

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1531

By: Price

AS INTRODUCED

An Act relating to environment and natural resources; amending Section 3, Chapter 145, O.S.L. 1993, as amended by Section 1, Chapter 413, O.S.L. 1999 and Section 56, Chapter 145, O.S.L. 1993, as last amended by Section 5, Chapter 413, O.S.L. 1999 (27A O.S. Supp. 1999, Sections 1-1-201 and 2-6-101), which relates to definitions; stating and modifying definitions; providing short title; requiring the Department of Environmental Quality to provide the State Department of Agriculture sources and tools relative to total maximum daily loads; requiring the Office of the Secretary of the Environment to provide certain lists to the United States Environmental Protection Agency; specifying certain assessments; providing procedures; requiring coordination with other states and groups; providing for promulgation of rules; requiring the use of Beneficial Use Support Assessment Protocols for determining waters which are impaired; stating parameters to determine certain impairments; providing for updated lists specifying certain pollutants causing impairments; providing for removal from list; stating certain criteria for calculation of total maximum daily load; stating allocations; setting criteria for allocations; requiring the Department of Environmental Quality to make certain recommendations by certain date; providing for coordination of the implementation of total maximum daily load water quality programs; stating parameters of the programs; providing for certain interim measures; stating parameters for the State Department of Agriculture; providing for construction; requiring report; amending Section 3, Chapter 271, O.S.L. 1998 (27A O.S. Supp. 1999, Section 3-3-114), which relates to the Oklahoma Conservation Commission; adding definitions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 145, as amended by Section 1, Chapter 413, O.S.L. 1999 (27A O.S. Supp. 1999, Section 1-1-201), is amended to read as follows:

Section 1-1-201. As used in the Oklahoma Environmental Quality Act:

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

2. "Discharge" includes but is not limited to a discharge of a pollutant, and means any addition of any pollutant to waters of the state from any point source;

3. "Environment" includes the air, land, wildlife, and waters of the state;

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

5. "Groundwater protection agencies" include the:

- a. Oklahoma Water Resources Board,
- b. Oklahoma Corporation Commission,
- c. State Department of Agriculture,
- d. Department of Environmental Quality,
- e. Oklahoma Conservation Commission, and
- f. Department of Mines;

6. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined and includes but is not limited to agricultural storm water runoff and return flows from irrigated agriculture;

7. "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, 33 U.S.C., Section 1251 et seq., as amended;

8. "Point source" means any discernible, confined and discrete conveyance or outlet including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure container, rolling stock or vessel or other floating craft from which pollutants are or may be discharged into waters of the state. The term "point source"

shall not include agricultural storm water runoff and return flows from irrigated agriculture;

9. "Pollutant" includes but is not limited to 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;

10. "Pollution" means the presence in the environment of any substance, contaminant or pollutant, or any other alteration of the physical, chemical or biological properties of the environment or the release of any liquid, gaseous or solid substance into the environment in quantities which are or will likely create a nuisance or which render or will likely render the environment harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property;

11. "Source" means any and all points of origin of any wastes, pollutants or contaminants whether publicly or privately owned or operated;

12. "State agencies with limited environmental responsibilities" means:

- a. the Department of Public Safety,
- b. the Department of Labor, and
- c. the Department of Civil Emergency Management;

13. "State environmental agency" includes the:

- a. Oklahoma Water Resources Board,
- b. Oklahoma Corporation Commission,
- c. State Department of Agriculture,
- d. Oklahoma Conservation Commission,
- e. Department of Wildlife Conservation,
- f. Department of Mines, and

g. Department of Environmental Quality;

14. "Storm water" means rain water runoff, snow melt runoff, and surface runoff and drainage;

15. "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. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or segment can assimilate from all sources without exceeding water quality standards must first be calculated;

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;

17. "Wastewater" includes any substance, including sewage, that contains any discharge from the bodies of human beings or animals, or pollutants or contaminating chemicals or other contaminating wastes from domestic, municipal, commercial, industrial, agricultural, manufacturing or other forms of industry;

18. "Wastewater 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, best management practices (BMPs), buffer strips, crop removal or trapping, constructed wetlands, digesters or other devices or methods. "Treatment" also means any method, technique or process used in the purification of drinking water;

19. "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;

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 waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof; and

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

SECTION 2. AMENDATORY Section 56, Chapter 145, O.S.L. 1993, as last amended by Section 5, Chapter 413, O.S.L. 1999 (27A O.S. Supp. 1999, 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. "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, 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 and includes but is not limited to agricultural storm water runoff and return flows from irrigated agriculture;

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. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or segment can assimilate from all sources without exceeding water quality standards must first be calculated;

14. "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. "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. "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. "Wastewater treatment" means any method, technique or process used to remove waste, 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, best management practices (BMPs), buffer strips, crop removal or trapping, constructed wetlands, digesters or other devices or

methods. "Treatment" also means any method, technique or process used in the purification of drinking water;

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;

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 drinking water to the public and, as such, shall be synonymous with waterworks;

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

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-1 of Title 27A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Watershed Restoration Act".

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-2 of Title 27A, unless there is created a duplication in numbering, reads as follows:



A. In fulfilling its obligations under paragraph A of Section 2-6-103 of Title 27A of the Oklahoma Statutes, the Department of Environmental Quality is directed to provide to the State Department of Agriculture agricultural sources and tools relative to total maximum daily loads without distinction between individual agricultural sources.

B. In accordance with ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 9 U.S.C. ss. 1251 et seq., the Office of the Secretary of the Environment (OSE) must submit periodically to the United States Environmental Protection Agency a list of surface waters or segments for which total maximum daily load assessments will be conducted. The assessments shall evaluate the water quality conditions of the listed waters, and if such waters are determined not to meet water quality standards, total maximum daily loads shall be established. OSE shall establish the following procedure for analyzing such waters:

1. The list, priority ranking, and schedule cannot be used in the administration or implementation of any regulatory program. However, this paragraph does not prohibit any agency from employing the data or other information used to establish the list, priority ranking, or schedule in administering any program;

2. The list, priority ranking, and schedule prepared under this subsection shall be made available for public comment;

3. The provisions of this subsection are applicable to all lists prepared by the Department and submitted to the United States Environmental Protection Agency pursuant to section ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., including those submitted prior to the effective date of this act; and

4. If the Department proposes to implement total maximum daily load calculations or allocations established prior to the effective

date of this act, the Department shall adopt those calculations and allocations by rule.

C. Based on the priority ranking and schedule for a particular listed water body or water body segment, the Department shall conduct a total maximum daily load assessment, using a methodology promulgated by rule by the Department. In conducting this assessment, the Department shall coordinate with the other state environmental agencies, local governments, conservation districts, regulated interests, affected pollution sources, environmental groups, and other appropriate state agencies.

D. The Department shall use the Beneficial Use Support Assessment Protocols contained in the Oklahoma Water Quality Standards for determining those waters which are impaired. The rule shall provide for consideration as to whether water quality standards are not being attained, or are being exceeded, based on objective and credible data, studies and reports. Such rule also shall set forth or adopt by reference:

1. Water quality sample collection and analysis requirements, accounting for ambient background conditions, seasonal and other natural variations;
2. Approved methodologies;
3. Quality assurance and quality control protocols;
4. Data modeling; and
5. Other appropriate water quality assessment measures, including an examination of inflake processes, where applicable.

E. If the Oklahoma Water Quality Standards have a numerical criterion for a particular pollutant, a narrative or biological criterion may not be the basis for determining an impairment in connection with that pollutant unless the department identifies specific factors as to why the numerical criterion is not adequate to protect water quality. If water quality non-attainment is based on narrative or biological criteria, the specific factors concerning

particular pollutants shall be identified prior to a total maximum daily load being developed for those criteria for that surface water or surface water segment.

F. If the Department determines, based on the total maximum daily load assessment that water quality standards are not being achieved and that technology-based effluent limitations and other pollution control programs under local, state, or federal authority, which are designed to restore such waters for the pollutant of concern are not sufficient to result in attainment of applicable surface water quality standards, it shall confirm that determination by issuing a subsequent, updated list of those water bodies or segments for which total maximum daily loads will be calculated. In association with this updated list the Department shall establish priority rankings and schedules by which water bodies or segments will be subjected to total maximum daily load calculations. If a surface water or water segment is to be listed under this subsection, the Department must specify the particular pollutants causing the impairment and the concentration of those pollutants causing the impairment relative to the water quality standard. This updated list shall be approved and amended by order of the Department subsequent to completion of an assessment of each water body or water body segment, and submitted to the United States Environmental Protection Agency. Each order may be subject to challenge by the public or interested parties.

G. At any time throughout the total maximum daily load process, surface waters or segments evaluated or listed under this section shall be removed from the list upon demonstration that water quality standards are being attained.

H. Criteria for calculation of total maximum daily load.

1. Prior to developing a total maximum daily load calculation for each water body or water body segment on the list, the Department shall coordinate with the other state environmental

agencies, local governments, conservation districts, regulated interests, affected pollution sources, environmental groups, and other appropriate state agencies, to determine the information required, accepted methods of data collection and analysis, and quality control/quality assurance requirements. The analysis may include mathematical water quality modeling using approved procedures and methods; and

2. The Department shall develop total maximum daily load calculations for each water body or water body segment on the list according to the priority ranking and schedule, unless the impairment of such waters is due solely to activities other than point and nonpoint sources of pollution. For waters determined to be impaired due solely to factors other than point and nonpoint sources of pollution, no total maximum daily load will be required. A total maximum daily load may be required for those waters that are impaired predominantly due to activities other than point and nonpoint sources. The total maximum daily load calculation shall establish the amount of a pollutant that a water body or water body segment can assimilate without exceeding water quality standards, and shall account for seasonal variations and include a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. The total maximum daily load may be based on a pollutant load reduction goal, provided that such pollutant load reduction goal is promulgated by the Department in accordance with the procedural and substantive requirements of this subsection.

I. The total maximum daily loads shall include establishment of reasonable and equitable allocations of the total maximum daily load among point and nonpoint sources that will alone, or in conjunction with other management and restoration activities, provide for the attainment of water quality standards and the restoration of impaired waters. The allocations shall establish the maximum amount

of the water pollutant from a given source or category of sources that may be discharged or released into the water body or water body segment in combination with other discharges or releases. Such allocations shall be designed to attain water quality standards and shall be based on consideration of the following:

1. Existing treatment levels and management practices;
2. Differing impacts pollutant sources may have on water quality;
3. The availability of treatment technologies, management practices, or other pollutant reduction measures;
4. Environmental, economic, and technological feasibility of achieving the allocation;
5. The cost benefit associated with achieving the allocation;
6. Reasonable timeframes for implementation;
7. Potential applicability of any moderating provisions such as variances, exemptions, and mixing zones; and
8. The extent to which nonattainment of water quality standards is caused by pollution sources outside of Oklahoma, discharges that have ceased, or alterations to water bodies prior to the date of this act.

J. Not later than November 1, 2000, the Department shall submit a report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives containing recommendations, including draft legislation, for any modifications to the process for allocating total maximum daily loads. Such recommendations shall be developed by the Department in cooperation with a technical advisory committee which includes representatives of the other state environmental agencies, local governments, conservation districts, regulated interests, affected parties, environmental groups, and other appropriate local, state, and federal government agencies. The technical advisory committee shall also include such members as may be designated by the President Pro

Tempore of the Senate and the Speaker of the House of Representatives.

K. The total maximum daily load calculations and allocations for each water body or water body segment shall be adopted by rule. As part of the rule development process, the Department shall hold at least one public workshop in the vicinity of the water body or water body segment for which the total maximum daily load is being developed. Notice of the public workshop shall be published not less than five (5) days nor more than fifteen (15) days before the public workshop in a newspaper of general circulation in the county or counties containing the water bodies or water body segments for which the total maximum daily load calculation and allocation are being developed.

L. The Department shall be the lead agency in coordinating the implementation of the total maximum daily load allocation through water quality protection programs. Such programs may include, but are not limited to:

1. Permitting and other existing regulatory programs;
2. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, and public education;
3. Pollutant trading or other equitable economically based agreements; and
4. Public works including capital facilities.

M. The Department, in cooperation with the other state environmental agencies, local governments, conservation districts, regulated interests, affected pollution sources, environmental groups, and other appropriate state agencies, and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the Department for nonagricultural nonpoint pollutant sources. These practices and

measures may be adopted by rule by the Department, may be implemented by those parties responsible for nonagricultural nonpoint pollutant sources and the Department. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the Department. Implementation, in accordance with applicable rules, of practices that have been verified by the Department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release for those pollutants addressed by the practices, and the Department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. Where water quality problems are detected despite the appropriate implementation, operation and maintenance of best management practices and other measures according to rules adopted under this paragraph, the Department shall institute a reevaluation of the best management practice or other measures. Where water quality problems are detected despite the appropriate implementation, operation and maintenance of best management practices and other measures according to rules adopted under this paragraph, the Department shall institute a reevaluation of the best management practice or other measure.

N. The State Department of Agriculture may develop and adopt by rule suitable interim measures, conservation or whole farm plans. Such plans shall contain agricultural nonpoint pollutant sources, which are not animal feeding operations licensed under the Oklahoma Concentrated Feeding Operations Act or poultry feeding operations

registered under the Oklahoma Registered Poultry Feeding Operations Act, for best management practices or other measures necessary to achieve the level of pollution reduction established by the Department for agricultural pollutant sources. These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the Department and the State Department of Agriculture shall assist with implementation. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the Department shall be verified by the Department. Implementation, in accordance with applicable rules, of practices that have been verified by the Department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release for those pollutants addressed by the practices, and the Department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the State Department of Agriculture shall consult with the Department, representatives from affected farming groups, and environmental group representatives. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. Where water quality problems are detected despite the appropriate implementation, operation and maintenance of best management practices and other measures according to rules adopted under this paragraph, the State Department of Agriculture shall institute a reevaluation of the best management practice or other measure.



O. These provisions shall not preclude the Department or other state agency from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, these provisions are applicable only to the extent that they do not conflict with any rules promulgated by the Department that are necessary to maintain a federally delegated or approved program.

P. The Department is authorized to adopt rules for:

1. Delisting water bodies or water body segments from the list;
2. Administration of funds to implement the total maximum daily load program; and

3. Procedures for pollutant trading among the pollutant sources to a water body or water body segment, including a mechanism for the issuance and tracking of pollutant credits. Such procedures may be implemented through permits or other authorizations and must be legally binding. No rule implementing a pollutant trading program shall become effective prior to review and ratification by the Legislature.

Q. Provisions of this section are intended to supplement existing law and nothing in this section shall be construed as altering any applicable state water quality standards or as restricting the authority otherwise granted to the Department. The exclusive means of state implementation of section ss. 303(d) of the Clean Water Act. Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. shall be in accordance with the identification, assessment, calculation and allocation, and implementation provisions promulgated by the Department and the Oklahoma Water Resources Board.

R. Nothing in this section shall be construed as limiting the applicability or consideration of any mixing zone, variance,

exemption, site specific alternative criteria, or other moderating provision.

S. The Department shall not implement, without prior legislative approval, any additional regulatory authority pursuant to the Clean Water Act ss. 303(d) or 40 CFR Part 130, if such implementation would result in water quality discharge regulation of activities not currently subject to regulation.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-3 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Department of Environmental Quality, with the other state environmental agencies, local governments, conservation districts, regulated interests, affected pollution sources, environmental groups, and other appropriate state agencies shall evaluate the effectiveness of the implementation of total maximum daily loads for a period of five (5) years from the effective date of this act. The Department shall document that effectiveness, using all data and information at its disposal, in a report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives by January 1, 2001. The report shall provide specific recommendations for statutory changes necessary to implement total maximum daily loads more effectively, including the development or expansion of pollution prevention and pollutant trading opportunities, and best management practices.

SECTION 6. AMENDATORY Section 3, Chapter 271, O.S.L. 1998 (27A O.S. Supp. 1999, Section 3-3-114), is amended to read as follows:

Section 3-3-114. A. The Oklahoma Conservation Commission is hereby authorized to establish and administer a conservation cost-share program as funds become available. The conservation cost-share program shall provide monies to eligible persons for the purpose of implementing conservation or best management practices on

such eligible land as described in conservation management plans according to rules promulgated by the Commission.

B. The Commission shall promulgate rules governing the cost-share program.

C. To implement the program, the Commission shall require conservation districts to enter into contracts for approved projects on eligible land detailing the eligible person's responsibilities.

D. For purposes of the conservation cost-share program:

1. "Eligible person" means any individual, partnership, corporation, legally recognized Indian tribe, estate, or trust who as an owner, lessee, tenant, or operator participates in the care and/or management of land within a conservation district;

2. "Eligible land" means:

- a. privately owned land within the state,
- b. land owned by the state or a political subdivision of the state,
- c. land owned by corporations which are partly owned by the United States,
- d. land temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farm Service Agency, the U.S. Department of Defense, or by any other government agency,
- e. any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it, and
- f. noncropland owned by the United States on which practices are performed by private persons where such practices directly conserve or benefit nearby or adjoining privately owned lands of the persons performing the practices and such persons maintain and

use such federally owned noncropland under agreement with the federal agency having jurisdiction thereof; and

3. "Eligible projects" means conservation practices determined to be needed by a conservation district to:

- a. improve or protect water quality, or
- b. reduce soil erosion, or both.

E. No agricultural operation shall be eligible to participate in a program authorized under this section until such operation has applied for the development and implemented best management practices for the operation.

SECTION 7. This act shall become effective November 1, 2000.

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