

1 ENGROSSED HOUSE
2 BILL NO. 1485

By: Watson of the House

3 and

4 Griffin of the Senate

5
6 An Act relating to environment and natural resources;
7 amending 27A O.S. 2011, Section 1-3-101, as amended
8 by Section 1, Chapter 110, O.S.L. 2012 (27A O.S.
9 Supp. 2016, Section 1-3-101), which relates to state
10 environmental agencies; requiring state agencies to
11 issue permits for activities subject to the Clean
12 Water Act; and providing an effective date.

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

14 SECTION 1. AMENDATORY 27A O.S. 2011, Section 1-3-101, as
15 amended by Section 1, Chapter 110, O.S.L. 2012 (27A O.S. Supp. 2016,
16 Section 1-3-101), is amended to read as follows:

17 Section 1-3-101. A. The provisions of this section specify the
18 jurisdictional areas of responsibility for each state environmental
19 agency and state agencies with limited environmental responsibility.
20 The jurisdictional areas of environmental responsibility specified
21 in this section shall be in addition to those otherwise provided by
22 law and assigned to the specific state environmental agency;
23 provided that any rule, interagency agreement or executive order
24 enacted or entered into prior to the effective date of this section
which conflicts with the assignment of jurisdictional environmental

1 responsibilities specified by this section is hereby superseded.

2 The provisions of this subsection shall not nullify any financial
3 obligation arising from services rendered pursuant to any
4 interagency agreement or executive order entered into prior to July
5 1, 1993, nor nullify any obligations or agreements with private
6 persons or parties entered into with any state environmental agency
7 before July 1, 1993.

8 B. Department of Environmental Quality. The Department of
9 Environmental Quality shall have the following jurisdictional areas
10 of environmental responsibility:

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

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

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

23 4. Surface water and groundwater quality and protection and
24 water quality certifications;

1 5. Waterworks and wastewater works operator certification;

2 6. Public and private water supplies;

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

5 a. Class II injection wells,

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

9 c. those wells used for the recovery, injection or

10 disposal of mineral brines as defined in the Oklahoma
11 Brine Development Act regulated by the Commission, and

12 d. any aspect of any CO₂ sequestration facility, including
13 any associated CO₂ injection well, over which the
14 Commission is given jurisdiction pursuant to the
15 Oklahoma Carbon Capture and Geologic Sequestration
16 Act;

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

23 9. Hazardous waste and solid waste, including industrial,
24 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 electronic
8 products used for diagnosis by diagnostic x-ray facilities and
9 electronic products used for bomb detection by public safety bomb
10 squads within law enforcement agencies of this state or within law
11 enforcement agencies of any political subdivision of this state;

12 12. Water, waste, and wastewater treatment systems including,
13 but not limited to, septic tanks or other public or private waste
14 disposal systems;

15 13. Emergency response as specified by law;

16 14. Environmental laboratory services and laboratory
17 certification;

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

20 16. Freshwater wellhead protection;

21 17. Groundwater protection for activities subject to the
22 jurisdictional areas of environmental responsibility of the
23 Department;

1 18. Utilization and enforcement of Oklahoma Water Quality
2 Standards and implementation documents;

3 19. Environmental regulation of any entity or activity, and the
4 prevention, control and abatement of any pollution, not subject to
5 the specific statutory authority of another state environmental
6 agency;

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

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

13 C. Oklahoma Water Resources Board. The Oklahoma Water
14 Resources Board shall have the following jurisdictional areas of
15 environmental responsibility:

16 1. Water quantity including, but not limited to, water rights,
17 surface water and underground water, planning, and interstate stream
18 compacts;

19 2. Weather modification;

20 3. Dam safety;

21 4. Flood plain management;

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

1 6. Administration of the federal State Revolving Fund Program
2 including, but not limited to, making application for and receiving
3 capitalization grant awards, wastewater prioritization for funding,
4 technical project reviews, environmental review process, and
5 financial review and administration;

6 7. Water well drillers/pump installers licensing;

7 8. Technical lead agency for clean lakes eligible for funding
8 under Section 314 of the federal Clean Water Act or other applicable
9 sections of the federal Clean Water Act or other subsequent state
10 and federal clean lakes programs; administration of a state program
11 for assessing, monitoring, studying and restoring Oklahoma lakes
12 with administration to include, but not be limited to, receipt and
13 expenditure of funds from federal, state and private sources for
14 clean lakes and implementation of a volunteer monitoring program to
15 assess and monitor state water resources, provided such funds from
16 federal Clean Water Act sources are administered and disbursed by
17 the Office of the Secretary of Environment;

18 9. Statewide water quality standards and their accompanying use
19 support assessment protocols, anti-degradation policy and
20 implementation, and policies generally affecting Oklahoma Water
21 Quality Standards application and implementation including but not
22 limited to mixing zones, low flows and variances or any modification
23 or change thereof pursuant to Section 1085.30 of Title 82 of the
24 Oklahoma Statutes;

1 10. Groundwater protection for activities subject to the
2 jurisdictional areas of environmental responsibility of the Board;

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

6 12. Development of classifications and identification of
7 permitted uses of groundwater, in recognized water rights, and
8 associated groundwater recharge areas;

9 13. Establishment and implementation of a statewide beneficial
10 use monitoring program for waters of the state in coordination with
11 the other state environmental agencies;

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

16 15. Development and submission of a report concerning the
17 status of water quality monitoring in this state pursuant to Section
18 1-1-202 of this title.

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

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

- 23 a. point source discharges and nonpoint source runoff
24 from agricultural crop production, agricultural

- 1 services, livestock production, silviculture, feed
2 yards, livestock markets and animal waste,
3 b. pesticide control,
4 c. forestry and nurseries,
5 d. fertilizer,
6 e. facilities which store grain, feed, seed, fertilizer
7 and agricultural chemicals,
8 f. dairy waste and wastewater associated with milk
9 production facilities,
10 g. groundwater protection for activities subject to the
11 jurisdictional areas of environmental responsibility
12 of the Department,
13 h. utilization and enforcement of Oklahoma Water Quality
14 Standards and implementation documents,
15 i. development and promulgation of a Water Quality
16 Standards Implementation Plan pursuant to Section 1-1-
17 202 of this title for its jurisdictional areas of
18 environmental responsibility, and
19 j. storm water discharges for activities subject to the
20 jurisdictional areas of environmental responsibility
21 of the Department.

22 2. In addition to the jurisdictional areas of environmental
23 responsibility specified in subsection B of this section, the
24

1 Department of Environmental Quality shall have environmental
2 jurisdiction over:

- 3 a. (1) commercial manufacturers of fertilizers, grain
4 and feed products, and chemicals, and over
5 manufacturing of food and kindred products,
6 tobacco, paper, lumber, wood, textile mill and
7 other agricultural products,
8 (2) slaughterhouses, but not including feedlots at
9 these facilities, and
10 (3) aquaculture and fish hatcheries,
11 including, but not limited to, discharges of pollutants
12 and storm water to waters of the state, surface
13 impoundments and land application of wastes and
14 sludge, and other pollution originating at these
15 facilities, and
16 b. facilities which store grain, feed, seed, fertilizer,
17 and agricultural chemicals that are required by
18 federal NPDES regulations to obtain a permit for storm
19 water discharges shall only be subject to the
20 jurisdiction of the Department of Environmental
21 Quality with respect to such storm water discharges.

22 E. Corporation Commission.

23 1. The Corporation Commission is hereby vested with exclusive
24 jurisdiction, power and authority, and it shall be its duty to

1 promulgate and enforce rules, and issue and enforce orders governing
2 and regulating:

- 3 a. the conservation of oil and gas,
- 4 b. field operations for geologic and geophysical
5 exploration for oil, gas and brine, including seismic
6 survey wells, stratigraphic test wells and core test
7 wells,
- 8 c. the exploration, drilling, development, producing or
9 processing for oil and gas on the lease site,
- 10 d. the exploration, drilling, development, production and
11 operation of wells used in connection with the
12 recovery, injection or disposal of mineral brines,
- 13 e. reclaiming facilities only for the processing of salt
14 water, crude oil, natural gas condensate and tank
15 bottoms or basic sediment from crude oil tanks,
16 pipelines, pits and equipment associated with the
17 exploration, drilling, development, producing or
18 transportation of oil or gas,
- 19 f. underground injection control pursuant to the federal
20 Safe Drinking Water Act and 40 CFR Parts 144 through
21 148, of:
 - 22 (1) Class II injection wells,
 - 23 (2) Class V injection wells utilized in the
24 remediation of groundwater associated with

underground or aboveground storage tanks
regulated by the Commission,

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

(4) any aspect of any CO₂ sequestration facility,
including any associated CO₂ injection well, over
which the Commission is given jurisdiction
pursuant to the Oklahoma Carbon Capture and
Geologic Sequestration Act.

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

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

h. the construction and operation of pipelines and
associated rights-of-way, equipment, facilities or
buildings used in the transportation of oil, gas,
petroleum, petroleum products, anhydrous ammonia or

1 mineral brine, or in the treatment of oil, gas or
2 mineral brine during the course of transportation but
3 not including line pipes in any:

4 (1) natural gas liquids extraction plant,

5 (2) refinery,

6 (3) reclaiming facility other than for those
7 specified within subparagraph e of this
8 subsection,

9 (4) mineral brine processing plant, and

10 (5) petrochemical manufacturing plant,

11 i. the handling, transportation, storage and disposition
12 of saltwater, mineral brines, waste oil and other
13 deleterious substances produced from or obtained or
14 used in connection with the drilling, development,
15 producing and operating of oil and gas wells, at:

16 (1) any facility or activity specifically listed in
17 paragraphs 1 and 2 of this subsection as being
18 subject to the jurisdiction of the Commission,
19 and

20 (2) other oil and gas extraction facilities and
21 activities,

22 j. spills of deleterious substances associated with
23 facilities and activities specified in paragraph 1 of
24

1 this subsection or associated with other oil and gas
2 extraction facilities and activities,
3 k. subsurface storage of oil, natural gas and liquefied
4 petroleum gas in geologic strata,
5 l. groundwater protection for activities subject to the
6 jurisdictional areas of environmental responsibility
7 of the Commission,
8 m. utilization and enforcement of Oklahoma Water Quality
9 Standards and implementation documents, and
10 n. development and promulgation of a Water Quality
11 Standards Implementation Plan pursuant to Section 1-1-
12 202 of this title for its jurisdictional areas of
13 environmental responsibility.

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

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

1 insofar as Department-regulated facilities and activities are
2 concerned.

3 4. For purposes of the federal Clean Water Act, any facility or
4 activity which is subject to the jurisdiction of the Commission
5 pursuant to paragraph 1 of this subsection and any other oil and gas
6 extraction facility or activity which requires a permit for the
7 discharge of a pollutant or storm water to waters of the United
8 States shall be subject to the direct jurisdiction ~~of the federal~~
9 ~~Environmental Protection Agency and shall not be required to be~~
10 ~~permitted by the Department of Environmental Quality or the~~
11 ~~Commission for such discharge~~ and permitting authority of the
12 Oklahoma agency having received delegation of this program from the
13 Environmental Protection Agency.

14 5. The Commission shall have jurisdiction over:

- 15 a. underground storage tanks that contain antifreeze,
16 motor oil, motor fuel, gasoline, kerosene, diesel, or
17 aviation fuel and that are not located at refineries
18 or at the upstream or intermediate shipment points of
19 pipeline operations, including, but not limited to,
20 tanks from which these materials are dispensed into
21 vehicles, or tanks used in wholesale or bulk
22 distribution activities, as well as leaks from pumps,
23 hoses, dispensers, and other ancillary equipment
24 associated with the tanks, whether above the ground or

1 below; provided, that any point source discharge of a
2 pollutant to waters of the United States during site
3 remediation or the off-site disposal of contaminated
4 soil, media, or debris shall be regulated by the
5 Department of Environmental Quality,

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

21 c. the Petroleum Storage Tank Release Environmental
22 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
23 Tank Release Indemnity Program, and the Oklahoma
24 Leaking Underground Storage Tank Trust Fund.

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

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

- 10 a. refineries, petrochemical manufacturing plants and
11 natural gas liquid extraction plants,
- 12 b. manufacturing of equipment and products related to oil
13 and gas,
- 14 c. bulk terminals, aboveground and underground storage
15 tanks not subject to the jurisdiction of the
16 Commission pursuant to this subsection, and
- 17 d. other facilities, activities and sources not subject
18 to the jurisdiction of the Commission or the Oklahoma
19 Department of Agriculture, Food, and Forestry as
20 specified by this section.

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

1 F. Oklahoma Conservation Commission. The Oklahoma Conservation
2 Commission shall have the following jurisdictional areas of
3 environmental responsibility:

4 1. Soil conservation, erosion control and nonpoint source
5 management except as otherwise provided by law;

6 2. Monitoring, evaluation and assessment of waters to determine
7 the condition of streams and rivers being impacted by nonpoint
8 source pollution. In carrying out this area of responsibility, the
9 Oklahoma Conservation Commission shall serve as the technical lead
10 agency for nonpoint source categories as defined in Section 319 of
11 the federal Clean Water Act or other subsequent federal or state
12 nonpoint source programs, except for activities related to
13 industrial and municipal storm water or as otherwise provided by
14 state law;

15 3. Wetlands strategy;

16 4. Abandoned mine reclamation;

17 5. Cost-share program for land use activities;

18 6. Assessment and conservation plan development and
19 implementation in watersheds of clean lakes, as specified by law;

20 7. Complaint data management;

21 8. Coordination of environmental and natural resources
22 education;

23 9. Federal upstream flood control program;

1 10. Groundwater protection for activities subject to the
2 jurisdictional areas of environmental responsibility of the
3 Commission;

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

7 12. Utilization of Oklahoma Water Quality Standards and
8 Implementation documents; and

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

13 G. Department of Mines. The Department of Mines shall have the
14 following jurisdictional areas of environmental responsibility:

15 1. Mining regulation;

16 2. Mining reclamation of active mines;

17 3. Groundwater protection for activities subject to the
18 jurisdictional areas of environmental responsibility of the
19 Commission; and

20 4. Development and promulgation of a Water Quality Standards
21 Implementation Plan pursuant to Section 1-1-202 of this title for
22 its jurisdictional areas of responsibility.
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1 H. Department of Wildlife Conservation. The Department of
2 Wildlife Conservation shall have the following jurisdictional areas
3 of environmental responsibilities:

- 4 1. Investigating wildlife kills;
- 5 2. Wildlife protection and seeking wildlife damage claims; and
- 6 3. Development and promulgation of a Water Quality Standards
7 Implementation Plan pursuant to Section 1-1-202 of this title for
8 its jurisdictional areas of environmental responsibility.

9 I. Department of Public Safety. The Department of Public
10 Safety shall have the following jurisdictional areas of
11 environmental responsibilities:

- 12 1. Hazardous waste, substances and material transportation
13 inspections as authorized by the Hazardous Materials Transportation
14 Act; and
- 15 2. Inspection and audit activities of hazardous waste and
16 materials carriers and handlers as authorized by the Hazardous
17 Materials Transportation Act.

18 J. Department of Labor. The Department of Labor shall have the
19 following jurisdictional areas of environmental responsibility:

- 20 1. Regulation of asbestos in the workplace pursuant to Chapter
21 11 of Title 40 of the Oklahoma Statutes;
- 22 2. Asbestos monitoring in public and private buildings; and
- 23 3. Indoor air quality as regulated under the authority of the
24 Oklahoma Occupational Health and Safety Standards Act, except for

1 those indoor air quality issues specifically authorized to be
2 regulated by another agency.

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

5 K. Oklahoma Department of Emergency Management. The Oklahoma
6 Department of Emergency Management shall have the following
7 jurisdictional areas of environmental responsibilities:

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

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

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

20 4. Administer and facilitate hazardous materials training for
21 state and local emergency planners and first responders pursuant to
22 the Oklahoma Emergency Resources Management Act of 1967; and
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5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

SECTION 2. This act shall become effective November 1, 2017.

Passed the House of Representatives the 6th day of March, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2017.

Presiding Officer of the Senate