

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1093

By: Kerbs

COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; amending 82 O.S. 2011, Section 1085.30, as amended by Section 2, Chapter 137, O.S.L. 2018 (82 O.S. Supp. 2020, Section 1085.30), which relates to classification of water uses; requiring the Oklahoma Water Resources Board to propose certain rules; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 2011, Section 1085.30, as amended by Section 2, Chapter 137, O.S.L. 2018 (82 O.S. Supp. 2020, Section 1085.30), is amended to read as follows:

Section 1085.30 A. 1. In order to effectuate a comprehensive program to assist in the prevention, control and abatement of pollution of the waters of this state, and in order to establish state standards which comply with the Federal Water Pollution Control Act as amended, the Oklahoma Water Resources Board is authorized to promulgate rules to be known as "Oklahoma Water Quality Standards" which establish classifications of uses of waters

1 of the state, criteria to maintain and protect such classifications,
2 and other standards or policies pertaining to the quality of such
3 waters.

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

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

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

18 b. The Board may amend the Oklahoma Water Quality
19 Standards to downgrade a designated use, establish
20 subcategories of a use or may provide for less
21 stringent criteria or other provisions thereof only to
22 the extent as will maintain or improve the existing
23 uses and the water quality of the water affected;
24 provided, however, the Board shall not modify the

Oklahoma Water Quality Standards applicable to scenic river areas as such areas are described by Section ~~1452~~ 896.5 of this title, to downgrade a designated use, establish a subcategory of a use or provide for less stringent criteria or other provisions thereof.

5. The Board shall propose any necessary rules to allow for the development of nutrient trading programs by state environmental agencies no later than November 1, 2026.

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

2. If adoption or amendment of a classification to a lower or downgraded classification is proposed because treatment controls required of the current or a higher or upgraded classification would result in substantial and widespread social and economic impact, the Board shall, in addition to any hearing required by subsection B of this section, conduct a public meeting within a central location

1 within the area to be affected. The Board shall cause notice of
2 such additional public meeting to be published for at least two (2)
3 consecutive weeks in a newspaper of general circulation published in
4 the county or counties in the area affected.

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

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

23 3. Any discharge in accord with such standards of the Board and
24 in compliance with rules, requirements and wasteload allocations

1 established by the Department of Environmental Quality and with
2 rules promulgated by other state environmental agencies shall not be
3 deemed to be pollution.

4 4. Notwithstanding the implementation jurisdiction provided to
5 the Board in paragraph 1 of subsection C of this section, the
6 Department of Environmental Quality shall have jurisdiction to
7 develop and utilize policies and requirements, as provided in
8 paragraph 22 of subsection B of Section 1-3-101 of Title 27A of the
9 Oklahoma Statutes.

10 SECTION 2. This act shall become effective November 1, 2021.

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