

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 365

By: Littlefield of the Senate

and

Adair of the House

COMMITTEE SUBSTITUTE

An Act relating to clean lakes; amending Section 6, Chapter 398, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993 and as last amended by Section 24, Chapter 140, O.S.L. 1994 (27A O.S. Supp. 1996, Section 1-3-101), which relates to environmental agencies jurisdiction; modifying environmental responsibilities of Oklahoma Water Resources Board and Conservation Commission relating to clean lakes; amending Section 56, Chapter 145, O.S.L. 1993, as last amended by Section 8, Chapter 353, O.S.L. 1994 and 82 O.S. 1991, Section 926.3, as renumbered by Section 359, Chapter 145, O.S.L. 1993 and as last amended by Section 9, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1996, Section 2-6-101 and 2-6-103), which relate to the Oklahoma Environmental Quality Code; adding definitions; adding to and clarifying powers of the Department of Environmental Quality; amending 82 O.S. 1991, Sections 1501-103, as amended by Section 206, Chapter 145, O.S.L. 1993 and as renumbered by

Section 359, Chapter 145, O.S.L. 1993, and 1501-205, as amended by Section 212, Chapter 145, O.S.L. 1993 and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1996, Sections 3-1-103 and 3-2-106), which relate to the Conservation District Act; clarifying and adding definitions; clarifying and adding to the powers and duties of the Oklahoma Conservation Commission; amending Section 320, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1996, Section 1085.29), which relates to the Federal Clean Water Act funding; clarifying statutory language; 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, as renumbered by Section 359, Chapter 145, O.S.L. 1993 and as last amended by Section 24, Chapter 140, O.S.L. 1994 (27A O.S. Supp. 1996, Section 1-3-101), is amended to read as follows:

Section 1-3-101. 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:

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration, manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;

2. All nonpoint source discharges and pollution except as provided in subsections D, E and F 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. Environmental laboratory services and laboratory certification;

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

15. Freshwater wellhead protection; and

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~~ or other applicable sections of the Federal Clean Water Act or other subsequent state and federal clean lakes programs; administration of a state program for assessing, monitoring, studying and restoring Oklahoma lakes with administration to include, but not be limited to, receipt and expenditure of funds from federal, state and private sources for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources, provided such funds from federal sources are administered and disbursed by the Office of the Secretary of Environment; 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 subsection B of this section and paragraphs 2 and 3 of this subsection:

- a. point and nonpoint source discharges from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste,
- b. pesticide control,
- c. forestry and nurseries,
- d. fertilizer,
- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals, and
- f. dairy waste and wastewater associated with milk production facilities.

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. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- (2) slaughterhouses, but not including feedlots at such facilities, and
- (3) animal aquiculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at such facilities, and
- 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.

3. Any point source and nonpoint source discharges related to agriculture from sources specified in paragraph 1 of this subsection which require a federal National Pollutant Discharge Elimination Systems permit and 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 and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture.

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 for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,

- 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, at:
 - (1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
 - (2) other oil and gas extraction facilities and activities,
- j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities, and
- k. 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. When a deleterious substance from a Commission regulated facility or activity enters a point source discharge of pollutants or storm water from a facility or activity regulated by the Department of Environmental Quality, the Department shall have sole jurisdiction over the point source discharge of the commingled pollutants and storm water from the two facilities or activities insofar as Department regulated facilities and activities are concerned.

4. For purposes of the Federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Corporation Commission pursuant to paragraph 1 of this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or storm water to waters of the United States shall be subject to the direct jurisdiction of the federal Environmental Protection Agency and shall not be required to be permitted by the Department of Environmental Quality or the Corporation Commission for such discharge.

5. 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.

6. The Department of Environmental Quality shall have sole jurisdiction to 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 point and nonpoint source discharges of pollutants and storm water to waters of the state from:

- a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,
- b. manufacturing of oil and gas related equipment and products,
- c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection,
- d. other facilities, activities and sources not subject to the jurisdiction of the Corporation Commission or the Department of Agriculture as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the Federal Clean Air Act as amended.

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~~ stream and river health and the impacts of nonpoint source pollution ~~and the development of conservation plans~~. ~~Serve~~ In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs, except ~~for activities related to industrial and municipal stormwater~~ as otherwise provided by state law. For purposes of this paragraph, "stream or river health" includes the ecological integrity of a flowing aquatic environment, and "health" relates to the structure and function of the ecosystem, where high levels of health imply sufficiently high levels of ecological complexity and high levels of community stability;

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 under the authority of the Oklahoma Occupational Health and Safety Standards Act, except for those indoor air quality issues specifically authorized to be regulated by another agency.

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~~ lives 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.

SECTION 2. AMENDATORY Section 56, Chapter 145, O.S.L. 1993, as last amended by Section 8, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1996, Section 2-6-101), is amended to read as follows:

Section 2-6-101. For purposes of this article:

1. "Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;

2. "Disposal system" means pipelines or conduits, pumping stations and force mains and all other devices, construction, appurtenances and facilities used for collecting, conducting or disposing of wastewater, including treatment systems;

3. "Drainage basin" means all of the water collection area adjacent to the highest water line of a reservoir which may be considered by the Department to be necessary to protect adequately the waters of the reservoir. The area may extend upstream on any watercourse to any point within six hundred (600) feet of the highest water line of the reservoir;

4. "Federal Safe Drinking Water Act" means the federal law at 42 U.S.C., Section 300 et seq., as amended;

5. "Indirect discharge" means the introduction of pollutants to a publicly owned treatment works from a nondomestic source;

6. "NPDES" or "National Pollutant Discharge Elimination System" means the system for the issuance of permits under the federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;

7. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined;

8. "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agribusiness waste discharged into waters of the state;

9. "Public water supply" means water supplied to the public for domestic or drinking purposes;

10. "Reservoir" means any reservoir, whether completed or in the process of construction, whether or not used as a water supply, and whether or not constructed by any recipient of water therefrom;

11. "Sludge" means nonhazardous solid, semi-solid, or liquid residue generated by the treatment of domestic sewage or wastewater by a treatment works, or water by a water supply system, or manure, or such residue, treated or untreated, which results from industrial, nonindustrial, commercial, or agribusiness activities or industrial or manufacturing processes and which is within the jurisdiction of the Department;

12. "Small public sewage system" shall mean a disposal or collection system which serves less than ten (10) residential units or a public or commercial sewage system which has an average flow of less than five thousand (5,000) gallons per day;

13. "Total maximum daily load" means the sum of individual wasteload allocations (W.L.A.) for point sources, safety, reserves, and loads from nonpoint sources and natural backgrounds;

14. "Treatment" means any method, technique or process used to remove pollutants from wastewater or sludge to the extent that the wastewater or sludge may be reused, discharged into waters of the state or otherwise disposed and includes, but is not limited to, the utilization of mechanized works, surface impoundments and lagoons, aeration, evaporation, digesters or other devices or methods. "Treatment" also means any method, technique or process used in the purification of drinking water;

~~14.~~ 15. "Treatment works" means any facility used for the purpose of treating or stabilizing wastes or wastewater. "Treatment works" shall be synonymous with "wastewater works";

~~15.~~ 16. "Waste" means any liquid, gaseous or solid or semi-solid substance, or thermal component, whether domestic, municipal, commercial, agricultural or industrial in origin, which may pollute or contaminate, or tend to pollute or contaminate, any air, land or waters of the state and which is within the jurisdiction of the Department;

~~16.~~ 17. "Wastewater" includes any substance, including sewage, that contains any discharge from the bodies of human beings or animals, or contaminating chemicals or other waste or pollutants from domestic, municipal, commercial, agricultural, industrial or manufacturing activities or facilities and which is within the jurisdiction of the Department;

~~17.~~ 18. "Wastewater treatment system" means treatment works and all related pipelines or conduits, pumping stations and force mains, and all other appurtenances and devices used for collecting, treating, conducting or discharging wastewater;

~~18.~~ 19. "Water supply system" means a water treatment plant, water wells, and all related pipelines or conduits, pumping stations and mains and all other appurtenances and devices used for distributing water to the public and, as such, shall be synonymous with waterworks;

~~19.~~ 20. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the water of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof; and

~~20.~~ 21. "Wellhead protection area" means the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, that defines the areal extent from which water is supplied to such water well or wellfield.

SECTION 3. AMENDATORY 82 O.S. 1991, Section 926.3, as renumbered by Section 359, Chapter 145, O.S.L. 1993 and as last amended by Section 9, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1996, Section 2-6-103), is amended to read as follows:

Section 2-6-103. A. The Department of Environmental Quality shall have and is hereby authorized to exercise the power and duty to:

1. Develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of this state;

2. Encourage, participate in, or conduct studies, investigations, research and demonstrations relating to water pollution and causes, prevention, control and abatement thereof as it may deem advisable and necessary in the public interest for the discharge of its duties under this act;

3. Collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;

4. Require the submission of and review plans, specifications and other data relative to disposal or treatment systems or any part

thereof in connection with the issuance of such permits as are required by this article;

5. Enforce the provisions of this article, rules promulgated thereunder, and permits, licenses, and certifications issued pursuant thereto and Oklahoma Water Quality Standards;

6. Establish, implement, amend and enforce the Water Quality Management Plan, the continuing planning process documents, and ~~wasteload allocations~~ total maximum daily loads; and

7. Require the submission of reports or laboratory analyses performed by certified laboratories or operators for purposes of compliance monitoring and testing or other purposes for which laboratory reports or analyses are required pursuant to this article; and

8. Coordinate the preparation of the continuing planning process documents and total maximum daily loads with other environmental agencies and natural resource agencies.

B. 1. The Environmental Quality Board shall have the authority to promulgate such rules as may be necessary to implement the policies and duties set forth in this article including, but not limited to, rules pertaining to services, permits, licenses and certifications, including certifications under Section 401 of the Clean Water Act, and, pursuant to Section 2-3-402 of this title, fee schedules for such services, permits, licenses and certifications.

2. The Board may adopt by reference standards of quality of the waters of the state and classifications of such waters as are lawfully established by the Oklahoma Water Resources Board and the United States Environmental Protection Agency as Oklahoma's Water Quality Standards and promulgate other rules to protect, maintain and improve the best uses of waters in this state in the interest of the public under such conditions as may be necessary or appropriate for the prevention, control and abatement of pollution.

3. The Board shall promulgate rules which describe procedures for amending and updating the Water Quality Management Plan or which are otherwise consistent with the Continuing Planning Process and its components. Such rules shall:

- a. be in substantial conformance with any applicable federal requirements and may incorporate appropriate U.S. Environmental Protection Agency regulations by reference, and
- b. require public notice to be given of any major amendment and of any update of the Water Quality Management Plan and allow not less than a forty-five-day opportunity for public comment thereon. Such rules shall also authorize the Department, if it determines public interest in the proposed amendment or update is significant, to give notice of and conduct a public meeting on the proposals in accordance with federal requirements. The rules shall provide that the notice, comment period, and public meeting if any, related to an amendment or update proposed in conjunction with the issuance, modification or renewal of a discharge permit or permits, may be combined with the notice, comment period, and public meeting if any, held on the proposed permit action or actions.

C. The Executive Director may:

1. Issue, modify, or revoke orders:

- a. prohibiting or abating pollution of the waters of the state,
- b. requiring the construction of new disposal or treatment systems or any parts thereof or the modification, extension or alteration of existing disposal or treatment systems or any part thereof, or

the adoption of other remedial measures to prevent, control or abate pollution, and

- c. requiring other actions such as the Executive Director may deem necessary to enforce the provisions of this article and rules promulgated thereunder;

2. Issue, continue in effect, revoke, amend, modify or deny, renew, or refuse to renew under such conditions as the Department may prescribe, permits, licenses and certifications, including certifications under Section 401 of the Clean Water Act, to prevent, control or abate pollution of waters of the state; and

3. Exercise all incidental powers which are necessary and proper to carry out the purposes of this article.

SECTION 4. AMENDATORY 82 O.S. 1991, Section 1501-103, as amended by Section 206, Chapter 145, O.S.L. 1993 and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1996, Section 3-1-103), is amended to read as follows:

Section 3-1-103. As used in the Conservation District Act:

1. "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of the Conservation District Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth-i;

2. "Director" means a member of the governing body of a conservation district, elected or appointed in accordance with the provisions of the Conservation District Act-i;

3. "Commission" means the Oklahoma Conservation Commission-i;

4. "State" means the State of Oklahoma-i;

5. "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state-i;

6. "United States" or "agencies of the United States" includes the United States of America, and any department, agency or instrumentality of the federal government-;

7. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them-;

8. "Due notice" which shall be in conformance with the Administrative Procedures Act means notice published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the district, or, if no such publication of general circulation be available, by posting at five conspicuous places within the district, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates-;

9. "District cooperator" means any person that has entered into a cooperative agreement with a conservation district for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his control-;

10. "Renewable natural resources", "natural resources" or "resources" include land, soil, excess surface water, vegetation, trees, natural beauty, scenery and open space-;

11. "Conservation" includes conservation, development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and the disposal of excess surface waters-;

12. "Cost/Share program" means the assumption by the state of a proportional share of the cost of installing conservation structures or management practices on lands for public and environmental benefits-;

13. "Management practices" means a control method or combination of control methods that is determined to be the most effective and practicable means of preventing soil loss from erosion or reducing the amount of nonpoint source pollution from a given land use-;

14. "Nonpoint source" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act-;

15. "Pollution" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

16. "Nonpoint source working group" means an advisory group established by the Conservation Commission to provide input into the state's nonpoint source management and assessment program and is open to federal, state and local environmental agencies and natural resource agencies and other interested groups;

17. "Watershed" means an area of land that drains to a given point; and

18. "Blue Thumb Program" means a nonpoint source educational program emphasizing water quality education, including volunteer monitoring.

SECTION 5. AMENDATORY 82 O.S. 1991, Section 1501-205, as amended by Section 212, Chapter 145, O.S.L. 1993 and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1996, Section 3-2-106), is amended to read as follows:

Section 3-2-106. A. In addition to other powers and duties specified by law and except as otherwise provided by law, the Oklahoma Conservation Commission shall have the power and duty to:

1. Offer the assistance as may be appropriate to the directors of conservation districts in the carrying out of any of their powers and programs and to:

- a. assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under the Conservation District Act,
- b. review district programs,
- c. coordinate the programs of the several districts and resolve any conflicts in such programs, and
- d. facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties and other public agencies-i

2. Keep the directors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them-i

3. Review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, or interstate, or other public or private agency, organization or individual, and advise the districts concerning such agreements or forms of agreements-i

4. Secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts and to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of the Conservation District Act-i

5. Disseminate information throughout the state concerning the activities and programs of the conservation districts and to make available information concerning the needs and the work of the

conservation districts and Commission to the Governor, the Legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies and the general public-;

6. Serve along with conservation districts as the official state agencies for cooperating with the Soil Conservation Service of the United States Department of Agriculture and carrying on conservation operations within the boundaries of conservation districts-;

7. Cooperate with and give such assistance as they deem necessary and proper to conservancy districts, watershed associations and other special purpose districts in the State of Oklahoma for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation pursuant to the provisions of the Federal Watershed Protection and Flood Prevention Act, as amended-;

8. Recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the conservation districts and to:

- a. administer the provisions of the Conservation District Act hereafter enacted by the Legislature appropriating funds for expenditure in connection with the activities of conservation districts,
- b. distribute to conservation districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services,
- c. issue regulations establishing guidelines and suitable controls to govern the use by conservation districts

of such funds, property and services; and to review all budgets, administrative procedures and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations-; i

9. Enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources-; i

10. Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, receive from such agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs and to arrange for and participate in conferences necessary to avoid conflict among such plans and programs, to call attention to omissions and to avoid duplication of effort-; i

11. Compile information and make studies, summaries and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis-; i

12. Except as otherwise assigned by law, carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and represent the state in matters affecting such resources-; i

13. Assist conservation districts in obtaining legal services from state and local legal officers-; i

14. Require annual reports from conservation districts, the form and content of which shall be developed by the Commission in consultation with the district directors;

15. Establish by regulations, with the assistance and advice of the State Auditor and Inspector, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts;

16. Conduct workshops for district directors to instruct them on the subjects of district finances, the Conservation District Law and related laws, and their duties and responsibilities as directors;

17. Assist and supervise districts in carrying out their responsibilities in accordance with the Oklahoma laws;

18. Have power, by administrative order, upon the written request of the board of directors of the conservation district or districts involved, with a showing that such request has been approved by a majority vote of the members of each of the boards involved, to:

- ~~(a)~~ a. transfer lands from one district established under the provisions of the Conservation District Act to another,
- ~~(b)~~ b. divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of the Conservation District Act, and
- (c) c. consolidate two or more districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single district under the provisions of the Conservation District Act;

19. Except as otherwise provided by law, act as the management agency having jurisdiction over and responsibility for directing

nonpoint source pollution prevention programs outside the jurisdiction or control of cities or towns in Oklahoma. The Commission, otherwise, shall be responsible for all identified nonpoint source categories except silviculture, urban storm water runoff and industrial runoff-;

20. Administer a cost/share program which would provide state monies to local districts for the purpose of carrying out conservation or management practices on the land to benefit the public through the prevention of soil erosion and nonpoint source pollution and general resource management. The Commission is not authorized to implement mandatory compliance with management practices, except as otherwise provided by law, to abate agricultural nonpoint source pollution-;

21. Plan watershed-based nonpoint source pollution control activities, including the development and implementation of conservation plans for the improvement and protection of the resources of the state;

22. Provide assistance to the Oklahoma Water Resources Board on lake projects through stream and river monitoring, assessing watershed activities impacting lake water quality and assisting in the development of a watershed management plan;

23. Maintain the activities of the state's nonpoint source working group;

24. Prepare, revise and review Oklahoma's nonpoint source management program and nonpoint source assessment report in coordination with other state environmental agencies and compile a comprehensive assessment for the state every five (5) years. Such management program and assessment report shall be distributed to the Governor, Secretary of Environment, the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

25. Under the direction of the Office of the Secretary of the Environment, develop and implement the state's nonpoint source water

quality monitoring strategy in coordination with other environmental agencies;

26. Monitor, evaluate and assess waters of the state to determine stream and river health and the impacts caused by nonpoint source pollution. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs;

27. Administer the Blue Thumb Program;

28. Enter into agreements or contracts for services with any of the substate planning districts recognized by the Oklahoma Department of Commerce-;

~~22.~~ 29. Cooperate with the federal government, or any agency thereof, to participate in and coordinate with federal programs that will yield additional federal funds to the state for programs within the jurisdiction of the Conservation Commission. This participation shall be subject to the availability of state funds-; and

~~23.~~ 30. Implement pilot projects and programs, subject to the availability of funds, that will demonstrate the latest technologies and applications in conservation programs that may provide direct or residual benefits to conservation practices in the state.

B. Nothing in this act shall take away any of the present duties or responsibilities delegated by law or constitution to other environmental agencies.

SECTION 6. AMENDATORY Section 320, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1996, Section 1085.29), is amended to read as follows:

Section 1085.29 The Oklahoma Water Resources Board is hereby designated as the state agency to administer, receive, and manage all programs and funds associated with Section 314 or other applicable sections of the ~~federal~~ Federal Clean Water Act ~~Program~~

or other subsequent state and federal clean lakes programs having the purposes of assessing, monitoring, studying and restoring Oklahoma lakes, provided such funds from federal sources are administered and disbursed by the Office of the Secretary of Environment. In conducting the clean lakes program, the Board shall employ a cooperative agreement with the Conservation Commission with regard to lake watersheds. The Conservation Commission may cooperate with the Oklahoma Water Resources Board in providing land use inventory/assessment and stream monitoring portion of the clean lakes program. The Water Resources Board may enter into cooperative agreements with other federal, state and local agencies as necessary. Any Phase II Clean Lakes projects which require watershed implementation of nonpoint source pollution control practices shall be carried out by the Conservation Commission.

SECTION 7. This act shall become effective July 1, 1997.

SECTION 8. 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.

46-1-7177

KSM