

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3824

By: Newton

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 27A O.S. 2021, Section 1-3-101, which relates to state environmental agencies; modifying certain responsibilities of Department of Environmental Quality; providing for adoption of certain variances and site-specific criteria; amending 27A O.S. 2021, Section 2-6-103, which relates to powers and duties of the Department of Environmental Quality; allowing for the direct adoption of certain water quality variances and site-specific criteria; amending 82 O.S. 2021, Section 1085.2, which relates to the authority of the Oklahoma Water Resources Board; modifying certain authority of the Board; amending 82 O.S. 2021, Section 1085.30, which relates to Oklahoma Water Quality Standards; making exception for certain Department-adopted variances and site-specific criteria; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2021, Section 1-3-101, is amended to read as follows:

Section 1-3-101. A. The provisions of this section specify the jurisdictional areas of responsibility for each state environmental agency and state agencies with limited environmental responsibility. 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6 responsibilities specified by this section is hereby superseded.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;

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,
19 including any associated CO2 injection well, over
20 which the Commission is given jurisdiction pursuant to
21 the 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, and adoption of water
9 quality standard variances and site-specific criteria to the extent
10 that such variances and site-specific criteria are utilized in and
11 enforced through water quality permits issued by the Department.
12 Such variances and site-specific criteria may be adopted through
13 rulemaking or through the permitting process; provided that the
14 process satisfies the public participation and water quality
15 standard variance requirements set forth in the corresponding
16 federal regulations;

17 19. Environmental regulation of any entity or activity, and the
18 prevention, control and abatement of any pollution, not subject to
19 the specific statutory authority of another state environmental
20 agency;

21 20. Development and maintenance of a computerized information
22 system relating to water quality pursuant to Section 1-4-107 of this
23 title;

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

4 22. Development and utilization of policies and requirements
5 necessary for the implementation of Oklahoma Groundwater Quality
6 Standards to the extent that the implementation of such standards
7 are within the scope of the Department's jurisdiction, including but
8 not limited to the establishment of points of compliance when
9 warranted.

10 C. Oklahoma Water Resources Board. The Oklahoma Water
11 Resources Board shall have the following jurisdictional areas of
12 environmental responsibility:

13 1. Water quantity including, but not limited to, water rights,
14 surface water and underground water, planning, and interstate stream
15 compacts;

16 2. Weather modification;

17 3. Dam safety;

18 4. Flood plain management;

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

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

3 7. Water well drillers/pump installers licensing;

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

15 9. Except as set forth in ~~paragraph~~ paragraphs 18 and 22 of
16 subsection B of this section, statewide water quality standards and
17 their accompanying use support assessment protocols, anti-
18 degradation policy and implementation, and policies generally
19 affecting Oklahoma Water Quality Standards application and
20 implementation including but not limited to mixing zones, low flows
21 and variances or any modification or change thereof pursuant to
22 Section 1085.30 of Title 82 of the Oklahoma Statutes;

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

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

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

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

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

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

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

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

21 a. point source discharges and nonpoint source runoff
22 from agricultural crop production, agricultural
23 services, livestock production, silviculture, feed
24 yards, livestock markets and animal waste,

- b. pesticide control,
- c. forestry and nurseries,
- d. fertilizer,
- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals,
- f. dairy waste and wastewater associated with milk production facilities,
- g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
- h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
- i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and
- j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

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

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

20 E. Corporation Commission.

21 1. The Corporation Commission is hereby vested with exclusive
22 jurisdiction, power and authority, and it shall be its duty to
23 promulgate and enforce rules, and issue and enforce orders governing
24 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,
- f. underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, of:
 - (1) Class II injection wells,
 - (2) Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Commission,

1 (3) those wells used for the recovery, injection or
2 disposal of mineral brines as defined in the
3 Oklahoma Brine Development Act, and
4 (4) any aspect of any CO2 sequestration facility,
5 including any associated CO2 injection well, over
6 which the Commission is given jurisdiction
7 pursuant to the Oklahoma Carbon Capture and
8 Geologic Sequestration Act.

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

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

19 h. the construction and operation of pipelines and
20 associated rights-of-way, equipment, facilities or
21 buildings used in the transportation of oil, gas,
22 petroleum, petroleum products, anhydrous ammonia or
23 mineral brine, or in the treatment of oil, gas or
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1 mineral brine during the course of transportation but
2 not including line pipes in any:

- 3 (1) natural gas liquids extraction plant,
- 4 (2) refinery,
- 5 (3) reclaiming facility other than for those
6 specified within subparagraph e of this
7 subsection,
- 8 (4) mineral brine processing plant, and
- 9 (5) petrochemical manufacturing plant,

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

- 15 (1) any facility or activity specifically listed in
16 paragraphs 1 and 2 of this subsection as being
17 subject to the jurisdiction of the Commission,
18 and
- 19 (2) other oil and gas extraction facilities and
20 activities,

21 j. spills of deleterious substances associated with
22 facilities and activities specified in paragraph 1 of
23 this subsection or associated with other oil and gas
24 extraction facilities and activities,

- k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata,
- l. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission,
- m. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents, and
- n. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

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

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

1 4. The Commission and the Department of Environmental Quality
2 are hereby authorized to obtain authorization from the Environmental
3 Protection Agency to administer, within their respective
4 jurisdictions, any and all programs regulating oil and gas
5 discharges into the waters of this state. For purposes of the
6 federal Clean Water Act, any facility or activity which is subject
7 to the jurisdiction of the Commission pursuant to paragraph 1 of
8 this subsection and any other oil and gas extraction facility or
9 activity which requires a permit for the discharge of a pollutant or
10 storm water to waters of the United States shall be subject to the
11 direct jurisdiction and permitting authority of the Oklahoma agency
12 having received delegation of this program from the Environmental
13 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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1 5. Maintain a computerized emergency information system
2 allowing state and local access to information regarding hazardous
3 materials' location, quantity and potential threat.

4 SECTION 2. AMENDATORY 27A O.S. 2021, Section 2-6-103, is
5 amended to read as follows:

6 Section 2-6-103. A. The Department of Environmental Quality
7 shall have and is hereby authorized to exercise the power and duty
8 to:

9 1. Develop comprehensive programs for the prevention, control
10 and abatement of new or existing pollution of the waters of this
11 state;

12 2. Encourage, participate in, or conduct studies,
13 investigations, research and demonstrations relating to water
14 pollution and causes, prevention, control and abatement thereof as
15 it may deem advisable and necessary in the public interest for the
16 discharge of its duties under this act;

17 3. Collect and disseminate information relating to water
18 pollution and the prevention, control and abatement thereof;

19 4. Require the submission of and review plans, specifications
20 and other data relative to disposal or treatment systems or any part
21 thereof in connection with the issuance of such permits as are
22 required by this article;

1 5. Enforce the provisions of this article, rules promulgated
2 thereunder, and permits, licenses, and certifications issued
3 pursuant thereto and Oklahoma Water Quality Standards;

4 6. Establish, implement, amend and enforce the Water Quality
5 Management Plan, the continuing planning process documents, and
6 total maximum daily loads;

7 7. Require the submission of reports or laboratory analyses
8 performed by certified laboratories or operators for purposes of
9 compliance monitoring and testing or other purposes for which
10 laboratory reports or analyses are required pursuant to this
11 article;

12 8. Coordinate the preparation of the continuing planning
13 process documents and total maximum daily loads with other
14 environmental agencies and natural resource agencies; and

15 9. Issue swimming and fishing advisories related to human and
16 animal health hazards for waters of the state, based on available
17 data.

18 B. 1. The Environmental Quality Board shall have the authority
19 to promulgate such rules as may be necessary to implement the
20 policies and duties set forth in this article including, but not
21 limited to, rules pertaining to services, permits, licenses and
22 certifications, including certifications under Section 401 of the
23 Clean Water Act, and, pursuant to Section 2-3-402 of this title, fee
24 schedules for such services, permits, licenses and certifications.

1 2. The Board may adopt by reference standards of quality of the
2 waters of the state and classifications of such waters as are
3 lawfully established by the Oklahoma Water Resources Board and the
4 United States Environmental Protection Agency as Oklahoma's Water
5 Quality Standards, may directly adopt variances and site-specific
6 criteria to such water quality standards, and promulgate other rules
7 to protect, maintain and improve the best uses of waters in this
8 state in the interest of the public under such conditions as may be
9 necessary or appropriate for the prevention, control and abatement
10 of pollution.

11 3. The Board shall promulgate rules which describe procedures
12 for amending and updating the Water Quality Management Plan or which
13 are otherwise consistent with the Continuing Planning Process and
14 its components. Such rules shall:

15 a. be in substantial conformance with any applicable
16 federal requirements and may incorporate appropriate
17 U.S. Environmental Protection Agency regulations by
18 reference, and

19 b. require public notice to be given of any major
20 amendment and of any update of the Water Quality
21 Management Plan and allow not less than a forty-five-
22 day opportunity for public comment thereon. Such
23 rules shall also authorize the Department, if it
24 determines public interest in the proposed amendment

1 or update is significant, to give notice of and
2 conduct a public meeting on the proposals in
3 accordance with federal requirements. The rules shall
4 provide that the notice, comment period, and public
5 meeting if any, related to an amendment or update
6 proposed in conjunction with the issuance,
7 modification or renewal of a discharge permit or
8 permits, may be combined with the notice, comment
9 period, and public meeting if any, held on the
10 proposed permit action or actions.

11 C. The Executive Director may:

12 1. Issue, modify, or revoke orders:

- 13 a. prohibiting or abating pollution of the waters of the
14 state,
- 15 b. requiring the construction of new disposal or
16 treatment systems or any parts thereof or the
17 modification, extension or alteration of existing
18 disposal or treatment systems or any part thereof, or
19 the adoption of other remedial measures to prevent,
20 control or abate pollution, and
- 21 c. requiring other actions such as the Executive Director
22 may deem necessary to enforce the provisions of this
23 article and rules promulgated thereunder;

1 2. Issue, continue in effect, revoke, amend, modify or deny,
2 renew, or refuse to renew under such conditions as the Department
3 may prescribe, permits, licenses and certifications, including
4 certifications under Section 401 of the Clean Water Act, to prevent,
5 control or abate pollution of waters of the state; and

6 3. Exercise all incidental powers which are necessary and
7 proper to carry out the purposes of this article.

8 SECTION 3. AMENDATORY 82 O.S. 2021, Section 1085.2, is
9 amended to read as follows:

10 Section 1085.2 In addition to any and all other authority
11 conferred upon it by law, the Oklahoma Water Resources Board shall
12 also have authority:

13 1. Generally to do all such things as in its judgment may be
14 necessary, proper or expedient in the accomplishment of its duties;

15 2. To make such contracts and execute such instruments as in
16 the judgment of the Board are necessary or convenient to the
17 exercise of any of the powers conferred upon it by law. Provided,
18 however, no contract shall be made conveying the title or use of any
19 waters of the State of Oklahoma to any person, firm, corporation or
20 other state or subdivision of government, for sale or use in any
21 other state, unless such contract be specifically authorized by an
22 act of the Oklahoma Legislature and thereafter as approved by it;

23 3. To negotiate contracts and other agreements with the federal
24 government to arrange for the development of water resources and for

1 the storage and distribution of water for beneficial purposes;
2 provided, however, that the Board shall act in such capacity only as
3 an intermediary in assisting others, and under no circumstances
4 shall the Board have any power or authority to build, construct or
5 finance any waterways, dams or other such projects for itself,
6 except as may be otherwise specifically provided by the laws of this
7 state;

8 4. To develop statewide and local plans to assure the best and
9 most effective use and control of water to meet both the current and
10 long-range needs of the people of Oklahoma; to cooperate in such
11 planning with any public or private agency, entity or person
12 interested in water, and is directed to prepare such plans for
13 consideration and approval by the Legislature; and to aid, at all
14 times, counties, incorporated cities and towns and special purpose
15 districts in the state in promoting and developing flood control and
16 water conservation in the state;

17 5. To employ and fix the compensation of such officers, agents,
18 attorneys, technical personnel and employees of the Board as it
19 shall deem necessary to the proper performance of its duties;

20 6. To adopt and use an official seal;

21 7. To promulgate such rules and make orders as it may deem
22 necessary or convenient to the exercise of any of the powers or the
23 performance of any of the duties conferred or imposed upon it by
24 this or any other law;

1 8. To institute and maintain, or to intervene in, any actions
2 or proceedings in or before any court, board, commission or officer
3 of this or any other state or of the United States to stop or
4 prevent any use, misuse, appropriation or taking of any of the
5 waters of this state which is in whole or in part in violation of
6 any law, or of any rules, orders, judgments or decrees of any court,
7 board, commission or officer of this or any state or of the United
8 States; and to institute and maintain or intervene in any other
9 action or proceeding where the Board deems it necessary to the
10 proper execution and discharge of any of the powers or duties
11 conferred or imposed upon it by law;

12 9. To determine, charge and receive fees to be collected in
13 advance for the filing and examination of applications for permits
14 to:

- 15 a. construct water use works,
- 16 b. appropriate groundwater,
- 17 c. appropriate stream water,
- 18 d. establish vested rights,
- 19 e. inspect water use works,
- 20 f. file other papers,
- 21 g. make copies of documents,
- 22 h. make prints of maps and drawings,
- 23 i. certify copies of documents, maps and drawings,
- 24 j. file transfers of water rights,

- 1 k. gauge wells and ditches, changes in point of diversion
2 and changes in place of use of water,
3 l. test wells, and
4 m. hold hearings, make records and provide transcripts of
5 hearings.

6 Such fees shall not be collected from any state agency or state
7 institution;

8 10. To negotiate contracts or water compacts with the federal
9 government or any department or bureau thereof, or with any other
10 state for the purpose of obtaining assistance and cooperation in the
11 accomplishment of the purpose of flood control and water
12 conservation and use in the state. To that end, the Board may match
13 funds with the federal government and with other states upon such
14 terms as shall be agreed upon and approved by the Governor of the
15 state, with the limitation that contracts or water compacts with
16 other states for the division and apportionment of the cost and use
17 of the water controlled by interstate projects shall be submitted to
18 and approved by the Legislature of the state and the Governor of the
19 state, and Congress and the President of the United States
20 conformable to the State and Federal Constitutions;

21 11. To accept gifts and grants of money and property or any
22 interest therein;
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1 12. To provide funding from federal and state monies for water
2 and wastewater project purposes to eligible entities for preliminary
3 engineering reports and planning and feasibility studies;

4 13. To sell or dispose of real or personal property held by the
5 Board when no longer needed in such manner as provided by law;

6 14. To make appropriations of water to all special purpose
7 districts;

8 15. To execute and deliver, without actual consideration
9 therefor, a written release of any easement or easement deed
10 heretofore given to the Conservation Commission of the State of
11 Oklahoma, the Planning and Resources Board or the Oklahoma Water
12 Resources Board on lands situated in this state, whenever it shall
13 appear to said Oklahoma Water Resources Board that the need for such
14 easement or easement deed no longer exists; provided, the owner of
15 the lands affected shall file a written application for such release
16 with the Oklahoma Water Resources Board;

17 16. To adopt, modify or repeal and promulgate standards of
18 quality of the waters of the state and to classify such waters
19 according to their best uses in the interest of the public under
20 such conditions as the Board may prescribe for the prevention,
21 control, and abatement of pollution. The standard of quality of
22 waters of the state adopted by the Board pursuant to the provisions
23 of Section 1085.30 of this title shall be utilized by all
24 appropriate state environmental agencies in implementing their

1 respective duties to abate and prevent pollution to the waters of
2 the state, except the Department of Environmental Quality shall have
3 the authority to adopt water quality standard variances and site-
4 specific criteria to the extent that such variances and site-
5 specific criteria are utilized in and enforced through water quality
6 permits issued by the Department;

7 17. To review disputes involving service areas or territories,
8 rates for raw or treated water, and abrogation clauses in contracts
9 among municipalities and rural water districts or not-for-profit
10 rural water corporations; to recommend mediation and refer parties
11 in appropriate disputes to mediators and provide technical
12 information to such mediators; and to recommend other means of
13 resolving disputes; provided, that no party to such dispute may
14 initiate action in any district court regarding the dispute until
15 written notice of the dispute has been filed with the Board;
16 provided further that the provisions of this paragraph shall not be
17 construed to diminish any right of access to the court granted to a
18 party by law;

19 18. To provide workshop training sessions for board members of
20 rural water districts and not-for-profit rural water corporations
21 throughout the year on a regional basis for the purpose of study and
22 instruction in the areas of financing, law and the ethics, duties
23 and responsibilities of such board members. Such training shall be
24 provided by the Board in conjunction with the Oklahoma Rural Water

1 Association as required by law. To the extent possible, the Board
2 shall attempt to schedule training workshops in three-hour segments
3 to be held in any public facility at a time convenient to the
4 attendees;

5 19. To establish an agency special account through the Office
6 of Management and Enterprise Services and the State Treasurer's
7 Office as necessary for the collection and distribution of funds,
8 including funds of sponsors and registration fees related to
9 conferences, meetings and training sessions; and

10 20. To accredit persons having requisite knowledge in
11 floodplain management and in minimization and prevention of flood
12 hazards and losses.

13 SECTION 4. AMENDATORY 82 O.S. 2021, Section 1085.30, is
14 amended to read as follows:

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

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 the 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
24 896.5 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 5. The Board shall propose any necessary rules to allow for the
4 development of nutrient trading programs by state environmental
5 agencies no later than November 1, 2026.

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

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

1 C. 1. The Oklahoma Water Quality Standards, their accompanying
2 use support assessment protocols, anti-degradation policy and
3 implementation, and policies generally affecting Oklahoma Water
4 Quality Standards application and implementation including, but not
5 limited to, mixing zones, low flows and variances, except for
6 variances and site-specific criteria adopted by the Department of
7 Environmental Quality pursuant to paragraph 18 of subsection B of
8 Section 1-3-101 of Title 27A of the Oklahoma Statutes, or any
9 modification or change thereof shall be promulgated by the Board in
10 compliance with the Administrative Procedures Act and shall be
11 enforced by all state agencies within the scope of their
12 jurisdiction. All use support assessment protocols promulgated by
13 the Board shall be consistent with state and federal law and
14 guidance specifically related to beneficial use support
15 determinations as set forth in Section 305(b) of the Federal Water
16 Pollution Control Act, where applicable.

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

22 3. Any discharge in accord with such standards of the Board and
23 in compliance with rules, requirements and wasteload allocations
24 established by the Department of Environmental Quality and with

1 rules promulgated by other state environmental agencies shall not be
2 deemed to be pollution.

3 4. Notwithstanding the implementation jurisdiction provided to
4 the Board in paragraph 1 of subsection C of this section, the
5 Department of Environmental Quality shall have jurisdiction to adopt
6 variances and site-specific criteria and to develop and utilize
7 policies and requirements, as provided in ~~paragraph~~ paragraphs 18
8 and 22 of subsection B of Section 1-3-101 of Title 27A of the
9 Oklahoma Statutes.

10 SECTION 5. This act shall become effective November 1, 2022.

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12 58-2-10612 JBH 02/16/22
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