

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1002

By: Leist

AS INTRODUCED

An Act relating to environment and state

environmental agencies; amending Section 6, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 6), which relates to jurisdiction of state environmental agencies; clarifying jurisdiction; providing an effective date; 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 (27A O.S. Supp. 1992, Section 6), is amended to read as follows:

Section 6. A. ~~Effective July 1, 1993, the following state environmental agencies shall have the specified jurisdictional areas of environmental responsibilities~~ The provisions of this section specify the jurisdictional areas of responsibility for each 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 environmental agency; provided that any law, 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responsibilities specified by this section or the intent of this section is hereby nullified or repealed:

~~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;~~

~~2. The recipient of federal funds disbursed pursuant to the Federal Water Pollution Control Act and the Federal Environmental Protection Act. Such funds shall be disbursed to each state environmental agency based upon its statutory duties and responsibilities relating to environmental areas. Such funds shall be distributed to the appropriate state environmental agency within thirty (30) days of its receipt by the Secretary without any assessment of administrative fees or costs. Disbursement of other federal environmental funds shall not be subject to the Oklahoma Environmental Quality Act; and~~

~~3. Chairperson of the executive environmental subcommittee.~~

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 except as ~~otherwise~~ provided in subsections D and E of this section;

2. Nonpoint source discharges for industrial and municipal facilities;

3. Groundwater quality and protection;

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

5. Public water supplies;

6. Underground injection control except for ~~other than~~ 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;

8. ~~Controlled industrial (hazardous)~~ Hazardous waste and solid 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;

11. Sewage treatment and municipal waste facilities including but not limited to septic tanks or other private waste disposal systems;

12. Emergency response ~~except for present authority granted to the Department of Civil Emergency Management~~ as specified by law;

13. Public environmental information dissemination;

14. Environmental laboratory services and laboratory certification;

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

16. Freshwater wellhead protection; and

17. Regulation of any entity, and the prevention, control and abatement of any pollution not subject to the jurisdictional authority of another state environmental agency.

~~A.~~ 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;
6. Wastewater project prioritization for funding from the state revolving fund;
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;
9. Statewide water quality standards; and
10. Environmental and natural resources education within its jurisdictional areas.

~~B. Except as otherwise provided by this section, any existing jurisdiction of the Oklahoma Water Resources Board over water quality including but not limited to point source and non-point-source pollution, and groundwater quality including, but not limited to, freshwater 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.~~

~~A.~~ D. State Department of Agriculture. 1. The State Department of Agriculture shall have the following jurisdictional areas of environmental responsibility:

- ~~1.~~ a. Nonpoint source jurisdiction for agriculture, agribusiness, silviculture, feed yards, livestock markets and animal waste~~†~~†
- ~~2.~~ b. Pesticide control~~†~~†
- ~~3.~~ c. Forestry and nurseries~~†~~† and
- ~~4.~~ d. Fertilizer.

~~B. Any~~ 2. Except as otherwise provided by this paragraph, any existing jurisdiction of the Department of Agriculture over point source and nonpoint 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, ~~except for commercial.~~ Commercial manufacturers of fertilizers, grain, feed and agriculture chemicals, ~~which~~ shall be regulated by the Department of Environmental Quality.

~~C.~~ 3. Except as provided in paragraph ~~B~~ 2 of this ~~subheading~~ subsection, the division of jurisdictional areas by this section shall not limit the ~~existing~~ jurisdiction of the State Department of Agriculture, nor extend the jurisdiction of the other state environmental agencies over agricultural activities.

~~A.~~ E. Corporation Commission. 1. The Corporation Commission shall have the following jurisdictional areas of environmental responsibility:

- ~~1.~~ a. ~~Oil~~ Except as otherwise provided by paragraph 2 of this subsection, oil and gas drilling, development, production, and processing, including only _____,
- ~~2.~~ b. Transportation (motor, pipeline and railroads) ~~†~~ †
- ~~3.~~ c. Saltwater injection ~~†~~ †
- ~~4.~~ d. Brine production ~~†~~ †
- ~~5.~~ e. Underground storage tanks (L.U.S.T. Trust Fund, Indemnity Program, and Regulation) ~~†~~ †
- ~~6.~~ f. ~~Aboveground~~ Commercial aboveground storage tanks ~~(commercial)†~~ † and
- ~~7.~~ g. Oil and gas ~~regulation except as otherwise provided by paragraph B of this subheading~~ conservation.

~~B.~~ ~~Any existing jurisdiction of the Corporation Commission over pollutant discharges~~ 2. Discharges from refineries, petrochemical manufacturing plants and natural gas liquid extraction plants shall be ~~transferred to~~ regulated by the Department of Environmental Quality, ~~provided that any.~~ 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.~~ 3. Except as otherwise provided in paragraph ~~B~~ 2 of this ~~subheading~~ subsection, 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 agencies, over oil and gas exploration and production activities.

~~A.~~ 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;

3. 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.~~ 4. Wetlands strategy;

~~4.~~ 5. Abandoned mine reclamation;

~~5.~~ 6. Cost share program for land use activities;

~~6.~~ 7. Assessment and conservation plan development and implementation in watersheds of clean lakes, which may include, but not be limited to, funding for such purposes under Section 314 of the Federal Clean Water Act;

~~7.~~ 8. Complaint data management;

~~8.~~ 9. Coordinate environmental and natural resources education;
and

~~9.~~ 10. Federal upstream flood control program.

~~A.~~ 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.

~~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.~~

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

1. Investigating wildlife kills and recovering full and adequate damages for the loss of wildlife of this state as a result of a violation of any law having as its purpose the prevention of pollution of the environment of or the natural resources of the state;

2. Wildlife protection and seeking wildlife damage claims; and

3. Environmental and natural resources education within its area of jurisdiction.

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

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;

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.

K. Department of Civil Emergency Management. The Department of Civil Emergency Management shall, ~~insofar as authorized by statute on July 1, 1992,~~ have the following jurisdictional areas of environmental ~~responsibilities~~ responsibility:

1. Coordination of all emergency resources and activities relating to threats to citizens' life and property;

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;

3. Administer and conduct periodic exercises of emergency operations plans provided for in ~~subparagraph 2~~ of this ~~subheading~~ subsection;

4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders; and

5. Continue existing program to develop and maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

~~B. 1. Effective July 1, 1993, any existing jurisdiction of the Oklahoma State Department of Health over point source and non-point source discharges of municipal facilities; underground injection for other than brine recovery, saltwater disposal or secondary or tertiary oil recovery; air quality under the Federal Clean Air Act and applicable state law, except for indoor air quality and asbestos; sewage and municipal waste facilities; hazardous substances; emergency response except for present authority granted to the Department of Civil Emergency Management; solid waste; controlled industrial (hazardous) waste; operator certification of~~

~~water and waste/wastewater treatment; environmental laboratory services and certification; 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; public water supplies; groundwater quality and protection; freshwater wellhead protection; radioactive waste; public environmental information dissemination; and any other environmental responsibility except as otherwise specified by this subsection shall be transferred to the Department of Environmental Quality.~~

~~2. Any existing jurisdiction of the Oklahoma State Department of Health over wastewater project prioritization for funding from the state revolving fund shall be transferred to the Oklahoma Water Resources Board.~~

~~3. Any existing jurisdiction of the Oklahoma State Department of Health over indoor air quality and asbestos, except for asbestos analysis which shall be performed under the supervision of the Department of Environmental Quality, shall be transferred to the Department of Labor as a function of its occupational safety and health jurisdiction.~~

~~4. Except as otherwise provided by this paragraph, the Oklahoma State Department of Health shall retain the following jurisdictional areas of responsibility, currently within the Oklahoma State Department of Health's Environmental Health Services Division: occupational licensing services functions, food protection services, radiation and special hazards services, Cancer & Tumor Registry, milk program, day care center program, medical devices, barber shops, over-the-counter drugs, hotel and motel inspections, consumer product safety, bedding, public bathing place program, rabies control, vector control, noise control, and camp inspections.~~

~~The Department of Environmental Quality shall assume any environmental jurisdiction from the Oklahoma State Department of Health in regard to the responsibilities outlined in this paragraph if such responsibilities include but are not limited to jurisdiction over air quality, sewage, solid waste, controlled industrial (hazardous) waste, and public water supplies.~~

~~5. The Oklahoma State Department of Health and the Department of Environmental Quality may enter into interagency agreement contracts as necessary for the performance of local services.~~

SECTION 2. This act shall become effective July 1, 1993.

SECTION 3. 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.

44-1-5141

KSM