

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 610

By: Myers of the Senate

and

Watson of the House

6  
7  
8 CONFERENCE COMMITTEE SUBSTITUTE

9 An Act relating to environment and natural resources;  
10 creating the Oklahoma Carbon Capture and Geologic  
11 Sequestration Act; providing short title; declaring  
12 legislative findings; stating legislative intent;  
13 defining terms; defining agency regulatory  
14 jurisdiction; requiring certain agreement; requiring  
15 applicants to obtain permit for operation of a carbon  
16 sequestration facility from the appropriate  
17 regulatory agency; authorizing agencies to promulgate  
18 rules; requiring notification; authorizing agencies  
19 to administer certain federal laws relating to carbon  
20 sequestration; stating ownership of certain  
21 substances; stating exception; authorizing extraction  
22 of carbon dioxide; excluding facility operators from  
23 certain plugging obligations and removal of surface  
24 equipment; stating priority of certain acts and  
rights; providing for agency regulation over certain  
activities; prohibiting right of eminent domain;  
amending 17 O.S. 2001, Section 52, which relates to  
jurisdiction of the Corporation Commission; modifying  
agency jurisdiction; stating exception; amending 27A  
O.S. 2001, Section 1-3-101, as last amended by  
Section 11, Chapter 430, O.S.L. 2004 (27A O.S. Supp.  
2008, Section 1-3-101), which relates to jurisdiction  
for state environmental agencies; modifying  
jurisdiction of certain agencies; stating exception;  
amending 52 O.S. 2001, Section 139, which relates to  
the jurisdiction of the Corporation Commission;  
modifying jurisdiction relating to certain carbon  
sequestration facilities; stating exception;

1 providing for codification; and declaring an  
2 emergency.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3-5-101 of Title 27A, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. This act shall be known and may be cited as the "Oklahoma  
9 Carbon Capture and Geologic Sequestration Act".

10 B. The Legislature finds and declares that:

11 1. Carbon dioxide is a valuable commodity to the citizens of  
12 the state, particularly for its value in enhancing the recovery of  
13 oil and gas and for its use in other industrial and commercial  
14 processes and applications;

15 2. Carbon dioxide is a gas produced when carbon is oxidized by  
16 any process, including the combustion of material that contains  
17 carbon such as coal, natural gas, oil and wood, all of which exist  
18 in abundance in our state, and the production and use of which form  
19 one of the foundations of our state's economy;

20 3. Carbon dioxide is currently being released into the  
21 atmosphere in substantial volumes;

22 4. In 1982, Oklahoma became the first state in the Union to  
23 inject anthropogenic carbon dioxide underground. Since that time,  
24 the continued injection of carbon dioxide has benefited the citizens

1 of the state by assisting enhanced oil recovery efforts. When  
2 carbon dioxide is injected for enhanced oil recovery and not  
3 otherwise vented, emitted or removed, such carbon dioxide is  
4 sequestered and/or stored underground;

5 5. In its first 100 years, Oklahoma produced approximately  
6 15 billion barrels of oil. The Department of Energy for the United  
7 States has determined that Oklahoma has the potential to produce at  
8 least 9 billion barrels of oil and possibly as much as 20 billion  
9 barrels of oil through the use of carbon dioxide in enhanced oil  
10 recovery. To fully produce those natural resources, additional  
11 regulation is not necessary or appropriate but state incentives may  
12 be helpful;

13 6. Storage of carbon dioxide in geological formations is an  
14 effective and feasible strategy to deposit, store or sequester large  
15 volumes of carbon dioxide over long periods of time;

16 7. Geologic storage and sequestration of carbon dioxide allows  
17 for the capture of carbon dioxide emissions and the orderly  
18 withdrawal of the carbon dioxide as appropriate or necessary,  
19 thereby allowing carbon dioxide to be available for commercial,  
20 industrial, or other uses, including enhanced oil or gas recovery;

21 8. The transportation of carbon dioxide to, and the storage or  
22 sequestration of carbon dioxide in, underground geological  
23 formations for beneficial use or reuse in industrial and commercial  
24 applications is expected to increase in the United States and in

1 Oklahoma due to initiatives by federal, state and local governments,  
2 industry and commerce, and other interested persons, and may present  
3 an opportunity for economic growth and development for the state;  
4 and

5 9. It remains in the public interest for carbon dioxide to be  
6 injected underground in this state. The geologic sequestration and  
7 storage of anthropogenic carbon dioxide for purposes other than  
8 injection for enhanced oil or gas recovery will benefit the citizens  
9 of the state.

10 C. It is the intent of the Legislature that:

11 1. Efforts to capture, purify, compress, transport, inject, and  
12 store or sequester carbon dioxide will enhance the production of oil  
13 and natural gas in the state, further the development and production  
14 of natural resources in the state, and provide opportunities for  
15 economic growth and development for the state; and

16 2. In the event the State of Oklahoma establishes a unitization  
17 process to support the establishment of CO<sub>2</sub> sequestration facilities  
18 in this state, the Corporation Commission shall regulate all aspects  
19 of such process, including being responsible for making any  
20 necessary findings concerning the suitability of the reservoir  
21 targeted for carbon sequestration, whether its use for such purpose  
22 is in the public interest, and the impact of that use on the oil,  
23 gas, coal-bed methane and mineral brine resources in the State of  
24 Oklahoma.

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3-5-102 of Title 27A, unless  
3 there is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Carbon Capture and Geologic  
5 Sequestration Act:

6 1. "Agency" means the Corporation Commission or the Department  
7 of Environmental Quality, as the case may be and as described in  
8 Section 3 of this act;

9 2. "Anthropogenic carbon dioxide" or "man-made carbon dioxide"  
10 means the carbon dioxide compound manufactured, mechanically formed  
11 or otherwise caused to occur, as a result of either:

- 12 a. a chemical process performed by or involving efforts  
13 of a person, or  
14 b. separation of carbon dioxide from natural gas.

15 The term shall not include carbon dioxide that is naturally present  
16 in underground locations;

17 3. "Approved reservoir" means a reservoir that is determined by  
18 the Agency with jurisdiction to be suitable for the receipt, storage  
19 and/or sequestration of injected carbon dioxide therein;

20 4. "Carbon dioxide" or "CO<sub>2</sub>" means an inorganic compound  
21 containing one carbon atom and two oxygen atoms, and exists as a gas  
22 at standard temperature and pressure. Carbon dioxide is an inert,  
23 stable, colorless, odorless, non-toxic, incombustible, inorganic gas  
24

1 that is dissolvable in water and is naturally present, such as in  
2 underground locations and in the atmosphere as a trace gas;

3 5. "Carbon sequestration" means long-term or short-term  
4 underground storage or sequestration of anthropogenic carbon dioxide  
5 in one or more reservoirs;

6 6. "CO<sub>2</sub> injection well" means an artificial excavation or  
7 opening in the ground made by digging, boring, drilling, jetting,  
8 driving, or another method and is used to inject or transmit  
9 anthropogenic carbon dioxide into one or more reservoirs;

10 7. "CO<sub>2</sub> capture and compression equipment" means the equipment,  
11 separation units, processing units, processing plants, pipe,  
12 buildings, pumps, compressors, meters, facilities, motors, fixtures,  
13 materials, and machinery, and all other improvements used in the  
14 operation of any of them, and property, real or personal, intangible  
15 or tangible, either attributable to or relating to, or located  
16 thereon, used for the purpose of:

17 a. capturing carbon dioxide from a source that produces  
18 anthropogenic carbon dioxide, and/or

19 b. compressing or otherwise increasing the pressure of  
20 anthropogenic carbon dioxide;

21 8. "CO<sub>2</sub> pipeline" means any pipeline, compressors, pumps,  
22 meters, facilities, valves, fittings, right-of-way markers, cathodic  
23 protection ground beds, anodes, rectifiers, and any other cathodic  
24 protection devices, and other associated equipment, appurtenances

1 and fixtures located on, attributable to or used in connection with  
2 the same, and used for the purpose of transporting carbon dioxide  
3 for carbon sequestration in this state or another state, excluding:

4 a. CO<sub>2</sub> capture and compression equipment at the source of  
5 the carbon dioxide, and

6 b. pipelines that are part of a CO<sub>2</sub> sequestration  
7 facility;

8 9. "CO<sub>2</sub> sequestration facility" means the approved reservoir(s),  
9 and all associated underground equipment and pipelines, all  
10 associated surface buildings and equipment, and all associated CO<sub>2</sub>  
11 injection wells, utilized for carbon sequestration in a defined  
12 geographic boundary established by the Agency, excluding any:

13 a. CO<sub>2</sub> capture and compression equipment at the source of  
14 the carbon dioxide, and

15 b. CO<sub>2</sub> pipeline transporting carbon dioxide to the  
16 facility from a source located outside the geographic  
17 boundaries of the surface of the facility;

18 10. "Commission" means the Corporation Commission as  
19 established by Section 15 of Article 9 of the Oklahoma Constitution;

20 11. "Common source of supply" shall have the same meaning as in  
21 Section 86.1 of Title 52 of the Oklahoma Statutes;

22 12. "Department" means the Department of Environmental Quality  
23 as established by Section 2-3-101 et seq. of Title 27A of the  
24 Oklahoma Statutes;

1 13. "Enhanced oil or gas recovery" means the increased recovery  
2 of hydrocarbons, including oil and gas, from a common source of  
3 supply achieved by artificial means or by the application of energy  
4 extrinsic to the common source of supply, such as pressuring,  
5 cycling, pressure maintenance or injection of a substance or form of  
6 energy, such as injection of water and/or carbon dioxide, including  
7 immiscible and miscible floods; provided that enhanced oil or gas  
8 recovery shall not include injection of a substance or form of  
9 energy for the sole purpose of either:

- 10 a. aiding in the lifting of fluids in the well, or  
11 b. stimulation of the reservoir at or near the well by  
12 mechanical, chemical, thermal or explosive means;

13 14. "Facility operator" means any person authorized by the  
14 Agency to operate a CO<sub>2</sub> sequestration facility;

15 15. "Facility owner" means the person who owns the CO<sub>2</sub>  
16 sequestration facility;

17 16. "Gas" shall have the same meaning as in Section 86.1 of  
18 Title 52 of the Oklahoma Statutes;

19 17. "Governmental entity" means any department, commission,  
20 authority, council, board, bureau, committee, legislative body,  
21 agency, beneficial public trust, or other establishment of the  
22 executive, legislative or judicial branch of the United States, the  
23 State of Oklahoma, any other state in the United States, the  
24

1 District of Columbia, the Territories of the United States, and any  
2 similar entity of any foreign country;

3 18. "Oil" shall have the same meaning as in Section 86.1 of  
4 Title 52 of the Oklahoma Statutes;

5 19. "Person" means any individual, proprietorship, association,  
6 firm, corporation, company, partnership, limited partnership,  
7 limited liability company, joint venture, joint stock company,  
8 syndicate, trust, organization, committee, club, governmental  
9 entity, or other type of legal entity, or any group or combination  
10 thereof either acting in concert or as a unit;

11 20. "Private operator" means any person that is either a  
12 facility operator or an operator of a CO<sub>2</sub> pipeline, but that is  
13 neither a public utility nor a common carrier as such terms are  
14 defined by Oklahoma statutes; and

15 21. "Reservoir" means any portion of a separate and distinct  
16 geologic or subsurface sedimentary stratum, formation, aquifer,  
17 cavity or void, whether naturally occurring or artificially created,  
18 including an oil or gas formation, saline formation, or coal seam.

19 SECTION 3. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3-5-103 of Title 27A, unless  
21 there is created a duplication in numbering, reads as follows:

22 A. The Corporation Commission shall be the "Agency" for, and  
23 shall have exclusive jurisdiction over CO<sub>2</sub> sequestration facilities  
24 involving, and injection of CO<sub>2</sub> for carbon sequestration into, oil

1 reservoirs, gas reservoirs, coal-bed methane reservoirs, and mineral  
2 brine reservoirs. The Commission shall have such jurisdiction  
3 regardless of whether such CO<sub>2</sub> sequestration facility or other  
4 injection of carbon dioxide involves enhanced oil or gas recovery.

5 B. The Department of Environmental Quality shall be the  
6 "Agency" for, and shall have exclusive jurisdiction over CO<sub>2</sub>  
7 sequestration facilities involving, and injection of CO<sub>2</sub> for carbon  
8 sequestration into all reservoirs other than those described in  
9 subsection A of this section, which shall include but not be limited  
10 to deep saline formations, unmineable coal seams where methane is  
11 not produced, basalt reservoirs, salt domes, and non-mineral bearing  
12 shales.

13 SECTION 4. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 3-5-104 of Title 27A, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. The Corporation Commission and the Department of  
17 Environmental Quality shall execute a Memorandum of Understanding to  
18 address areas in which the implementation of this act will require  
19 interagency cooperation or interaction, including procedures for  
20 directing applicants through the application process.

21 B. The operator of a CO<sub>2</sub> sequestration facility shall obtain a  
22 permit pursuant to this act from the Agency having jurisdiction  
23 prior to the operation of a CO<sub>2</sub> sequestration facility, after the  
24 Operator provides notice of the application for such permit pursuant

1 to subsection D of this section, and the Agency has a hearing  
2 thereon upon request; provided that no permit pursuant to this act  
3 is required if the facility operator obtains permission, by permit  
4 or order, by the Agency pursuant to the rules and regulations of the  
5 state's federally approved Underground Injection Control Program and  
6 such permission authorizes carbon sequestration or injection of  
7 carbon dioxide underground and incorporates any additional  
8 requirements adopted pursuant to subsection C of this section.

9 C. To the extent not already authorized by laws governing the  
10 state's federally approved Underground Injection Control Program,  
11 the Agency having jurisdiction may issue and enforce such orders,  
12 and may adopt, modify, repeal and enforce such rules, including  
13 establishment of appropriate and sufficient fees, financial sureties  
14 or bonds, and monitoring at CO<sub>2</sub> sequestration facilities, as may be  
15 necessary, for the purpose of regulating the drilling of CO<sub>2</sub>  
16 injection wells related to a CO<sub>2</sub> sequestration facility, the  
17 injection and withdrawal of carbon dioxide, the operation of the CO<sub>2</sub>  
18 sequestration facility, CO<sub>2</sub> injection well plugging and abandonment,  
19 removal of surface buildings and equipment of the CO<sub>2</sub> sequestration  
20 facility and for any other purpose necessary to implement the  
21 provisions of this act.

22 D. The applicant for any permit to be issued pursuant to this  
23 Act shall give all surface owners and mineral owners, including  
24 working interest and royalty owners, of the land to be encompassed

1 within the defined geographic boundary of the CO<sub>2</sub> sequestration  
2 facility as established by the Agency, and whose addresses are known  
3 or could be known through the exercise of due diligence, at least  
4 fifteen (15) days' notice of the hearing by mail, return receipt  
5 requested. The applicant shall also give notice by one publication,  
6 at least fifteen (15) days prior to the hearing, in some newspaper  
7 of general circulation published in Oklahoma County, and by one  
8 publication, at least fifteen (15) days prior to the date of the  
9 hearing, in some newspaper published in the county, or in each  
10 county, if there be more than one, in which the defined geographic  
11 boundary of the CO<sub>2</sub> sequestration facility, as established by the  
12 Agency, is situated. The applicant shall file proof of publication  
13 and an affidavit of mailing with the Agency prior to the hearing.

14 E. In addition to all other powers and duties prescribed in  
15 this act or otherwise by law, and unless otherwise specifically set  
16 forth in this act, the Agency having jurisdiction shall have the  
17 authority to perform any and all acts necessary to carry out the  
18 purposes and requirements of the federal Safe Drinking Water Act, as  
19 amended, relating to this state's participation in the federal  
20 Underground Injection Control Program established under that act  
21 with respect to the storage and/or sequestration of carbon dioxide.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3-5-105 of Title 27A, unless  
24 there is created a duplication in numbering, reads as follows:

1       A. Unless otherwise expressly provided by a contract, bill of  
2 sale, deed, mortgage, deed of trust, or other legally binding  
3 document or by other law, carbon dioxide injected into a CO<sub>2</sub>  
4 sequestration facility is considered to be the personal property of  
5 the facility owner.

6       B. Absent a final judgment of willful abandonment rendered by a  
7 court of competent jurisdiction, or a regulatory determination of  
8 willful abandonment, carbon dioxide injected into a CO<sub>2</sub> sequestration  
9 facility is not considered to be the property of the owner of the  
10 surface or mineral estate in the land encompassing the geographic  
11 boundary of the CO<sub>2</sub> sequestration facility, or any person claiming  
12 under the owner of the surface or mineral estate.

13       C. The facility operator, with permission of the facility  
14 owner, may produce, take, extract or reduce to possession any carbon  
15 dioxide injected, stored or sequestered in a CO<sub>2</sub> sequestration  
16 facility. In the event an operator informs the Commission that it  
17 intends to conduct enhanced oil or gas recovery operations on a  
18 compulsory unit formed pursuant to Section 287.1 et seq. of Title 52  
19 of the Oklahoma statutes, or its predecessor unitization act, then  
20 during the time that such unit is in operation, such operator shall  
21 be relieved of any obligation to either:

22       1. Plug and abandon any injection or production well within  
23 such unit that is intended to be used in such enhanced oil or gas  
24

1 recovery operations, unless required by the Commission pursuant to  
2 Section 53 of Title 17 of the Oklahoma Statutes; or

3 2. Remove any surface equipment that is associated with any  
4 such well and intended to be used in such enhanced oil or gas  
5 recovery operations, or both.

6 D. The Agency having jurisdiction over the injection of carbon  
7 dioxide under this act shall also have jurisdiction over a facility  
8 operator that produces, takes, extracts or reduces to possession any  
9 injected, stored or sequestered carbon dioxide in a CO<sub>2</sub> sequestration  
10 facility.

11 SECTION 6. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 3-5-106 of Title 27A, unless  
13 there is created a duplication in numbering, reads as follows:

14 A. Nothing in this act shall supersede the provisions of the  
15 Oklahoma Carbon Sequestration Enhancement Act, Section 3-4-101 et  
16 seq. of Title 27A of the Oklahoma Statutes.

17 B. Nothing in this act shall alter the incidents of ownership,  
18 or other rights, of the owners of the mineral estate or adversely  
19 affect enhanced oil or gas recovery efforts in the state.

20 C. Any right granted to a facility operator pursuant to this  
21 act shall be without prejudice to the rights of any surface owner or  
22 mineral owner, including working interest and royalty owner, of the  
23 land encompassed within the defined geographic boundary of the CO<sub>2</sub>  
24 sequestration facility, as established by the Agency, to drill or

1 bore through the approved reservoir in a manner as shall comply with  
2 orders, rules and regulations issued for the purpose of protecting  
3 the approved reservoir against the escape of CO<sub>2</sub>. For purposes of  
4 this subsection, the Agency with jurisdiction under other state law  
5 for regulating the well being drilled or bored through the approved  
6 reservoir is the Agency having jurisdiction to adopt orders and  
7 rules for such well in order to protect the CO<sub>2</sub> sequestration  
8 facility, regardless of which Agency has jurisdiction to permit the  
9 CO<sub>2</sub> sequestration facility pursuant to Section 3 of this act. If the  
10 Agency with jurisdiction under other state law for regulating the  
11 well being drilled or bored through the approved reservoir is not  
12 the Agency that has jurisdiction to permit the CO<sub>2</sub> sequestration  
13 facility pursuant to Section 3 of this act, then the former shall  
14 promptly notify the latter in writing of the receipt of an  
15 application for the drilling or boring of such a well and shall  
16 consider all timely submitted comments of the latter in approving,  
17 denying, or setting conditions for the well being drilled or bored.  
18 The additional cost of complying with such orders, rules or  
19 regulations in order to protect the CO<sub>2</sub> sequestration facility shall  
20 be borne by the facility operator.

21 D. Nothing in this act shall grant a private operator the right  
22 of condemnation or eminent domain for any purpose.

23 SECTION 7. AMENDATORY 17 O.S. 2001, Section 52, is  
24 amended to read as follows:

1       A. 1. Except as otherwise provided by this section, the  
2 Corporation Commission is hereby vested with exclusive jurisdiction,  
3 power and authority with reference to:

- 4           a. the conservation of oil and gas,
- 5           b. field operations for geologic and geophysical  
6               exploration for oil, gas and brine, including seismic  
7               survey wells, stratigraphic test wells and core test  
8               wells,
- 9           c. the exploration, drilling, development, producing or  
10           processing for oil and gas on the lease site,
- 11           d. the exploration, drilling, development, production and  
12           operation of wells used in connection with the  
13           recovery, injection or disposal of mineral brines,
- 14           e. reclaiming facilities only for the processing of salt  
15           water, crude oil, natural gas condensate and tank  
16           bottoms or basic sediment from crude oil tanks,  
17           pipelines, pits and equipment associated with the  
18           exploration, drilling, development, producing or  
19           transportation of oil or gas,
- 20           f. injection wells known as Class II wells under the  
21           federal Underground Injection Control Program, and any  
22           aspect of any CO<sub>2</sub> sequestration facility, including any  
23           associated CO<sub>2</sub> injection well, over which the  
24           Commission is given jurisdiction pursuant to the

1 Oklahoma Carbon Capture and Geologic Sequestration

2 Act. Any substance that the United States

3 Environmental Protection Agency allows to be injected

4 into a Class II well may continue to be so injected,

5 g. tank farms for storage of crude oil and petroleum  
6 products which are located outside the boundaries of  
7 refineries, petrochemical manufacturing plants,  
8 natural gas liquid extraction plants, or other  
9 facilities which are subject to the jurisdiction of  
10 the Department of Environmental Quality with regard to  
11 point source discharges,

12 h. the construction and operation of pipelines and  
13 associated rights-of-way, equipment, facilities or  
14 buildings used in the transportation of oil, gas,  
15 petroleum, petroleum products, anhydrous ammonia or  
16 mineral brine, or in the treatment of oil, gas or  
17 mineral brine during the course of transportation but  
18 not including line pipes in any:

19 (1) natural gas liquids extraction plant,

20 (2) refinery,

21 (3) reclaiming facility other than for those  
22 specified within subparagraph e of this  
23 subsection,

24 (4) mineral brine processing plant, and

1 (5) petrochemical manufacturing plant,

2 i. the handling, transportation, storage and disposition  
3 of saltwater, mineral brines, waste oil and other  
4 deleterious substances produced from or obtained or  
5 used in connection with the drilling, development,  
6 producing and operating of oil and gas wells, at:

7 (1) any facility or activity specifically listed in  
8 paragraphs 1 and 2 of this subsection as being  
9 subject to the jurisdiction of the Commission,  
10 and

11 (2) other oil and gas extraction facilities and  
12 activities,

13 j. spills of deleterious substances associated with  
14 facilities and activities specified in paragraph 1 of  
15 this subsection or associated with other oil and gas  
16 extraction facilities and activities, and

17 k. subsurface storage of oil, natural gas and liquefied  
18 petroleum gas in geologic strata.

19 2. The exclusive jurisdiction, power and authority of the  
20 Corporation Commission shall also extend to the construction,  
21 operation, maintenance, site remediation, closure and abandonment of  
22 the facilities and activities described in paragraph 1 of this  
23 subsection.

1           3. When a deleterious substance from a Commission-regulated  
2 facility or activity enters a point source discharge of pollutants  
3 or storm water from a facility or activity regulated by the  
4 Department of Environmental Quality, the Department shall have sole  
5 jurisdiction over the point source discharge of the commingled  
6 pollutants and storm water from the two facilities or activities  
7 insofar as Department-regulated facilities and activities are  
8 concerned.

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

18           5. The Corporation Commission shall have jurisdiction over:  
19           a. underground storage tanks that contain antifreeze,  
20 motor oil, motor fuel, gasoline, kerosene, diesel, or  
21 aviation fuel and that are not located at refineries  
22 or at upstream or intermediate shipment points of  
23 pipeline operations, including, but not limited to,  
24 tanks from which these materials are dispensed into

1 vehicles, or tanks used in wholesale or bulk  
2 distribution activities, as well as leaks from pumps,  
3 hoses, dispensers, and other ancillary equipment  
4 associated with the tanks, whether above the ground or  
5 below; provided that any point source discharge of a  
6 pollutant to waters of the United States during site  
7 remediation or the off-site disposal of contaminated  
8 soil, media, or debris shall be regulated by the  
9 Department of Environmental Quality,

10 b. aboveground storage tanks that contain antifreeze,  
11 motor oil, motor fuel, gasoline, kerosene, diesel, or  
12 aviation fuel and that are not located at refineries  
13 or at upstream or intermediate shipment points of  
14 pipeline operations, including, but not limited to,  
15 tanks from which these materials are dispensed into  
16 vehicles, or tanks used in wholesale or bulk  
17 distribution activities, as well as leaks from pumps,  
18 hoses, dispensers, and other ancillary equipment  
19 associated with the tanks, whether above the ground or  
20 below; provided that any point source discharge of a  
21 pollutant to waters of the United States during site  
22 remediation or the off-site disposal of contaminated  
23 soil, media, or debris shall be regulated by the  
24 Department of Environmental Quality, and

1 c. the Petroleum Storage Tank Release Environmental  
2 Cleanup Indemnity Fund and Program and the Leaking  
3 Underground Storage Tank Trust Fund.

4 6. The Department of Environmental Quality shall have sole  
5 jurisdiction to regulate the transportation, discharge or release of  
6 deleterious substances or hazardous or solid waste or other  
7 pollutants from rolling stock and rail facilities. The Department  
8 of Environmental Quality shall not have any jurisdiction with  
9 respect to pipeline transportation of carbon dioxide.

10 7. The Department of Environmental Quality shall have sole  
11 environmental jurisdiction for point and nonpoint source discharges  
12 of pollutants and storm water to waters of the state from:

13 a. refineries, petrochemical manufacturing plants and  
14 natural gas liquid extraction plants,

15 b. manufacturing of oil and gas related equipment and  
16 products,

17 c. bulk terminals, aboveground and underground storage  
18 tanks not subject to the jurisdiction of the  
19 Commission pursuant to this subsection, and

20 d. other facilities, activities and sources not subject  
21 to the jurisdiction of the Corporation Commission or  
22 Department of Agriculture as specified by this  
23 section.  
24

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

5           B. The Corporation Commission and incorporated cities and towns  
6 shall have exclusive jurisdiction over permit fees for the drilling  
7 and operation of oil and gas wells.

8           C. The Corporation Commission shall comply with and enforce the  
9 Oklahoma Water Quality Standards.

10           SECTION 8.           AMENDATORY           27A O.S. 2001, Section 1-3-101, as  
11 last amended by Section 11, Chapter 430, O.S.L. 2004 (27A O.S. Supp.  
12 2008, Section 1-3-101), is amended to read as follows:

13           A. The provisions of this section specify the jurisdictional  
14 areas of responsibility for each state environmental agency and  
15 state agencies with limited environmental responsibility. The  
16 jurisdictional areas of environmental responsibility specified in  
17 this section shall be in addition to those otherwise provided by law  
18 and assigned to the specific state environmental agency; provided  
19 that any rule, interagency agreement or executive order enacted or  
20 entered into prior to the effective date of this section which  
21 conflicts with the assignment of jurisdictional environmental  
22 responsibilities specified by this section is hereby superseded.  
23 The provisions of this subsection shall not nullify any financial  
24 obligation arising from services rendered pursuant to any

1 interagency agreement or executive order entered into prior to July  
2 1, 1993, nor nullify any obligations or agreements with private  
3 persons or parties entered into with any state environmental agency  
4 before July 1, 1993.

5 B. Department of Environmental Quality. The Department of  
6 Environmental Quality shall have the following jurisdictional areas  
7 of environmental responsibility:

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

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

16 3. Technical lead agency for point source, nonpoint source and  
17 storm water pollution control programs funded under Section 106 of  
18 the federal Clean Water Act, for areas within the Department's  
19 jurisdiction as provided in this subsection;

20 4. Surface water and groundwater quality and protection and  
21 water quality certifications;

22 5. Waterworks and wastewater works operator certification;

23 6. Public and private water supplies;

24

1           7. Underground injection control pursuant to the federal Safe  
2 Drinking Water Act and 40 CFR Parts 144 through 148, except for:

3           a. Class II injection wells,

4           b. Class V injection wells utilized in the remediation of  
5 groundwater associated with underground or aboveground  
6 storage tanks regulated by the Corporation Commission,  
7 and

8           c. those wells used for the recovery, injection or  
9 disposal of mineral brines as defined in the Oklahoma  
10 Brine Development Act regulated by the Commission, and

11           d. any aspect of any CO<sub>2</sub> sequestration facility, including  
12 any associated CO<sub>2</sub> injection well, over which the  
13 Commission is given jurisdiction pursuant to the  
14 Oklahoma Carbon Capture and Geologic Sequestration  
15 Act;

16           8. ~~Air~~ Notwithstanding any other provision in this section or  
17 other environmental jurisdiction statute, sole and exclusive  
18 jurisdiction for air quality under the federal Clean Air Act and  
19 applicable state law, except for indoor air quality and asbestos as  
20 regulated for worker safety by the federal Occupational Safety and  
21 Health Act and by Chapter 11 of Title 40 of the Oklahoma Statutes;

22           9. Hazardous waste and solid waste, including industrial,  
23 commercial and municipal waste;

- 1        10. Superfund responsibilities of the state under the  
2 Comprehensive Environmental Response, Compensation and Liability Act  
3 of 1980 and amendments thereto, except the planning requirements of  
4 Title III of the Superfund Amendment and Reauthorization Act of  
5 1986;
- 6        11. Radioactive waste and all regulatory activities for the use  
7 of atomic energy and sources of radiation except for the use of  
8 sources of radiation by diagnostic x-ray facilities;
- 9        12. Water, waste, and wastewater treatment systems including,  
10 but not limited to, septic tanks or other public or private waste  
11 disposal systems;
- 12        13. Emergency response as specified by law;
- 13        14. Environmental laboratory services and laboratory  
14 certification;
- 15        15. Hazardous substances other than branding, package and  
16 labeling requirements;
- 17        16. Freshwater wellhead protection;
- 18        17. Groundwater protection for activities subject to the  
19 jurisdictional areas of environmental responsibility of the  
20 Department;
- 21        18. Utilization and enforcement of Oklahoma Water Quality  
22 Standards and implementation documents;
- 23        19. Environmental regulation of any entity or activity, and the  
24 prevention, control and abatement of any pollution, not subject to

1 the specific statutory authority of another state environmental  
2 agency;

3 20. Development and maintenance of a computerized information  
4 system relating to water quality pursuant to Section 1-4-107 of this  
5 title; and

6 21. Development and promulgation of a Water Quality Standards  
7 Implementation Plan pursuant to Section 1-1-202 of this title for  
8 its jurisdictional area of environmental responsibility.

9 C. Oklahoma Water Resources Board. The Oklahoma Water  
10 Resources Board shall have the following jurisdictional areas of  
11 environmental responsibility:

12 1. Water quantity including, but not limited to, water rights,  
13 surface water and underground water, planning, and interstate stream  
14 compacts;

15 2. Weather modification;

16 3. Dam safety;

17 4. Flood plain management;

18 5. State water/wastewater loans and grants revolving fund and  
19 other related financial aid programs;

20 6. Administration of the federal State Revolving Fund Program  
21 including, but not limited to, making application for and receiving  
22 capitalization grant awards, wastewater prioritization for funding,  
23 technical project reviews, environmental review process, and  
24 financial review and administration;

- 1       7. Water well drillers/pump installers licensing;
- 2       8. Technical lead agency for clean lakes eligible for funding  
3 under Section 314 of the federal Clean Water Act or other applicable  
4 sections of the federal Clean Water Act or other subsequent state  
5 and federal clean lakes programs; administration of a state program  
6 for assessing, monitoring, studying and restoring Oklahoma lakes  
7 with administration to include, but not be limited to, receipt and  
8 expenditure of funds from federal, state and private sources for  
9 clean lakes and implementation of a volunteer monitoring program to  
10 assess and monitor state water resources, provided such funds from  
11 federal Clean Water Act sources are administered and disbursed by  
12 the Office of the Secretary of Environment;
- 13       9. Statewide water quality standards and their accompanying use  
14 support assessment protocols, anti-degradation policy and  
15 implementation, and policies generally affecting Oklahoma Water  
16 Quality Standards application and implementation including but not  
17 limited to mixing zones, low flows and variances or any modification  
18 or change thereof pursuant to Section 1085.30 of Title 82 of the  
19 Oklahoma Statutes;
- 20       10. Groundwater protection for activities subject to the  
21 jurisdictional areas of environmental responsibility of the Board;
- 22       11. Development and promulgation of a Water Quality Standards  
23 Implementation Plan pursuant to Section 1-1-202 of this title for  
24 its jurisdictional area of environmental responsibility;

1 12. Development of classifications and identification of  
2 permitted uses of groundwater, in recognized water rights, and  
3 associated groundwater recharge areas;

4 13. Establishment and implementation of a statewide beneficial  
5 use monitoring program for waters of the state in coordination with  
6 the other state environmental agencies;

7 14. Coordination with other state environmental agencies and  
8 other public entities of water resource investigations conducted by  
9 the federal United States Geological Survey for water quality and  
10 quantity monitoring in the state; and

11 15. Development and submission of a report concerning the  
12 status of water quality monitoring in this state pursuant to Section  
13 1-1-202 of this title.

14 D. Oklahoma Department of Agriculture, Food, and Forestry.

15 1. The Oklahoma Department of Agriculture, Food, and Forestry  
16 shall have the following jurisdictional areas of environmental  
17 responsibility except as provided in paragraph 2 of this subsection:

- 18 a. point source discharges and nonpoint source runoff  
19 from agricultural crop production, agricultural  
20 services, livestock production, silviculture, feed  
21 yards, livestock markets and animal waste,
- 22 b. pesticide control,
- 23 c. forestry and nurseries,
- 24 d. fertilizer,

- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals,
- f. dairy waste and wastewater associated with milk production facilities,
- g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
- h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
- i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and
- j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

2. In addition to the jurisdictional areas of environmental 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,

1 tobacco, paper, lumber, wood, textile mill and  
2 other agricultural products,  
3 (2) slaughterhouses, but not including feedlots at  
4 these facilities, and  
5 (3) aquaculture and fish hatcheries,  
6 including, but not limited to, discharges of pollutants  
7 and storm water to waters of the state, surface  
8 impoundments and land application of wastes and  
9 sludge, and other pollution originating at these  
10 facilities, and

11 b. facilities which store grain, feed, seed, fertilizer,  
12 and agricultural chemicals that are required by  
13 federal NPDES regulations to obtain a permit for storm  
14 water discharges shall only be subject to the  
15 jurisdiction of the Department of Environmental  
16 Quality with respect to such storm water discharges.

17 E. Corporation Commission.

18 1. The Corporation Commission is hereby vested with exclusive  
19 jurisdiction, power and authority, and it shall be its duty to  
20 promulgate and enforce rules, and issue and enforce orders governing  
21 and regulating:

- 22 a. the conservation of oil and gas,  
23 b. field operations for geologic and geophysical  
24 exploration for oil, gas and brine, including seismic

1 survey wells, stratigraphic test wells and core test  
2 wells,

3 c. the exploration, drilling, development, producing or  
4 processing for oil and gas on the lease site,

5 d. the exploration, drilling, development, production and  
6 operation of wells used in connection with the  
7 recovery, injection or disposal of mineral brines,

8 e. reclaiming facilities only for the processing of salt  
9 water, crude oil, natural gas condensate and tank  
10 bottoms or basic sediment from crude oil tanks,  
11 pipelines, pits and equipment associated with the  
12 exploration, drilling, development, producing or  
13 transportation of oil or gas,

14 f. underground injection control pursuant to the federal  
15 Safe Drinking Water Act and 40 CFR Parts 144 through  
16 148, of:

17 (1) Class II injection wells,

18 (2) Class V injection wells utilized in the  
19 remediation of groundwater associated with  
20 underground or aboveground storage tanks  
21 regulated by the Commission, ~~and~~

22 (3) those wells used for the recovery, injection or  
23 disposal of mineral brines as defined in the  
24 Oklahoma Brine Development Act, and

1           (4) any aspect of any CO<sub>2</sub> sequestration facility,  
2           including any associated CO<sub>2</sub> injection well, over  
3           which the Commission is given jurisdiction  
4           pursuant to the Oklahoma Carbon Capture and  
5           Geologic Sequestration Act.

6           Any substance that the United States Environmental  
7           Protection Agency allows to be injected into a Class  
8           II well may continue to be so injected,

9           g.    tank farms for storage of crude oil and petroleum  
10           products which are located outside the boundaries of  
11           refineries, petrochemical manufacturing plants,  
12           natural gas liquid extraction plants, or other  
13           facilities which are subject to the jurisdiction of  
14           the Department of Environmental Quality with regard to  
15           point source discharges,

16           h.   the construction and operation of pipelines and  
17           associated rights-of-way, equipment, facilities or  
18           buildings used in the transportation of oil, gas,  
19           petroleum, petroleum products, anhydrous ammonia or  
20           mineral brine, or in the treatment of oil, gas or  
21           mineral brine during the course of transportation but  
22           not including line pipes in any:

23           (1)   natural gas liquids extraction plant,

24           (2)   refinery,

1 (3) reclaiming facility other than for those  
2 specified within subparagraph e of this  
3 subsection,

4 (4) mineral brine processing plant, and

5 (5) petrochemical manufacturing plant,

6 i. the handling, transportation, storage and disposition  
7 of saltwater, mineral brines, waste oil and other  
8 deleterious substances produced from or obtained or  
9 used in connection with the drilling, development,  
10 producing and operating of oil and gas wells, at:

11 (1) any facility or activity specifically listed in  
12 paragraphs 1 and 2 of this subsection as being  
13 subject to the jurisdiction of the Commission,  
14 and

15 (2) other oil and gas extraction facilities and  
16 activities,

17 j. spills of deleterious substances associated with  
18 facilities and activities specified in paragraph 1 of  
19 this subsection or associated with other oil and gas  
20 extraction facilities and activities,

21 k. subsurface storage of oil, natural gas and liquefied  
22 petroleum gas in geologic strata,  
23  
24

- 1           1.    groundwater protection for activities subject to the  
2                    jurisdictional areas of environmental responsibility  
3                    of the Commission,  
4           m.    utilization and enforcement of Oklahoma Water Quality  
5                    Standards and implementation documents, and  
6           n.    development and promulgation of a Water Quality  
7                    Standards Implementation Plan pursuant to Section 1-1-  
8                    202 of this title for its jurisdictional areas of  
9                    environmental responsibility.

10           2.    The exclusive jurisdiction, power and authority of the  
11 Commission shall also extend to the construction, operation,  
12 maintenance, site remediation, closure and abandonment of the  
13 facilities and activities described in paragraph 1 of this  
14 subsection.

15           3.    When a deleterious substance from a Commission-regulated  
16 facility or activity enters a point source discharge of pollutants  
17 or storm water from a facility or activity regulated by the  
18 Department of Environmental Quality, the Department shall have sole  
19 jurisdiction over the point source discharge of the commingled  
20 pollutants and storm water from the two facilities or activities  
21 insofar as Department-regulated facilities and activities are  
22 concerned.

23           4.    For purposes of the federal Clean Water Act, any facility or  
24 activity which is subject to the jurisdiction of the Commission

1 pursuant to paragraph 1 of this subsection and any other oil and gas  
2 extraction facility or activity which requires a permit for the  
3 discharge of a pollutant or storm water to waters of the United  
4 States shall be subject to the direct jurisdiction of the federal  
5 Environmental Protection Agency and shall not be required to be  
6 permitted by the Department of Environmental Quality or the  
7 Commission for such discharge.

8 5. The Commission shall have jurisdiction over:

9 a. underground storage tanks that contain antifreeze,  
10 motor oil, motor fuel, gasoline, kerosene, diesel, or  
11 aviation fuel and that are not located at refineries  
12 or at the upstream or intermediate shipment points of  
13 pipeline operations, including, but not limited to,  
14 tanks from which these materials are dispensed into  
15 vehicles, or tanks used in wholesale or bulk  
16 distribution activities, as well as leaks from pumps,  
17 hoses, dispensers, and other ancillary equipment  
18 associated with the tanks, whether above the ground or  
19 below; provided, that any point source discharge of a  
20 pollutant to waters of the United States during site  
21 remediation or the off-site disposal of contaminated  
22 soil, media, or debris shall be regulated by the  
23 Department of Environmental Quality,

24

1           b.    aboveground storage tanks that contain antifreeze,  
2                    motor oil, motor fuel, gasoline, kerosene, diesel, or  
3                    aviation fuel and that are not located at refineries  
4                    or at the upstream or intermediate shipment points of  
5                    pipeline operations, including, but not limited to,  
6                    tanks from which these materials are dispensed into  
7                    vehicles, or tanks used in wholesale or bulk  
8                    distribution activities, as well as leaks from pumps,  
9                    hoses, dispensers, and other ancillary equipment  
10                  associated with the tanks, whether above the ground or  
11                  below; provided, that any point source discharge of a  
12                  pollutant to waters of the United States during site  
13                  remediation or the off-site disposal of contaminated  
14                  soil, media, or debris shall be regulated by the  
15                  Department of Environmental Quality, and

16           c.    the Petroleum Storage Tank Release Environmental  
17                    Cleanup Indemnity Fund, the Oklahoma Petroleum Storage  
18                    Tank Release Indemnity Program, and the Oklahoma  
19                    Leaking Underground Storage Tank Trust Fund.

20           6.    The Department of Environmental Quality shall have sole  
21           jurisdiction to regulate the transportation, discharge or release of  
22           deleterious substances or solid or hazardous waste or other  
23           pollutants from rolling stock and rail facilities. The Department  
24

1 of Environmental Quality shall not have any jurisdiction with  
2 respect to pipeline transportation of carbon dioxide.

3 7. The Department of Environmental Quality shall have sole  
4 environmental jurisdiction for point and nonpoint source discharges  
5 of pollutants and storm water to waters of the state from:

6 a. refineries, petrochemical manufacturing plants and  
7 natural gas liquid extraction plants,

8 b. manufacturing of equipment and products related to oil  
9 and gas,

10 c. bulk terminals, aboveground and underground storage  
11 tanks not subject to the jurisdiction of the  
12 Commission pursuant to this subsection, and

13 d. other facilities, activities and sources not subject  
14 to the jurisdiction of the Commission or the Oklahoma  
15 Department of Agriculture, Food, and Forestry as  
16 specified by this section.

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

21 F. Oklahoma Conservation Commission. The Oklahoma Conservation  
22 Commission shall have the following jurisdictional areas of  
23 environmental responsibility:

24

- 1 1. Soil conservation, erosion control and nonpoint source  
2 management except as otherwise provided by law;
- 3 2. Monitoring, evaluation and assessment of waters to determine  
4 the condition of streams and rivers being impacted by nonpoint  
5 source pollution. In carrying out this area of responsibility, the  
6 Oklahoma Conservation Commission shall serve as the technical lead  
7 agency for nonpoint source categories as defined in Section 319 of  
8 the federal Clean Water Act or other subsequent federal or state  
9 nonpoint source programs, except for activities related to  
10 industrial and municipal storm water or as otherwise provided by  
11 state law;
- 12 3. Wetlands strategy;
- 13 4. Abandoned mine reclamation;
- 14 5. Cost-share program for land use activities;
- 15 6. Assessment and conservation plan development and  
16 implementation in watersheds of clean lakes, as specified by law;
- 17 7. Complaint data management;
- 18 8. Coordination of environmental and natural resources  
19 education;
- 20 9. Federal upstream flood control program;
- 21 10. Groundwater protection for activities subject to the  
22 jurisdictional areas of environmental responsibility of the  
23 Commission;

24

1 11. Development and promulgation of a Water Quality Standards  
2 Implementation Plan pursuant to Section 1-1-202 of this title for  
3 its jurisdictional areas of environmental responsibility; ~~and~~

4 12. Utilization of Oklahoma Water Quality Standards and  
5 Implementation documents; and

6 13. Verification and certification of carbon sequestration  
7 pursuant to Oklahoma Carbon Sequestration Enhancement Act. This  
8 responsibility shall not be superseded by the Oklahoma Carbon  
9 Capture and Geologic Sequestration Act.

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

- 12 1. Mining regulation;
- 13 2. Mining reclamation of active mines;
- 14 3. Groundwater protection for activities subject to the  
15 jurisdictional areas of environmental responsibility of the  
16 Commission; and

17 4. Development and promulgation of a Water Quality Standards  
18 Implementation Plan pursuant to Section 1-1-202 of this title for  
19 its jurisdictional areas of responsibility.

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

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

1           3. Development and promulgation of a Water Quality Standards  
2 Implementation Plan pursuant to Section 1-1-202 of this title for  
3 its jurisdictional areas of environmental responsibility.

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

7           1. Hazardous waste, substances and material transportation  
8 inspections as authorized by the Hazardous Materials Transportation  
9 Act; and

10          2. Inspection and audit activities of hazardous waste and  
11 materials carriers and handlers as authorized by the Hazardous  
12 Materials Transportation Act.

13          J. Department of Labor. The Department of Labor shall have the  
14 following jurisdictional areas of environmental responsibility:

15          1. Regulation of asbestos in the workplace pursuant to Chapter  
16 11 of Title 40 of the Oklahoma Statutes;

17          2. Asbestos monitoring in public and private buildings; and

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

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

1 K. Oklahoma Department of Emergency Management. The Oklahoma  
2 Department of Emergency Management shall have the following  
3 jurisdictional areas of environmental responsibilities:

4 1. Coordination of all emergency resources and activities  
5 relating to threats to citizens' lives and property pursuant to the  
6 Oklahoma Emergency Resources Management Act of 1967;

7 2. Administer and enforce the planning requirements of Title  
8 III of the Superfund Amendments and Reauthorization Act of 1986 and  
9 develop such other emergency operations plans that will enable the  
10 state to prepare for, respond to, recover from and mitigate  
11 potential environmental emergencies and disasters pursuant to the  
12 Oklahoma Hazardous Materials Planning and Notification Act;

13 3. Administer and conduct periodic exercises of emergency  
14 operations plans provided for in this subsection pursuant to the  
15 Oklahoma Emergency Resources Management Act of 1967;

16 4. Administer and facilitate hazardous materials training for  
17 state and local emergency planners and first responders pursuant to  
18 the Oklahoma Emergency Resources Management Act of 1967; and

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

22 SECTION 9. AMENDATORY 52 O.S. 2001, Section 139, is  
23 amended to read as follows:

24

1           A. The Corporation Commission is vested with exclusive  
2 jurisdiction, power and authority, and it shall be its duty, to make  
3 and enforce such rules and orders governing and regulating the  
4 handling, storage and disposition of saltwater, mineral brines,  
5 waste oil and other deleterious substances produced from or obtained  
6 or used in connection with the drilling, development, producing, and  
7 operating of oil and gas wells and brine wells within this state as  
8 are reasonable and necessary for the purpose of preventing the  
9 pollution of the surface and subsurface waters in the state, and to  
10 otherwise carry out the purpose of this act.

11           B. 1. Except as otherwise provided by this subsection, the  
12 Corporation Commission is hereby vested with exclusive jurisdiction,  
13 power and authority, and it shall be its duty to promulgate and  
14 enforce rules, and issue and enforce orders governing and  
15 regulating:

- 16           a. the conservation of oil and gas,
- 17           b. field operations for geologic and geophysical  
18               exploration for oil, gas and brine, including seismic  
19               survey wells, stratigraphic test wells and core test  
20               wells,
- 21           c. the exploration, drilling, development, producing or  
22               processing for oil and gas on the lease site,

23  
24

- 1 d. the exploration, drilling, development, production and  
2 operation of wells used in connection with the  
3 recovery, injection or disposal of mineral brines,  
4 e. reclaiming facilities only for the processing of salt  
5 water, crude oil, natural gas condensate and tank  
6 bottoms or basic sediment from crude oil tanks,  
7 pipelines, pits and equipment associated with the  
8 exploration, drilling, development, producing or  
9 transportation of oil or gas,  
10 f. injection wells known as Class II wells under the  
11 federal Underground Injection Control Program, and any  
12 aspect of any CO<sub>2</sub> sequestration facility, including any  
13 associated CO<sub>2</sub> injection well, over which the  
14 Commission is given jurisdiction pursuant to the  
15 Oklahoma Carbon Capture and Geologic Sequestration  
16 Act. Any substance that the United States  
17 Environmental Protection Agency allows to be injected  
18 into a Class II well may continue to be so injected,  
19 g. tank farms for storage of crude oil and petroleum  
20 products which are located outside the boundaries of  
21 the refineries, petrochemical manufacturing plants,  
22 natural gas liquid extraction plants, or other  
23 facilities which are subject to the jurisdiction of  
24

1 the Department of Environmental Quality with regard to  
2 point source discharges,

3 h. the construction and operation of pipelines and  
4 associated rights-of-way, equipment, facilities or  
5 buildings used in the transportation of oil, gas,  
6 petroleum, petroleum products, anhydrous ammonia or  
7 mineral brine, or in the treatment of oil, gas or  
8 mineral brine during the course of transportation but  
9 not including line pipes associated with processing at  
10 or in any:

11 (1) natural gas liquids extraction plant,

12 (2) refinery,

13 (3) reclaiming facility other than for those  
14 specified within subparagraph e of this  
15 paragraph,

16 (4) mineral brine processing plant, and

17 (5) petrochemical manufacturing plant,

18 i. the handling, transportation, storage and disposition  
19 of saltwater, mineral brines, waste oil and other  
20 deleterious substances produced from or obtained or  
21 used in connection with the drilling, development,  
22 producing and operating of oil and gas wells, at:

23 (1) any facility or activity specifically listed in  
24 paragraphs 1 and 2 of this subsection as being

1 subject to the jurisdiction of the Commission,  
2 and

3 (2) other oil and gas extraction facilities and  
4 activities,

5 j. spills of deleterious substances associated with  
6 facilities and activities specified in paragraph 1 of  
7 this subsection or associated with other oil and gas  
8 extraction facilities and activities, and

9 k. subsurface storage of oil, natural gas and liquefied  
10 petroleum gas in geologic strata.

11 2. The exclusive jurisdiction, power and authority of the  
12 Corporation Commission shall also extend to the construction,  
13 operation, maintenance, site remediation, closure and abandonment of  
14 the facilities and activities described in paragraph 1 of this  
15 subsection.

16 3. When a deleterious substance from a Commission-regulated  
17 facility or activity enters a point source discharge of pollutants  
18 or storm water from a facility or activity regulated by the  
19 Department of Environmental Quality, the Department shall have sole  
20 jurisdiction over the point source discharge of the commingled  
21 pollutants and storm water from the two facilities or activities  
22 insofar as Department-regulated facilities and activities are  
23 concerned.

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

10           5. The Corporation Commission shall have jurisdiction over:

- 11           a. underground storage tanks that contain antifreeze,  
12 motor oil, motor fuel, gasoline, kerosene, diesel, or  
13 aviation fuel and that are not located at refineries  
14 or at upstream or intermediate shipment points of  
15 pipeline operations, including, but not limited to,  
16 tanks from which these materials are dispensed into  
17 vehicles, or tanks used in wholesale or bulk  
18 distribution activities, as well as leaks from pumps,  
19 hoses, dispensers, and other ancillary equipment  
20 associated with the tanks, whether above the ground or  
21 below; provided that any point source discharge of a  
22 pollutant to waters of the United States during site  
23 remediation or the off-site disposal of contaminated  
24

1 soil, media, or debris shall be regulated by the  
2 Department of Environmental Quality,

3 b. aboveground storage tanks that contain antifreeze,  
4 motor oil, motor fuel, gasoline, kerosene, diesel, or  
5 aviation fuel and that are not located at refineries  
6 or at upstream or intermediate shipment points of  
7 pipeline operations, including, but not limited to,  
8 tanks from which these materials are dispensed into  
9 vehicles, or tanks used in wholesale or bulk  
10 distribution activities, as well as leaks from pumps,  
11 hoses, dispensers, and other ancillary equipment  
12 associated with the tanks, whether above the ground or  
13 below; provided that any point source discharge of a  
14 pollutant to waters of the United States during site  
15 remediation or the off-site disposal of contaminated  
16 soil, media, or debris shall be regulated by the  
17 Department of Environmental Quality, and

18 c. the Petroleum Storage Tank Release Environmental  
19 Cleanup Indemnity Fund and Program and the Leaking  
20 Underground Storage Tank Trust Fund.

21 6. The Department of Environmental Quality shall have sole  
22 jurisdiction to regulate the transportation, discharge or release of  
23 deleterious substances or hazardous or solid waste or other  
24 pollutants from rolling stock and rail facilities. The Department

1 of Environmental Quality shall not have any jurisdiction with  
2 respect to pipeline transportation of carbon dioxide.

3 7. The Department of Environmental Quality shall have sole  
4 environmental jurisdiction for point and nonpoint source discharges  
5 of pollutants and storm water to waters of the state from:

6 a. refineries, petrochemical manufacturing plants and  
7 natural gas liquid extraction plants,

8 b. manufacturing of oil and gas related equipment and  
9 products,

10 c. bulk terminals, aboveground and underground storage  
11 tanks not subject to the jurisdiction of the  
12 Commission pursuant to this subsection, and

13 d. other facilities, activities and sources not subject  
14 to the jurisdiction of the Corporation Commission or  
15 Department of Agriculture as specified by this  
16 section.

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

21 C. The Corporation Commission shall comply with and enforce the  
22 Oklahoma Water Quality Standards.

23 D. 1. For the purpose of immediately responding to emergency  
24 situations having potentially critical environmental or public

1 safety impact and resulting from activities within its jurisdiction,  
2 the Commission may take whatever necessary action, without notice  
3 and hearing, including the expenditure of monies from the  
4 Corporation Commission Revolving Fund, to promptly respond to the  
5 emergency. Such emergency expenditure shall be made pursuant to the  
6 provisions of the Oklahoma Central Purchasing Act, upon such terms  
7 and conditions established by the Department of Central Services to  
8 accomplish the purposes of this section. Thereafter, the Commission  
9 shall seek reimbursement from the responsible person, firm or  
10 corporation for all expenditures made from the Corporation  
11 Commission Revolving Fund. Any monies received as reimbursement  
12 shall be deposited to the credit of the Corporation Commission  
13 Revolving Fund.

14 2. The Commission shall not expend from any fund in the State  
15 Treasury, in any fiscal year, for the purposes herein provided, an  
16 amount of money in excess of the total sum specifically authorized  
17 annually by the Legislature for such purposes. Any monies received  
18 by the Commission through execution on any required surety shall not  
19 be subject to such limitation on expenditure for remedial action.

20 3. Neither the Commission nor any independent contractor of the  
21 Commission authorized to conduct remedial action under this section  
22 shall be held liable or responsible for any damages resulting from  
23 non-negligent actions reasonably necessary for conducting remedial  
24 work. Nothing in this section shall limit the authority of the

1 Commission or relieve any person or persons otherwise legally  
2 responsible from any obligation to prevent or remediate pollution.

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

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