

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

Committee Substitute for
House Bill No. 3219

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3219 - By: KERN of the House.

An Act relating to environment and natural resources; creating the Oklahoma Environmental Authority Act; stating legislative findings; making legislative declaration that certain environmental regulation activities are not subject to federal laws or regulation; authorizing state environmental agencies to cooperate with federal environmental agencies; prohibiting enforcement of certain federal laws and regulations; declaring certain federal laws to be invalid and to have no effect; establishing penalty for certain officials and employees for certain acts; providing for codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 1-1-208 of Title 27A, unless there is created a duplication in
3 numbering, reads as follows:

4 This act shall be known and may be cited as the “Oklahoma Environmental
5 Authority Act”.

6 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 1-1-209 of Title 27A, unless there is created a duplication in
8 numbering, reads as follows:

9 The Legislature finds that the:

1 1. Tenth Amendment to the United States Constitution defines the total scope of
2 federal power as being that which has been delegated by the people of the several states
3 to the federal government, and all power not delegated to the federal government in the
4 Constitution of the United States is reserved to the states, respectively or to the people
5 themselves. The powers reserved to the people and the State of Oklahoma are those
6 powers as they were understood at the time that Oklahoma was admitted to statehood,
7 excluding amendments. The reservation of those powers is a matter of contract between
8 the state and people of Oklahoma and the United States as of the time that the compact
9 with the United States was agreed upon and adopted by Oklahoma and the United
10 States;

11 2. Ninth Amendment to the United States Constitution prohibits the federal
12 government from violating or infringing upon rights not specifically enumerated in the
13 Constitution of the United States and reserves to the people of Oklahoma certain rights
14 as they were understood at the time that Oklahoma was admitted to statehood,
15 excluding amendments. The guarantee of those rights is a matter of contract between
16 the people and the State of Oklahoma and the United States as of the time that the
17 compact with the United States was agreed upon and adopted by Oklahoma and the
18 United States;

19 3. Power to regulate interstate commerce was delegated to the federal government
20 in the United States Constitution. As understood at the time of the founding, the
21 regulation of commerce was meant to empower Congress to regulate the buying and
22 selling of products made by others, and sometimes land, associated finance and financial

1 instruments and navigation and other carriage, across state jurisdictional lines. The
2 regulation of interstate commerce did not include agriculture, manufacturing, mining,
3 malum in se crime, or land use, nor did it include activities that merely “substantially
4 affected” commerce;

5 4. Power vested in Congress to regulate an activity does not include the power to
6 prohibit the activity; and

7 5. Regulation of intrastate commerce is reserved to the states or the people under
8 the Ninth and Tenth Amendments to the United States Constitution.

9 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 1-1-210 of Title 27A, unless there is created a duplication in
11 numbering, reads as follows:

12 A. The Legislature of the State of Oklahoma declares that the regulation of the
13 transportation and disposal of hazardous waste; the regulation of the release of
14 emissions, substances and pollutants into the air in the state; the regulation of the
15 release of pollutants into bodies of water in the state; the regulation of public water
16 supplies in the state; the regulation of wastewater systems in the state; and the
17 regulation of production, exploration, drilling, development, operation, transportation
18 and processing of oil, natural gas, petroleum, and petroleum products and products,
19 materials or substances used in the production, exploration, drilling, development,
20 operation, transportation and processing of oil and natural gas that originate and remain
21 inside the State of Oklahoma and have not been proven and adjudicated by the
22 Oklahoma court system or the federal court system to specifically be causing, or to have

1 caused, quantifiable harm to any persons or places beyond the borders of Oklahoma shall
2 be intrastate commerce and shall not be subject to federal law or federal regulation
3 under the authority of the United States Congress to regulate interstate commerce.

4 B. Each state environmental agency and each state agency with limited
5 environmental responsibilities, within its areas of environmental jurisdiction, shall to the
6 extent deemed necessary cooperate with federal environmental agencies in the regulation
7 of the transportation and disposal of hazardous waste; the regulation of the release of
8 emissions, substances and pollutants into the air in the state; the regulation of the
9 release of pollutants into bodies of water in the state; the regulation of public water
10 supplies in the state; the regulation of wastewater systems in the state; and the
11 regulation of production, exploration, drilling, development, operation, transportation
12 and processing of oil, natural gas, petroleum, and petroleum products and products,
13 materials or substances used in the production, exploration, drilling, development,
14 operation, transportation and processing of oil and natural gas but shall not be required
15 to enforce federal laws or regulations relating to such environmental resources and
16 activities.

17 C. Any federal law, rule, order, or other act by the federal government violating the
18 provisions of this section is hereby declared to be invalid in this state, shall not be
19 recognized by this state, is specifically rejected by this state, and shall be considered null
20 and void and of no effect in this state.

21 D. Any official, agent, or employee of the United States government or any
22 employee of a corporation providing services to the United States government that

1 enforces or attempts to enforce an act, order, law, statute, rule or regulation of the
2 government of the United States in violation of this act shall be guilty of a misdemeanor
3 punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not
4 exceeding Five Hundred Dollars (\$500.00) or both such fine and imprisonment.

5 E. Any public officer or employee of the State of Oklahoma that enforces or
6 attempts to enforce an act, order, law, statute, rule or regulation of the government of the
7 United States in violation of this act shall be guilty of a misdemeanor punishable by
8 imprisonment in the county jail not exceeding two (2) years or by a fine not exceeding
9 One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

10 SECTION 4. It being immediately necessary for the preservation of the public
11 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
12 this act shall take effect and be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02-25-10 - DO PASS, As
14 Amended.