges requiring a federal National Pollutant Discharge Elimination Systems Permit shall be transferred to the Department of Environmental Quality, provided that any oil and gas drilling, development or production site requiring a federal N.P.D.E.S. permit shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit.

C. The division of jurisdictional areas by this section shall not limit the existing exclusive jurisdiction of the Corporation Commission, nor extend the existing jurisdiction of the other state environmental regulatory agencies, over oil and gas exploration and production activities.

CONSERVATION COMMISSION

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

1. Non-point-source pollution for areas outside the jurisdiction or control of cities or towns in this state other than silviculture, urban stormwater runoff and industrial stormwater runoff;

2. Wetlands strategy;

3. Abandoned mine reclamation;

4. Cost share program for land use activities;

5. Clean lakes that are less than 10,000 surface acres;

6. Complaint data management; and

7. Environmental and natural resources education.

DEPARTMENT OF MINES

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

1. Mining regulation; and

2. Mining reclamation of active mines.

B. Any existing jurisdiction of the Department of Mines over point source discharges requiring a federal National Pollutant Discharge Elimination Systems permit shall be transferred to the Department of Environmental Quality.

DEPARTMENT OF WILDLIFE CONSERVATION

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

1. Existing authority relating to investigating wildlife kills; and

2. Wildlife protection and seeking wildlife damage claims provided by law.

DEPARTMENT OF PUBLIC SAFETY

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

1. Vehicle inspection for air quality; and

2. Hazardous waste transportation inspections.

DEPARTMENT OF LABOR

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

1. Regulation of asbestos;

2. Asbestos monitoring in public and private buildings; and

3. Indoor air quality.

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

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. On or before July 1, 1993, the Governor shall appoint with the advice and consent of the Senate the Executive Director of the Department of Environmental Quality. The Director of the Department

of Pollution Control shall be eligible for appointment as the Executive Director of the Department of Environmental Quality and shall continue to serve until an Executive Director is duly appointed and qualified.

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

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

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

2. Employ, appoint and contract with, and fix the qualifications, duties and compensation of such assistants, engineers, sanitarians, administrative, clerical and technical help, investigators, aides and other personnel and help, 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 or provisions relating to the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Act, or to assist him in the performance of his official duties and functions; and

3. Exercise all incidental powers which are necessary and proper to implement the purposes of the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Act.

D. 1. The Executive Director may contract with the Oklahoma Conservation Commission regarding use of the local conservation districts to provide environmental services to the maximum extent possible. The use of local conservation districts 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 local conservation district employees.

2. The Executive Director, in conjunction with the Conservation Commission, shall develop a program for purposes of training local conservation district employees in providing needed environmental services.

3. Environmental services to be provided by local conservation districts shall not include the investigation of complaints regarding, or inspections of, permitted sites or facilities, unless otherwise authorized by law.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1993, within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, subject to the direction of the Executive Director, shall have the power and duty to:

1. Issue, renew, deny or suspend, revoke or refuse to renew licenses or permits pursuant to the provisions of the Oklahoma Environmental Quality Act;

2. Assess administrative penalties against any person or entity who violates any of the provisions of the Oklahoma Environmental Quality Act or any rule promulgated thereunder;

3. Obtain an office, secure such facilities, and employ, direct, discharge and define the duties and set the salaries of such office personnel as deemed necessary by the Executive Director;

4. Request criminal prosecution proceedings as authorized by law against any person or entity who has violated any of the provisions of the Oklahoma Environmental Quality Act or any rule promulgated pursuant thereto;

5. Investigate alleged violations of the Oklahoma Environmental Quality Act or of the rules or orders of the Executive Director;

6. 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;

7. Encourage and conduct studies, investigations and research relating to pollution and its causes, effects, prevention, control and abatement;

8. Collect and disseminate information relating to pollution, its prevention and control;

9. Enter into agreements for, accept, 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 and pollution control;

10. Determine, charge and receive fees to be collected for permits, to file other papers, to make copies of documents, to make prints of maps and drawings, and to certify copies of documents, maps and drawings required pursuant to the Oklahoma Environmental Quality Act;

11. Be the official agency of the State of Oklahoma to cooperate with federal agencies for point source pollution, solid waste, hazardous materials and wastes, pollution, Superfund, water quality, controlled industrial waste, radioactive waste, air quality and sewage and any other program authorized by law;

12. Provide a toll-free hot line for environmental complaints; and

13. Exercise all incidental powers which are necessary and proper to implement the purposes of the Oklahoma Environmental Quality Act.

C. There is hereby created within the Department of Environmental Quality:

1. The Division of Air Quality which shall be responsible for air quality and such other areas designated to it by the Executive Director;

2. The Division of Water Quality which shall be responsible for water quality, including, but not limited to point source and non-point-source pollution within the jurisdiction of the Department, permitting, water protection, industrial and municipal discharges and such other areas designated to it by the Executive Director;

3. The Division of Waste Management which shall be responsible for controlled industrial waste, solid waste, recycling, hazardous substances regulation and such other areas within the jurisdiction of the Department designated to it by the Executive Director;

4. The Administration and Planning Division which shall be responsible for interagency coordination, environmental planning, emergency response and such other responsibilities within the jurisdiction of the Department designated to it by the Executive Director. Within the Division there is hereby created:

a. the Office of Complaints, Investigation and Mediation which shall be responsible for intake processing, investigation, mediation and conciliation of inquiries and complaints received by the Department. The Office shall provide for the expedient resolution of complaints and shall provide a written response to each complainant,

b. the Office of Business Advocate which will be responsible for advising and providing licensees, or permittees or those persons desiring to obtain a license or permit the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Act. The Office of Business Advocate shall intercede with other divisions of the department to assist businesses in complying with

state statutes and rules governing environmental areas, and

c. the Office of Local Government Advocate which will be responsible for advising and providing licensees or permittees, 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 Act. The Office of Local Government Advocate shall intercede with other divisions of the Department to assist municipalities in complying with state statutes and rules governing environmental areas; and

5. Such other divisions and offices as the Executive Director may determine necessary to implement programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Act.

D. The provisions of this section shall not limit the existing exclusive jurisdiction of the Corporation Commission, nor extend the existing jurisdiction of any other state environmental regulatory agency, over oil and gas exploration and production activities.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1993, there is hereby created the Environmental Quality Policy and Appeals Board which shall consist of thirteen (13) members appointed by the Governor.

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

1. Be a citizen of the United States;

2. Have been a resident of this state for five (5) years immediately preceding the appointment;

3. 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; and

4. Be a qualified elector of this state.

C. The Board shall be composed of:

1. One member who shall be selected from the engineering profession. Such member shall be a professional engineer and experienced in matters of pollution equipment and 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 controlled industrial 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 industry. Such member 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 pollution;

7. One member who shall be selected from agriculture and shall be engaged in the production of agricultural products;

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

9. One member who shall be an attorney who specializes in environmental law;

10. One member who shall be a member of a statewide environmental organization;

11. One member who shall be a member of the local government body of a city or town;

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

13. One member who shall be appointed from the public at large.

D. The initial terms of office of:

1. Four members shall expire on June 30, 1996;

2. Three members shall expire on June 30, 1998;

3. Three members shall expire on June 30, 2000; and

4. Two members shall expire on June 30, 2002.

Thereafter, 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 the expiration of the term of any member 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 to succeed himself for one additional term.

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 following the passage of the Oklahoma Environmental Quality Act, one of its members to serve as chairman and another of its members to serve as vice-chairman. At the first meeting in each calendar year thereafter, the chairman and vice-chairman for the ensuing year shall be elected. Special meetings may be called by the chairman or by three members of the Board by delivery of written notice to each member of the Board. A majority of the Board 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. 1. The Board shall be the rulemaking body for the Department of Environmental Quality. Such rules shall be adopted with advice of the advisory councils created in Section 10 of this act. By January 1, 1994, the Board shall have promulgated permanent rules to implement the programs and functions within the jurisdiction of the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Act.

2. Effective July 1, 1993, the current rules of:

a. the State Board of Health regarding controlled industrial waste, radioactive waste, hazardous materials, public water supplies, sewage treatment, asbestos, solid waste, air quality, emergency response, underground injection control, point source and non-point-source pollution, and underground storage tanks,

b. the Oklahoma Water Resources Board regarding point source and non-point-source discharges and pollution, groundwater protection and underground tanks,

c. the Corporation Commission regarding point source discharges,

d. the Board of Agriculture regarding point source discharges, and

e. the Pollution Control Coordinating Board,

shall remain effective until the promulgation of rules by the Department of Environmental Quality or other applicable agency.

H. 1. The Board shall sit as a board of appeals for orders or decisions of the Department of Environmental Quality which are adverse to any party to an individual proceeding. In any proceeding for the review of an order or decision, the Board, as the case may be, may:

a. affirm the order and decision of the Department of Environmental Quality, or

b. reject the order or decision of the Department of Environmental Quality and remand the case to the Department for the taking and consideration of further evidence.

2. An appeal to the Board is not necessary for a final determination of a particular issue but such issue may be appealed to the district court by the party adversely affected after receipt of a final order by the Department of Environmental Quality.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1993, there is hereby created:

1. The Water Quality Management Advisory Council;

2. The Controlled Industrial Waste Management Advisory Council; and

3. The Solid Waste Management Advisory Council.

B. 1. Each Council 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. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for three-year terms. 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. Each Council shall elect a chairman and a vice-chairman from among its members and establish its methods of procedure. Each Council shall meet as required for rule development. Special

meetings may be called by the chairman or by the concurrence of any three (3) members.

3. 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.

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. one member shall be from an industry located in this state,

b. one member shall be from an oil field related industry,

c. one member shall be from a statewide environmental organization,

d. one member shall be from a political subdivision of the state who shall be a member of the local governmental body of a city or town,

e. one member shall be from a rural water district organized pursuant to the laws of this state,

f. three members shall represent the fields of agriculture, engineering and water quality, and

g. one member shall be from the general public.

2. All members of the Controlled Industrial Waste Management Advisory Council shall be knowledgeable of controlled industrial waste and of the environment. The Council shall be composed as follows:

a. two members shall be from industries located in this state,

b. one member shall be from an established statewide environmental organization,

c. two members shall represent the fields of agriculture, engineering or geology,

d. one member shall be from the controlled industrial waste industry,

e. two members shall be from political subdivisions of the state who shall be members of the local governmental body of a city or town, and

f. one member shall be from the general public.

3. All members of the Controlled Industrial and Solid Waste Management Advisory Council shall be knowledgeable of solid and controlled industrial waste and of the environment. The Council shall be composed as follows:

a. one member shall be from the solid waste disposal industry in this state,

b. one member shall be from the controlled industrial waste disposal industry in this state,

c. one member shall be from a statewide environmental organization,

d. two members shall represent industries located in this state producing solid waste or producing controlled industrial waste,

e. one member shall be from the field of engineering,

f. one member shall be from a political subdivision of the state who shall be a member of the local governmental body of a city or town,

g. one member shall be a county commissioner, and

h. one member shall be from the general public.

D. The powers and duties of each Council shall be to recommend to the Board rules for controlled industrial waste, radioactive waste, environmental health, hazardous materials, solid waste,

sewerage systems, air quality, emergency response, underground injection control, point source pollution, pollution abatement, industrial wastes, groundwater protection, Superfund, recycling, water quality, pollution, and such other areas and responsibilities insofar as such matters are within the jurisdiction of the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Act.

E. The Air Quality Council created pursuant to Section 1-1802 of Title 63 of the Oklahoma Statutes shall remain in effect and carry on the powers and duties assigned to it by law, provided however, the Council shall make all recommendations to the Environmental Quality Policy and Appeals Board and obtain administrative assistance from the Department of Environmental Quality. Any personnel or administrative duties currently assigned to the State Department of Health regarding the Air Quality Council shall be transferred to the Department of Environmental Quality as of July 1, 1993. The current membership of the Air Quality Council shall remain on the Council until the expiration of their terms of office. Future appointments to the Council shall be made according to the provisions of Section 1-1802 of Title 63 of the Oklahoma Statutes.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Each state environmental regulatory agency, as applicable, shall establish by rule, time periods for issuance or denial of permits and licenses required by law. 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. Each state environmental regulatory agency shall establish by rule, time periods for complaint resolution as required by law. Complaints received by any state environmental regulatory agency concerning a site or facility permitted by or which clearly falls within the jurisdiction of another state environmental regulatory agency shall be immediately referred to the appropriate state environmental regulatory agency for investigation and resolution. Such investigation shall be made by the appropriate division and employees of the appropriate state environmental regulatory agency.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1501-450 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The Conservation Commission shall 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 regulatory agencies, resolutions of complaints, permit approvals, and such other data as funds become available and as may be desirable and necessary to provide public access to specific site information.

B. At least monthly, each state environmental regulatory agency shall submit to the Conservation Commission a detailed 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, details and such other information concerning the complaint as may be obtained, the name of the person or company and address thereof alleged to be responsible for the pollution, the classification of the complaint, and how the complaint was resolved. The report shall be in such form and made in such manner as is required by the Commission and may include such additional information as deemed necessary 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 regulatory 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.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57 of Title 17, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Corporation Commission, to be designated the "Oil and Gas Division Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Corporation Commission from appropriations, and any other source designated for deposit to said fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and shall be expended by the Corporation Commission for the purpose of improving response to oil and gas pollution. 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 State Finance for approval and payment. No money shall be transferred or expended by the Corporation Commission for any other purpose than that authorized by this section.

SECTION 14. Section 6 of this act shall not be codified in the Oklahoma Statutes.

SECTION 15. Sections 1, 2, 4, 5, 7, 11 and 13 of this act shall become effective July 1, 1992.

SECTION 16. Sections 3, 6, 8, 9, 10 and 12 of this act shall become effective July 1, 1993.

SECTION 17. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-2129A REP