

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 498

By: Allen

AS INTRODUCED

An Act relating to the Department of Environmental Quality; amending 27A O.S. 2011, Section 2-6-204, which relates to issuance of discharge permits; requiring issuance of certain permits; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-6-204, is amended to read as follows:

Section 2-6-204. A. Pollutant discharge permits issued by the Executive Director may include schedules of compliance and such conditions as the Executive Director may prescribe which:

1. Prevent, control or abate pollution, including such water-quality-related and technology-based effluent limitations as are necessary to protect the water quality and existing and designated beneficial uses of the waters of the state;

2. Require application of best practicable control technology currently available, best conventional pollutant control technology,

1 or best available technology economically achievable or such other
2 limitations as the Executive Director may prescribe;

3 3. Require compliance with national standards of performance,
4 toxic and pretreatment effluent standards;

5 4. Set limitations or prohibitions designed to prohibit the
6 discharge of toxic pollutants in toxic amounts or to require
7 pretreatment of pollutants;

8 5. Set interim compliance dates which are enforceable without
9 otherwise showing a violation of an effluent limitation or harm to
10 water quality;

11 6. Set terms and conditions for sludge and land application of
12 wastewater and for impoundments in accordance with rules promulgated
13 by the Board; and

14 7. Comply with the provisions of the Oklahoma Pollutant
15 Discharge Elimination System Act and the requirements of the Clean
16 Water Act.

17 B. The Executive Director shall:

18 1. Have authority to issue individual permits and
19 authorizations under general discharge permits for pollutants and
20 stormwater and sludge as authorized by the Oklahoma Pollutant
21 Discharge Elimination System Act;

22 2. Issue permits for fixed terms not to exceed five (5) years;

23 3. Have the authority to require in permits issued to publicly
24 or privately owned treatment works conditions requiring the

1 permittee to give notice to the Department of new introductions into
2 such works of pollutants from any source which would be a new source
3 as defined in Section 306 of the Clean Water Act or from a source
4 which would be a point source subject to Section 301 of the Clean
5 Water Act if it were discharging directly to waters of the state, a
6 substantial change in volume or character of pollutants being
7 introduced into such works by a source introducing pollutants into
8 such works at the time of issuance of the permit, or such other
9 conditions as may be required under the Clean Water Act or state
10 law;

11 4. Issue "de minimis exemption" pollutant discharge permits to
12 the owners or operators of properties whose pollutant discharges are
13 determined not to reach a threshold that threatens the water quality
14 of the receiving body of surface water. The pollutant discharge
15 threshold shall be determined by the Board of Environmental Quality
16 and consistent with federal law. The Board shall promulgate rules
17 and regulations necessary to exercise the authority provided in this
18 paragraph by July 1, 2018;

19 5. Have the authority to ensure compliance with Sections
20 204(b), 307, and 308 and other provisions of the Clean Water Act and
21 with other applicable federal law;

22 ~~5.~~ 6. Have all necessary and incidental authority to comply
23 with the requirements of the Clean Water Act and requirements of the
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1 United States Environmental Protection Agency set forth in duly
2 promulgated federal regulations adopted under the Clean Water Act;

3 ~~6.~~ 7. Have the authority to terminate or modify permits issued
4 by the Executive Director for cause, including but not limited to:

5 a. violation of any condition of the permit, including
6 but not limited to conditions related to monitoring
7 requirements, entry and inspections,

8 b. obtaining a permit by misrepresentation, or failure to
9 disclose fully all relevant facts, or

10 c. change in any condition that requires either a
11 temporary or permanent reduction or elimination of the
12 permitted discharge;

13 ~~7.~~ 8. Have all necessary authority to implement and enforce
14 Department programs and requirements established by the
15 Environmental Quality Board in duly promulgated rules, including but
16 not limited to the authority to implement and enforce a statewide
17 pretreatment program required under federal law and regulations and
18 to implement and enforce requirements applicable to dischargers into
19 municipal separate storm sewer systems;

20 ~~8.~~ 9. Have all necessary or incidental authority to investigate
21 and abate violations of permits issued by the Executive Director,
22 violations of administrative orders, violations of duly promulgated
23 rules, and violations of the Oklahoma Pollutant Discharge
24 Elimination System Act, and shall have all necessary and incidental

1 authority to apply sanctions through administrative proceedings for
2 violations, including but not limited to violations of requirements
3 to obtain permits, terms and conditions of permits, effluent
4 standards and limitations and water quality standards, and
5 violations of requirements for recording, reporting, monitoring,
6 entry, inspection and sampling; and

7 ~~9.~~ 10. Have authority to require permits for indirect
8 discharges or other introductions of pollutants to publicly owned
9 treatment works, impose pretreatment standards and other
10 requirements upon users of such treatment works, and to enforce such
11 permits and requirements pursuant to Section 2-6-206 of this title.

12 C. Authorized employees or representatives of the Department
13 shall, upon presentation of credentials, have:

14 1. A right of entry to, upon, or through any private or public
15 premises upon which an effluent or sludge source is or may be
16 located or in which any records are required to be maintained;

17 2. Access to at any reasonable time for the purposes of
18 reviewing and copying any records required to be maintained;

19 3. Authority to inspect any monitoring equipment, methods,
20 disposal systems or other facilities or equipment which may be
21 required; and

22 4. Access for the purpose of inspecting and sampling any
23 effluent streams or any discharge of pollutants to waters of the
24 state or to treatment systems discharging into waters of the state

1 or for inspection and sampling of any sludge source, storage,
2 beneficial use, reuse or disposal site.

3 D. The Executive Director shall not issue a discharge permit if
4 the permit:

5 1. Would authorize the discharge of a radiological, chemical or
6 biological warfare agent, or high-level radioactive waste;

7 2. Would, in the judgment of the Secretary of the Army acting
8 through the Chief of Engineers, result in the substantial impairment
9 of anchorage and navigation of any waters of the United States as
10 those waters are defined in the Clean Water Act;

11 3. Is objected to in writing by the Administrator of the United
12 States Environmental Protection Agency or his designee, pursuant to
13 any right to object which is granted to the Administrator under
14 Section 402(d) of the Clean Water Act; or

15 4. Would authorize a discharge from a point source which is in
16 conflict with a plan approved under Section 208(b) of the Clean
17 Water Act.

18 E. Copies of records, plans, reports or other information
19 required by the Department shall be submitted upon request and shall
20 be subject to and made available for inspection at reasonable times
21 to any authorized representative of the Department of Environmental
22 Quality upon showing of proper credentials. Any authorized
23 representative of the Department may examine any records or
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1 memoranda pertaining to discharges, treatment, or other limitations
2 set by permit, order or duly promulgated rules of the Board.

3 F. Any records, reports, or information obtained pursuant to
4 this section shall be available to the public, except that upon
5 submission of sufficient evidence showing that records, reports, or
6 information, or particular parts thereof, other than effluent data,
7 if made public would divulge methods or processes entitled to
8 protection as trade secrets of such person, such record, report, or
9 information, or particular portion thereof shall be considered
10 confidential in accordance with the purposes of the Uniform Trade
11 Secrets Act. Nothing in this subsection shall prohibit the
12 Department or an authorized representative of the Department,
13 including, but not limited to, any authorized contractor, from
14 disclosing records, reports, or information to other officers,
15 employees, or authorized representatives of the State of Oklahoma or
16 the United States concerned with carrying out provisions of state or
17 federal law under their respective jurisdictions or within their
18 respective authorities.

19 G. The Executive Director and any person designated by him to
20 approve all or portions of permits, or to modify, revoke or reissue
21 permits or to make any final decisions in the first instance or on
22 appeal relating to permits or enforcement actions related thereto,
23 shall be required to meet all requirements of Section 304 of the
24 Clean Water Act and federal regulations promulgated thereunder.

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

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

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