

1 ENGROSSED HOUSE
2 BILL NO. 1093

By: Kerbs of the House

3 and

4 Murdock of the Senate

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7 [waters and water rights - requiring the Oklahoma
8 Water Resources Board to propose certain rules -
9 effective date]
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

1 river areas as such areas are described by Section
2 ~~1452~~ 896.5 of this title, to downgrade a designated
3 use, establish a subcategory of a use or provide for
4 less stringent criteria or other provisions thereof.

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

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

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

1 consecutive weeks in a newspaper of general circulation published in
2 the county or counties in the area affected.

3 C. 1. The Oklahoma Water Quality Standards, their accompanying
4 use 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
8 modification or change thereof shall be promulgated by the Board in
9 compliance with the Administrative Procedures Act and shall be
10 enforced by all state agencies within the scope of their
11 jurisdiction. All use support assessment protocols promulgated by
12 the Board shall be consistent with state and federal law and
13 guidance specifically related to beneficial use support
14 determinations as set forth in Section 305(b) of the Federal Water
15 Pollution Control Act, where applicable.

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

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

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

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

Passed the House of Representatives the 3rd day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2021.

Presiding Officer of the Senate