

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 287

By: Griffin of the Senate

and

Watson of the House

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8
9 An Act relating to state environmental agencies;
10 amending 27A O.S. 2011, Section 1-3-101, as amended
11 by Section 1, Chapter 110, O.S.L. 2012 (27A O.S.
12 Supp. 2016, Section 1-3-101), which relates to
13 jurisdictional areas of environmental
14 responsibilities; authorizing Corporation Commission
15 and Department of Environmental Quality to obtain
16 certain authorization to administer certain programs;
17 modifying jurisdictional authority of certain water
18 discharge; and providing an effective date.

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

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

23 Section 1-3-101. A. The provisions of this section specify the
24 jurisdictional areas of responsibility for each state environmental
25 agency and state agencies with limited environmental responsibility.
26 The jurisdictional areas of environmental responsibility specified

1 in this section shall be in addition to those otherwise provided by
2 law and assigned to the specific state environmental agency;
3 provided that any rule, interagency agreement or executive order
4 enacted or entered into prior to the effective date of this section
5 which conflicts with the assignment of jurisdictional environmental
6 responsibilities specified by this section is hereby superseded.
7 The provisions of this subsection shall not nullify any financial
8 obligation arising from services rendered pursuant to any
9 interagency agreement or executive order entered into prior to July
10 1, 1993, nor nullify any obligations or agreements with private
11 persons or parties entered into with any state environmental agency
12 before July 1, 1993.

13 B. Department of Environmental Quality. The Department of
14 Environmental Quality shall have the following jurisdictional areas
15 of environmental responsibility:

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

22 2. All nonpoint source discharges and pollution except as
23 provided in subsections D, E and F of this section;
24

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

5 4. Surface water and groundwater quality and protection and
6 water quality certifications;

7 5. Waterworks and wastewater works operator certification;

8 6. Public and private water supplies;

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

11 a. Class II injection wells,

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

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

18 d. any aspect of any CO₂ sequestration facility, including
19 any associated CO₂ injection well, over which the
20 Commission is given jurisdiction pursuant to the
21 Oklahoma Carbon Capture and Geologic Sequestration
22 Act;

23 8. Notwithstanding any other provision in this section or other
24 environmental jurisdiction statute, sole and exclusive jurisdiction

1 for air quality under the federal Clean Air Act and applicable state
2 law, except for indoor air quality and asbestos as regulated for
3 worker safety by the federal Occupational Safety and Health Act and
4 by Chapter 11 of Title 40 of the Oklahoma Statutes;

5 9. Hazardous waste and solid waste, including industrial,
6 commercial and municipal waste;

7 10. Superfund responsibilities of the state under the
8 Comprehensive Environmental Response, Compensation and Liability Act
9 of 1980 and amendments thereto, except the planning requirements of
10 Title III of the Superfund Amendment and Reauthorization Act of
11 1986;

12 11. Radioactive waste and all regulatory activities for the use
13 of atomic energy and sources of radiation except for electronic
14 products used for diagnosis by diagnostic x-ray facilities and
15 electronic products used for bomb detection by public safety bomb
16 squads within law enforcement agencies of this state or within law
17 enforcement agencies of any political subdivision of this state;

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

21 13. Emergency response as specified by law;

22 14. Environmental laboratory services and laboratory
23 certification;

1 15. Hazardous substances other than branding, package and
2 labeling requirements;

3 16. Freshwater wellhead protection;

4 17. Groundwater protection for activities subject to the
5 jurisdictional areas of environmental responsibility of the
6 Department;

7 18. Utilization and enforcement of Oklahoma Water Quality
8 Standards and implementation documents;

9 19. Environmental regulation of any entity or activity, and the
10 prevention, control and abatement of any pollution, not subject to
11 the specific statutory authority of another state environmental
12 agency;

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

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

19 C. Oklahoma Water Resources Board. The Oklahoma Water
20 Resources Board shall have the following jurisdictional areas of
21 environmental responsibility:

22 1. Water quantity including, but not limited to, water rights,
23 surface water and underground water, planning, and interstate stream
24 compacts;

1 2. Weather modification;

2 3. Dam safety;

3 4. Flood plain management;

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

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

11 7. Water well drillers/pump installers licensing;

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

23 9. Statewide water quality standards and their accompanying use
24 support assessment protocols, anti-degradation policy and

1 implementation, and policies generally affecting Oklahoma Water
2 Quality Standards application and implementation including but not
3 limited to mixing zones, low flows and variances or any modification
4 or change thereof pursuant to Section 1085.30 of Title 82 of the
5 Oklahoma Statutes;

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

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

11 12. Development of classifications and identification of
12 permitted uses of groundwater, in recognized water rights, and
13 associated groundwater recharge areas;

14 13. Establishment and implementation of a statewide beneficial
15 use monitoring program for waters of the state in coordination with
16 the other state environmental agencies;

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

21 15. Development and submission of a report concerning the
22 status of water quality monitoring in this state pursuant to Section
23 1-1-202 of this title.

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

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

- 4 a. point source discharges and nonpoint source runoff
5 from agricultural crop production, agricultural
6 services, livestock production, silviculture, feed
7 yards, livestock markets and animal waste,
- 8 b. pesticide control,
- 9 c. forestry and nurseries,
- 10 d. fertilizer,
- 11 e. facilities which store grain, feed, seed, fertilizer
12 and agricultural chemicals,
- 13 f. dairy waste and wastewater associated with milk
14 production facilities,
- 15 g. groundwater protection for activities subject to the
16 jurisdictional areas of environmental responsibility
17 of the Department,
- 18 h. utilization and enforcement of Oklahoma Water Quality
19 Standards and implementation documents,
- 20 i. development and promulgation of a Water Quality
21 Standards Implementation Plan pursuant to Section 1-1-
22 202 of this title for its jurisdictional areas of
23 environmental responsibility, and
24

1 j. storm water discharges for activities subject to the
2 jurisdictional areas of environmental responsibility
3 of the Department.

4 2. In addition to the jurisdictional areas of environmental
5 responsibility specified in subsection B of this section, the
6 Department of Environmental Quality shall have environmental
7 jurisdiction over:

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

jurisdiction of the Department of Environmental
Quality with respect to such storm water discharges.

E. Corporation Commission.

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

- a. the conservation of oil and gas,
- b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,
- c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,
- d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines,
- e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,

1 f. underground injection control pursuant to the federal
2 Safe Drinking Water Act and 40 CFR Parts 144 through
3 148, of:

4 (1) Class II injection wells,

5 (2) Class V injection wells utilized in the
6 remediation of groundwater associated with
7 underground or aboveground storage tanks
8 regulated by the Commission,

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

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

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

20 g. tank farms for storage of crude oil and petroleum
21 products which are located outside the boundaries of
22 refineries, petrochemical manufacturing plants,
23 natural gas liquid extraction plants, or other
24 facilities which are subject to the jurisdiction of

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 in any:

10 (1) natural gas liquids extraction plant,

11 (2) refinery,

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

15 (4) mineral brine processing plant, and

16 (5) petrochemical manufacturing plant,

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

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

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,

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

11 l. groundwater protection for activities subject to the
12 jurisdictional areas of environmental responsibility
13 of the Commission,

14 m. utilization and enforcement of Oklahoma Water Quality
15 Standards and implementation documents, and

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

20 2. The exclusive jurisdiction, power and authority of the
21 Commission shall also extend to the construction, operation,
22 maintenance, site remediation, closure and abandonment of the
23 facilities and activities described in paragraph 1 of this
24 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. The Commission and the Department of Environmental Quality
10 are hereby authorized to obtain authorization from the Environmental
11 Protection Agency to administer, within their respective
12 jurisdictions, any and all programs regulating oil and gas
13 discharges into the waters of this state. For purposes of the
14 federal Clean Water Act, any facility or activity which is subject
15 to the jurisdiction of the Commission pursuant to paragraph 1 of
16 this subsection and any other oil and gas extraction facility or
17 activity which requires a permit for the discharge of a pollutant or
18 storm water to waters of the United States shall be subject to the
19 direct jurisdiction ~~of the federal Environmental Protection Agency~~
20 ~~and shall not be required to be permitted by the Department of~~
21 ~~Environmental Quality or the Commission for such discharge~~ and
22 permitting authority of the Oklahoma agency having received
23 delegation of this program from the Environmental Protection Agency.

24 5. The Commission shall have jurisdiction over:

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

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

7 c. the Petroleum Storage Tank Release Environmental
8 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
9 Tank Release Indemnity Program, and the Oklahoma
10 Leaking Underground Storage Tank Trust Fund.

11 6. The Department of Environmental Quality shall have sole
12 jurisdiction to regulate the transportation, discharge or release of
13 deleterious substances or solid or hazardous waste or other
14 pollutants from rolling stock and rail facilities. The Department
15 of Environmental Quality shall not have any jurisdiction with
16 respect to pipeline transportation of carbon dioxide.

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

20 a. refineries, petrochemical manufacturing plants and
21 natural gas liquid extraction plants,

22 b. manufacturing of equipment and products related to oil
23 and gas,
24

1 c. bulk terminals, aboveground and underground storage
2 tanks not subject to the jurisdiction of the
3 Commission pursuant to this subsection, and

4 d. other facilities, activities and sources not subject
5 to the jurisdiction of the Commission or the Oklahoma
6 Department of Agriculture, Food, and Forestry as
7 specified by this section.

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

12 F. Oklahoma Conservation Commission. The Oklahoma Conservation
13 Commission shall have the following jurisdictional areas of
14 environmental responsibility:

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

17 2. Monitoring, evaluation and assessment of waters to determine
18 the condition of streams and rivers being impacted by nonpoint
19 source pollution. In carrying out this area of responsibility, the
20 Oklahoma Conservation Commission shall serve as the technical lead
21 agency for nonpoint source categories as defined in Section 319 of
22 the federal Clean Water Act or other subsequent federal or state
23 nonpoint source programs, except for activities related to
24

1 industrial and municipal storm water or as otherwise provided by
2 state law;

3 3. Wetlands strategy;

4 4. Abandoned mine reclamation;

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

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

8 7. Complaint data management;

9 8. Coordination of environmental and natural resources
10 education;

11 9. Federal upstream flood control program;

12 10. Groundwater protection for activities subject to the
13 jurisdictional areas of environmental responsibility of the
14 Commission;

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

18 12. Utilization of Oklahoma Water Quality Standards and
19 Implementation documents; and

20 13. Verification and certification of carbon sequestration
21 pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This
22 responsibility shall not be superseded by the Oklahoma Carbon
23 Capture and Geologic Sequestration Act.

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1 G. Department of Mines. The Department of Mines shall have the
2 following jurisdictional areas of environmental responsibility:

- 3 1. Mining regulation;
- 4 2. Mining reclamation of active mines;
- 5 3. Groundwater protection for activities subject to the
6 jurisdictional areas of environmental responsibility of the
7 Commission; and

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

11 H. Department of Wildlife Conservation. The Department of
12 Wildlife Conservation shall have the following jurisdictional areas
13 of environmental responsibilities:

- 14 1. Investigating wildlife kills;
- 15 2. Wildlife protection and seeking wildlife damage claims; and
- 16 3. Development and promulgation of a Water Quality Standards
17 Implementation Plan pursuant to Section 1-1-202 of this title for
18 its jurisdictional areas of environmental responsibility.

19 I. Department of Public Safety. The Department of Public
20 Safety shall have the following jurisdictional areas of
21 environmental responsibilities:

- 22 1. Hazardous waste, substances and material transportation
23 inspections as authorized by the Hazardous Materials Transportation
24 Act; and

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

4 J. Department of Labor. The Department of Labor shall have the
5 following jurisdictional areas of environmental responsibility:

6 1. Regulation of asbestos in the workplace pursuant to Chapter
7 11 of Title 40 of the Oklahoma Statutes;

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

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

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

15 K. Oklahoma Department of Emergency Management. The Oklahoma
16 Department of Emergency Management shall have the following
17 jurisdictional areas of environmental responsibilities:

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

21 2. Administer and enforce the planning requirements of Title
22 III of the Superfund Amendments and Reauthorization Act of 1986 and
23 develop such other emergency operations plans that will enable the
24 state to prepare for, respond to, recover from and mitigate

1 potential environmental emergencies and disasters pursuant to the
2 Oklahoma Hazardous Materials Planning and Notification Act;

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

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

9 5. Maintain a computerized emergency information system
10 allowing state and local access to information regarding hazardous
11 materials' location, quantity and potential threat.

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

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14 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES,
15 dated 04/03/2017 - DO PASS.
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