

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1048

By: Griffin

6 AS INTRODUCED

7 An Act relating to waters and water rights; amending  
8 27A O.S. 2011, Section 1-3-101, as last amended by  
9 Section 1, Chapter 129, O.S.L. 2017 (27A O.S. Supp.  
10 2017, Section 1-3-101), which relates to  
11 jurisdictional areas of environmental  
12 responsibilities; adding new area of responsibility  
13 for DEQ; amending 82 O.S. 2011, Section 1085.30,  
14 which relates to Oklahoma Water Quality Standards;  
15 providing an exception to the applicability of  
16 certain act; and providing an effective date.

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

15 SECTION 1. AMENDATORY 27A O.S. 2011, Section 1-3-101, as  
16 last amended by Section 1, Chapter 129, O.S.L. 2017 (27A O.S. Supp.  
17 2017, Section 1-3-101), is amended to read as follows:

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

1 enacted or entered into prior to the effective date of this section  
2 which conflicts with the assignment of jurisdictional environmental  
3 responsibilities specified by this section is hereby superseded.

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

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

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

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

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

1        4. Surface water and groundwater quality and protection and  
2 water quality certifications;

3        5. Waterworks and wastewater works operator certification;

4        6. Public and private water supplies;

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

7            a. Class II injection wells,

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

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

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

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

1        9. Hazardous waste and solid waste, including industrial,  
2 commercial and municipal waste;

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

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

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

17        13. Emergency response as specified by law;

18        14. Environmental laboratory services and laboratory  
19 certification;

20        15. Hazardous substances other than branding, package and  
21 labeling requirements;

22        16. Freshwater wellhead protection;  
23  
24

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

4 18. Utilization and enforcement of Oklahoma Water Quality  
5 Standards and implementation documents;

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

10 20. Development and maintenance of a computerized information  
11 system relating to water quality pursuant to Section 1-4-107 of this  
12 title; ~~and~~

13 21. Development and promulgation of a Water Quality Standards  
14 Implementation Plan pursuant to Section 1-1-202 of this title for  
15 its jurisdictional area of environmental responsibility; and

16 22. Development and promulgation of policies and requirements  
17 necessary for the implementation of Oklahoma Groundwater Quality  
18 standards to the extent that the implementation of such standards  
19 are within the scope of the Department's jurisdiction, including but  
20 not limited to the establishment of points of compliance.

21 C. Oklahoma Water Resources Board. The Oklahoma Water  
22 Resources Board shall have the following jurisdictional areas of  
23 environmental responsibility:  
24

- 1        1. Water quantity including, but not limited to, water rights,  
2 surface water and underground water, planning, and interstate stream  
3 compacts;
- 4        2. Weather modification;
- 5        3. Dam safety;
- 6        4. Flood plain management;
- 7        5. State water/wastewater loans and grants revolving fund and  
8 other related financial aid programs;
- 9        6. Administration of the federal State Revolving Fund Program  
10 including, but not limited to, making application for and receiving  
11 capitalization grant awards, wastewater prioritization for funding,  
12 technical project reviews, environmental review process, and  
13 financial review and administration;
- 14       7. Water well drillers/pump installers licensing;
- 15       8. Technical lead agency for clean lakes eligible for funding  
16 under Section 314 of the federal Clean Water Act or other applicable  
17 sections of the federal Clean Water Act or other subsequent state  
18 and federal clean lakes programs; administration of a state program  
19 for assessing, monitoring, studying and restoring Oklahoma lakes  
20 with administration to include, but not be limited to, receipt and  
21 expenditure of funds from federal, state and private sources for  
22 clean lakes and implementation of a volunteer monitoring program to  
23 assess and monitor state water resources, provided such funds from  
24

1 federal Clean Water Act sources are administered and disbursed by  
2 the Office of the Secretary of Environment;

3 9. Statewide water quality standards and their accompanying use  
4 support assessment protocols, anti-degradation policy and  
5 implementation, and policies generally affecting Oklahoma Water  
6 Quality Standards application and implementation including but not  
7 limited to mixing zones, low flows and variances or any modification  
8 or change thereof pursuant to Section 1085.30 of Title 82 of the  
9 Oklahoma Statutes;

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

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

15 12. Development of classifications and identification of  
16 permitted uses of groundwater, in recognized water rights, and  
17 associated groundwater recharge areas;

18 13. Establishment and implementation of a statewide beneficial  
19 use monitoring program for waters of the state in coordination with  
20 the other state environmental agencies;

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

1        15. Development and submission of a report concerning the  
2 status of water quality monitoring in this state pursuant to Section  
3 1-1-202 of this title.

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

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

8            a. point source discharges and nonpoint source runoff  
9                from agricultural crop production, agricultural  
10               services, livestock production, silviculture, feed  
11               yards, livestock markets and animal waste,

12           b. pesticide control,

13           c. forestry and nurseries,

14           d. fertilizer,

15           e. facilities which store grain, feed, seed, fertilizer  
16               and agricultural chemicals,

17           f. dairy waste and wastewater associated with milk  
18               production facilities,

19           g. groundwater protection for activities subject to the  
20               jurisdictional areas of environmental responsibility  
21               of the Department,

22           h. utilization and enforcement of Oklahoma Water Quality  
23               Standards and implementation documents,

- 1           i.    development and promulgation of a Water Quality  
2               Standards Implementation Plan pursuant to Section 1-1-  
3               202 of this title for its jurisdictional areas of  
4               environmental responsibility, and
- 5           j.    storm water discharges for activities subject to the  
6               jurisdictional areas of environmental responsibility  
7               of the Department.

8           2.   In addition to the jurisdictional areas of environmental  
9   responsibility specified in subsection B of this section, the  
10   Department of Environmental Quality shall have environmental  
11   jurisdiction over:

- 12           a.   (1)   commercial manufacturers of fertilizers, grain  
13               and feed products, and chemicals, and over  
14               manufacturing of food and kindred products,  
15               tobacco, paper, lumber, wood, textile mill and  
16               other agricultural products,
- 17               (2)   slaughterhouses, but not including feedlots at  
18               these facilities, and
- 19               (3)   aquaculture and fish hatcheries,  
20               including, but not limited to, discharges of pollutants  
21               and storm water to waters of the state, surface  
22               impoundments and land application of wastes and  
23               sludge, and other pollution originating at these  
24               facilities, and

1           b.    facilities which store grain, feed, seed, fertilizer,  
2                   and agricultural chemicals that are required by  
3                   federal NPDES regulations to obtain a permit for storm  
4                   water discharges shall only be subject to the  
5                   jurisdiction of the Department of Environmental  
6                   Quality with respect to such storm water discharges.

7       E.   Corporation Commission.

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

- 12           a.   the conservation of oil and gas,  
13           b.   field operations for geologic and geophysical  
14                   exploration for oil, gas and brine, including seismic  
15                   survey wells, stratigraphic test wells and core test  
16                   wells,  
17           c.   the exploration, drilling, development, producing or  
18                   processing for oil and gas on the lease site,  
19           d.   the exploration, drilling, development, production and  
20                   operation of wells used in connection with the  
21                   recovery, injection or disposal of mineral brines,  
22           e.   reclaiming facilities only for the processing of salt  
23                   water, crude oil, natural gas condensate and tank  
24                   bottoms or basic sediment from crude oil tanks,

1 pipelines, pits and equipment associated with the  
2 exploration, drilling, development, producing or  
3 transportation of oil or gas,

4 f. underground injection control pursuant to the federal  
5 Safe Drinking Water Act and 40 CFR Parts 144 through  
6 148, of:

7 (1) Class II injection wells,

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

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

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

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

23 g. tank farms for storage of crude oil and petroleum  
24 products which are located outside the boundaries of

1 refineries, petrochemical manufacturing plants,  
2 natural gas liquid extraction plants, or other  
3 facilities which are subject to the jurisdiction of  
4 the Department of Environmental Quality with regard to  
5 point source discharges,

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

13 (1) natural gas liquids extraction plant,

14 (2) refinery,

15 (3) reclaiming facility other than for those  
16 specified within subparagraph e of this  
17 subsection,

18 (4) mineral brine processing plant, and

19 (5) petrochemical manufacturing plant,

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

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

5 (2) other oil and gas extraction facilities and  
6 activities,

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

11 k. subsurface storage of oil, natural gas and liquefied  
12 petroleum gas in geologic strata,

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

16 m. utilization and enforcement of Oklahoma Water Quality  
17 Standards and implementation documents, and

18 n. development and promulgation of a Water Quality  
19 Standards Implementation Plan pursuant to Section 1-1-  
20 202 of this title for its jurisdictional areas of  
21 environmental responsibility.

22 2. The exclusive jurisdiction, power and authority of the  
23 Commission shall also extend to the construction, operation,  
24 maintenance, site remediation, closure and abandonment of the

1 facilities and activities described in paragraph 1 of this  
2 subsection.

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

11 4. The Commission and the Department of Environmental Quality  
12 are hereby authorized to obtain authorization from the Environmental  
13 Protection Agency to administer, within their respective  
14 jurisdictions, any and all programs regulating oil and gas  
15 discharges into the waters of this state. For purposes of the  
16 federal Clean Water Act, any facility or activity which is subject  
17 to the jurisdiction of the Commission pursuant to paragraph 1 of  
18 this subsection and any other oil and gas extraction facility or  
19 activity which requires a permit for the discharge of a pollutant or  
20 storm water to waters of the United States shall be subject to the  
21 direct jurisdiction and permitting authority of the Oklahoma agency  
22 having received delegation of this program from the Environmental  
23 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.

24

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. AMENDATORY 82 O.S. 2011, Section 1085.30, is  
13 amended to read as follows:

14 Section 1085.30. A. 1. In order to effectuate a comprehensive  
15 program to assist in the prevention, control and abatement of  
16 pollution of the waters of this state, and in order to establish  
17 state standards which comply with the Federal Water Pollution  
18 Control Act as amended, the Oklahoma Water Resources Board is  
19 authorized to promulgate rules to be known as "Oklahoma Water  
20 Quality Standards" which establish classifications of uses of waters  
21 of the state, criteria to maintain and protect such classifications,  
22 and other standards or policies pertaining to the quality of such  
23 waters.  
24

1        2. The Oklahoma Water Quality Standards shall, at a minimum, be  
2 designed to maintain and protect the quality of the waters of the  
3 state.

4        3. Wherever the Board finds it is practical and in the public  
5 interest to do so, the rules may be amended to upgrade and improve  
6 progressively the quality of waters of the state.

7        4.    a.    The Board may also amend Oklahoma Water Quality  
8 Standards to downgrade a designated use of any waters  
9 of this state which is not an existing use, may  
10 establish subcategories of a use or may provide for  
11 less stringent criteria or other provisions thereof  
12 only in those limited circumstances permissible under  
13 the Federal Water Pollution Control Act as amended or  
14 federal rules which implement said act.

15        b.    The Board may amend the Oklahoma Water Quality  
16 Standards to downgrade a designated use, establish  
17 subcategories of a use or may provide for less  
18 stringent criteria or other provisions thereof only to  
19 the extent as will maintain or improve the existing  
20 uses and the water quality of the water affected;  
21 provided, however, the Board shall not modify the  
22 Oklahoma Water Quality Standards applicable to scenic  
23 river areas as such areas are described by Section  
24 1452 of this title, to downgrade a designated use,

1           establish a subcategory of a use or provide for less  
2           stringent criteria or other provisions thereof.

3           B. 1. Prior to adopting such standards or any amendment  
4 thereof, the Board shall conduct public hearings thereon. Notice of  
5 such hearing shall be published in accordance with the  
6 Administrative Procedures Act and shall be mailed at least twenty  
7 (20) days before such public hearing to the chief executive of each  
8 municipality and county in the area affected and shall be mailed to  
9 all affected holders of permits obtained pursuant to the Oklahoma  
10 Environmental Code, and such other persons that have requested  
11 notice of hearings on such standard modifications.

12           2. If adoption or amendment of a classification to a lower or  
13 downgraded classification is proposed because treatment controls  
14 required of the current or a higher or upgraded classification would  
15 result in substantial and widespread social and economic impact, the  
16 Board shall, in addition to any hearing required by subsection B of  
17 this section, conduct a public meeting within a central location  
18 within the area to be affected. The Board shall cause notice of  
19 such additional public meeting to be published for at least two (2)  
20 consecutive weeks in a newspaper of general circulation published in  
21 the county or counties in the area affected.

22           C. 1. The Except in regard to the implementation of Oklahoma  
23 Groundwater Quality Standards, as set forth in Section 1 of this  
24 act, the Oklahoma Water Quality Standards, their accompanying use

1 support assessment protocols, anti-degradation policy and  
2 implementation, and policies generally effecting Oklahoma Water  
3 Quality Standards application and implementation including but not  
4 limited to mixing zones, low flows and variances or any modification  
5 or change thereof shall be promulgated by the Board in compliance  
6 with the Administrative Procedures Act and shall be enforced by all  
7 state agencies within the scope of their jurisdiction. All use  
8 support assessment protocols promulgated by the Board shall be  
9 consistent with state and federal law and guidance specifically  
10 related to beneficial use support determinations as set forth in  
11 Section 305(b) of the Federal Water Pollution Control Act, where  
12 applicable.

13 2. In promulgating Oklahoma Water Quality Standards or making  
14 any modification or change thereof, the Board shall announce a  
15 reasonable time for persons discharging waste into the waters of the  
16 state to comply with such new or modified standards unless such  
17 discharges create an actual or potential hazard to public health.

18 3. Any discharge in accord with such standards of the Board and  
19 in compliance with rules, requirements and wasteload allocations  
20 established by the Department of Environmental Quality and with  
21 rules promulgated by other state environmental agencies shall not be  
22 deemed to be pollution.

23 SECTION 3. This act shall become effective November 1, 2018.

24 56-2-2184 CB 1/17/2018 8:40:09 AM