

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)  
2ND CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 361

By: Easley of the Senate

and

Rice of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending Section 6, Chapter 398, O.S.L. 1992, as amended by Section 11 of Enrolled House Bill No. 1002 of the 1st Session of the 44th Oklahoma Legislature (27A O.S. Supp. 1992, Section 6), which relates to jurisdiction of environmental agencies; clarifying certain jurisdiction; authorizing agencies to engage in certain educational activities; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 6, Chapter 398, O.S.L. 1992 as amended by Section 11 of Enrolled House Bill No. 1002 of the 1st Session of the 44th Oklahoma Legislature (27A O.S. Supp. 1992, Section 6), is amended to read as follows:

Section 6. A. The provisions of this section specify the jurisdictional areas of responsibility for each state environmental agency. The jurisdictional areas of 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this section which conflicts with the assignment of jurisdictional responsibilities specified by this section is hereby superceded. 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, except as otherwise provided in this section:

1. All point source discharges from municipal, industrial, commercial, mining, transportation, manufacturing and other sources, facilities and activities, except as provided in subsections D ~~and~~, E and F of this section;

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

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

4. Waterworks and wastewater works operator certification;

5. Public and private water supplies;

6. Underground injection control except for brine recovery, saltwater disposal or secondary or tertiary oil recovery;

7. 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;

8. Hazardous waste and solid waste, including industrial, commercial and municipal waste;

9. 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;

10. Radioactive waste and 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;

11. Water, waste, and wastewater treatment systems including but not limited to septic tanks or other public or private waste disposal systems;

12. Emergency response as specified by law;

~~13. Public environmental information dissemination;~~

~~14.~~ Environmental laboratory services and laboratory certification;

~~15.~~ 14. Hazardous substances other than branding, package and labeling requirements;

~~16.~~ 15. Freshwater wellhead protection; and

~~17.~~ 16. 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.

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 as specified by law; and

9. Statewide water quality standards.

D. State Department of Agriculture. 1. The State Department of Agriculture shall have the following jurisdictional areas of environmental responsibility except as provided in paragraphs 2 and 3 of this subsection:

- a. point and nonpoint source discharges from agriculture, agribusiness, silviculture, feed yards, livestock markets and animal waste,
- b. pesticide control,
- c. forestry and nurseries,
- d. fertilizer, and
- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals.

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

- a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over dairy waste and wastewater, including, but not limited to, discharges of pollutants and storm water and other pollution originating at such facilities,
- 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, and
- c. point source discharges from slaughterhouses.

3. Any point source and nonpoint source discharges related to agriculture and requiring a federal National Pollutant Discharge Elimination Systems permit which are not specified under paragraph 2 of this subsection as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit.

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 produced from geological strata lying below three hundred (300) feet in depth from the surface,
- 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. injection wells known as Class II wells under the federal Underground Injection Control Program. 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 outside the boundaries of refineries,
- 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, and
- j. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata.

2. The exclusive jurisdiction, power and authority of the Corporation 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. Except as otherwise provided by this subsection, for purposes of the Federal Clean Water Act, any activity which is subject to the jurisdiction of the Corporation Commission pursuant to this section and which requires a permit for the discharge of a pollutant to waters of the United States shall be subject to the direct jurisdiction of the United States Environmental Protection Agency and shall not be required to be permitted by the Department of Environmental Quality or the Corporation Commission for such discharge.

4. The Corporation Commission shall have jurisdiction over:
- a. underground storage tank regulation assigned to the Commission pursuant to other Oklahoma statutes, including but not limited to the Leaking Underground Storage Tank Trust Fund and Indemnity Fund programs, provided that any point source discharge of a pollutant to waters of the United States during site remediation shall be regulated by the Department of Environmental Quality, and
  - b. aboveground storage tanks used in connection with the retail sale of flammable liquids into fuel tanks, provided that any point source discharge of a pollutant to waters of the United States during site

remediation shall be regulated by the Department of Environmental Quality.

5. Any facility engaging in activities, when such activities are separately within the jurisdiction of the Department of Environmental Quality or the Corporation Commission, shall have said activities regulated separately by the Department of Environmental Quality and the Corporation Commission based upon each agency's jurisdictional responsibilities.

6. The Department of Environmental Quality shall regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for discharges of pollutants from refineries, petrochemical manufacturing plants and natural gas liquid extraction plants.

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

1. Soil conservation and erosion control;
  2. Monitoring, evaluation and assessment of waters to determine the extent of nonpoint source pollution and the development of conservation plans. Serve as the technical lead agency for Section 319 of the Federal Clean Water Act, except for activities related to industrial and municipal stormwater;
  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. Coordinate environmental and natural resources education;
- and
9. Federal upstream flood control program.

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

1. Mining regulation; and
2. Mining reclamation of active mines.

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

1. Investigating wildlife kills; and
2. Wildlife protection and seeking wildlife damage claims.

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

1. Vehicle inspection for air quality;
2. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act; and
3. 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 by the federal Occupational Safety and Health Act.

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

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

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

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 Civil Defense and Emergency Resources Management Act;

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

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

L. Each state environmental agency shall have the authority to engage in environmental and natural resource information dissemination and education activities within their respective areas of environmental jurisdiction.

SECTION 2. 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.

44-1-1173

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