

An Act

ENROLLED SENATE
BILL NO. 1325

By: Daniels of the Senate

and

Moore of the House

An Act relating to water and water rights; amending 2 O.S. 2021, Sections 10-9.8a and 20-21, which relate to the Oklahoma Registered Poultry Feeding Operations Act and Oklahoma Swine Feeding Operations Act; amending 27A O.S. 2021, Sections 1-1-202, 1-3-101, and 2-6-103, which relate to powers of state environmental agencies and powers and duties of Department of Environmental Quality; amending 82 O.S. 2021, Sections 1085.30 and 1085.30a, which relate to Oklahoma Water Quality Standards; transferring authority to administer Oklahoma Water Quality Standards to the Department of Environmental Quality; conforming language; updating statutory language; and providing an effective date.

SUBJECT: Oklahoma Water Quality Standards

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 10-9.8a, is amended to read as follows:

Section 10-9.8a. On and after the effective date of this act:

1. No new or expanding poultry feeding operations, operated by entities prohibited in Section 951 of Title 18 of the Oklahoma Statutes including but not limited to entities operating as prescribed by Section 954 of Title 18 of the Oklahoma Statutes, shall be constructed within a one-hundred-year flood plain; and

2. No new or expanding poultry feeding operations, operated by entities prohibited in Section 951 of Title 18 of the Oklahoma Statutes including but not limited to entities operating as prescribed by Section 954 of Title 18 of the Oklahoma Statutes, shall be constructed within the following minimum buffer areas:

- a. one and one-half (1 1/2) miles of the high water mark of a surface public water supply if the poultry feeding operation is located within the watershed for the public water supply,
- b. one (1) mile of any designated scenic river area as specified by the Scenic Rivers Act,
- c. one (1) mile of a public drinking water well, and
- d. one (1) mile of a water body specified as ~~Outstanding Resource Waters~~ outstanding resource waters that has recreational or ecological significance as outlined by the most current Oklahoma Water Quality Standards promulgated by the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality.

SECTION 2. AMENDATORY 2 O.S. 2021, Section 20-21, is amended to read as follows:

Section 20-21. Except as otherwise provided by Section 20-19 of this title and subsection I of this section, swine feeding operations using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within the following applicable distances from an occupied residence:

- 1. More than 4000 swine animal units.....2 miles;
- 2. 2001 to 4000 swine animal units.....1 1/4 miles;
- 3. 1001 to 2000 swine animal units.....3/4 mile;
- 4. 601 to 1000 swine animal units.....1/2 mile;
- 5. 300 to 600 swine animal units.....1/4 mile; and

6. Less than 300 swine animal units.....no setback.

B. Except as otherwise provided by Section 20-19 of this title and subsection I of this section, new swine feeding operations established on or after November 1, 2011, using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within three (3) miles from the outside boundary of any area or facility with an average annual registered attendance of not less than two thousand (2,000) people and owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the swine feeding operation.

C. Except as otherwise provided by Section 20-19 of this title and subsection I of this section, new swine feeding operations established on or after November 1, 2011, using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within one (1) mile from the outside boundary of any area or facility with an average annual registered attendance of less than two thousand (2,000) people and owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the swine feeding operation.

D. Except as otherwise provided by this section, no licensed managed feeding operation which applies for a new or expanding concentrated swine feeding operation license shall be located within three (3) miles of the outside boundary of any area or facility owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the concentrated swine feeding operation.

E. 1. In determining whether any such area or facility is a camp or recreational site, the State Board of Agriculture shall consider:

- a. whether a reasonable person, after considering the totality of the circumstances, would determine that the area or facility is predominately used for camping or recreational purposes,
- b. the type of permanent structures or fixtures of a recreational nature located on the land,

- c. the frequency with which the site is used for recreational purposes,
- d. the types of activities which are conducted or engaged in on the site, and
- e. any other factors the Board deems directly relevant to the question of whether a site is recreational in nature.

2. The setbacks contained in subsections B, C and D shall apply only if the property was owned or leased by such organization prior to the construction or establishment of the swine feeding operation.

F. The setback requirements contained in subsections A, B, C or D of this section shall not apply to any property owner who executes a written waiver with the owner or operator of the swine feeding operation, under such terms and conditions as are agreed to by the parties. The written waiver shall be effective upon recording of the waiver in the office of the county clerk in the county in which the property is located. The filed waiver shall preclude enforcement of the setback requirements of subsection A, B, C or D of this section with regard to property described in the waiver and owned by the person executing the waiver. A change in ownership of the applicable property or change in ownership of the property on which the swine feeding operation is located shall not affect the validity of the waiver.

G. No licensed managed feeding operation established after June 10, 1998 which applies for a new or expanding license shall be located:

1. Within three (3) miles of any designated scenic river area as specified by the Scenic Rivers Act;

2. Within three (3) miles of the outside boundary of any historic property or museum owned by ~~the State of Oklahoma~~ this state;

3. Within three (3) miles of a public drinking water well;

4. Within one (1) mile of a water body specified as ~~Outstanding Resource Waters~~ outstanding resource waters that has recreational or ecological significance as outlined by the most current Oklahoma Water Quality Standards promulgated by the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality; or

5. Within three (3) miles of a national park designated by the United States Department of the Interior National Park Service.

H. All distances between occupied residences and swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Oklahoma Department of Agriculture, Food, and Forestry. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

I. The provisions of this section shall not apply to any swine feeding operation which has been licensed by or which had submitted an application to the Department on or prior to March 9, 1998. In addition, the provisions of this section shall not apply to any swine feeding operation with a capacity of 2000 swine animal units or less which was established prior to June 1, 1998.

SECTION 3. AMENDATORY 27A O.S. 2021, Section 1-1-202, is amended to read as follows:

Section 1-1-202. A. Each state environmental agency shall:

1. Be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility;

2. Utilize and enforce the Oklahoma Water Quality Standards established by the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality;

3. Seek to strengthen relationships between state, regional, local and federal environmental planning, development and management programs;

4. Specifically facilitate cooperation across jurisdictional lines of authority with other state environmental agencies regarding programs to resolve environmental concerns;

5. Cooperate with all state environmental agencies, other state agencies and local or federal governmental entities to protect, foster, and promote the general welfare, and the environment and natural resources of this state;

6. Have the authority to engage in environmental and natural resource information dissemination and education activities within their respective areas of environmental jurisdiction; and

7. Participate in every hearing conducted by the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality for the consideration, adoption or amendment of the classification of waters of the state and standards of purity and quality thereof, and shall have the opportunity to present written comment to the members of the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality at the same time staff recommendations are submitted to those members for Board review and consideration.

B. 1. In addition to the requirements of subsection A of this section, each state environmental agency shall have promulgated by July 1, 2001, a Water Quality Standards Implementation Plan for its jurisdictional areas of environmental responsibility in compliance with the Administrative Procedures Act and pursuant to the provisions of this section. Each agency shall review its plan at least every three (3) years thereafter to determine whether revisions to the plan are necessary.

2. Upon the request of any state environmental agency, the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality shall provide consulting assistance to such agency in developing a Water Quality Standards Implementation Plan as required by this subsection.

3. Each Water Quality Standards Implementation Plan shall:

- a. describe, generally, the processes, procedures and methodologies the state environmental agency will utilize to ensure that programs within its

jurisdictional areas of environmental responsibility will comply with anti-degradation standards and lead to:

- (1) maintenance of water quality where beneficial uses are supported,
 - (2) removal of threats to water quality where beneficial uses are in danger of not being supported, and
 - (3) restoration of water quality where beneficial uses are not being supported,
- b. include the procedures to be utilized in the application of use support assessment protocols to make impairment determinations,
 - c. list and describe programs affecting water quality,
 - d. include technical information and procedures to be utilized in implementing the Water Quality Standards Implementation Plan,
 - e. describe the method by which the Water Quality Standards Implementation Plan will be integrated into the water quality management activities within the jurisdictional areas of environmental responsibility of the state environmental agency,
 - f. detail the manner in which the agency will comply with mandated statewide requirements affecting water quality developed by other state environmental agencies including, but not limited to, total maximum daily load development, water discharge permit activities and nonpoint source pollution prevention programs,
 - g. include a brief summary of the written comments and testimony received pursuant to all public meetings held or sponsored by the state environmental agency for the purpose of providing the public and other

state environmental agencies an opportunity to comment on the plan, and

- h. describe objective methods and means to evaluate the effectiveness of activities conducted pursuant to the Water Quality Standards Implementation Plan to achieve Oklahoma Water Quality Standards.

C. 1. Each state environmental agency with groundwater protection authority pursuant to Article III of the Oklahoma Environmental Quality Act shall be the groundwater protection agency for activities within its jurisdictional areas of environmental responsibility.

2. The Department of Environmental Quality shall cooperate with other state environmental agencies, as appropriate and necessary, in the protection of such unassigned activities.

3. Groundwater regulatory agencies shall develop groundwater protection practices to prevent groundwater contamination from activities within their respective jurisdictional areas of environmental responsibility.

4. Each groundwater protection agency shall promulgate such rules, and issue such permits, policies, directives or any other appropriate requirements, as necessary, to implement the requirements of this subsection.

5. Groundwater protection agencies shall take such action as may be necessary to assure that activities within their respective jurisdictional areas of environmental responsibility protect groundwater quality to support the uses of the state's water quality.

6. In addition, each groundwater protection agency with enforcement authority is hereby authorized to:

- a. engage the voluntary cooperation of all persons in the maintenance and protection of groundwater, and to advise, consult and cooperate with all persons, all agencies of the state, universities and colleges, the federal government or other states, and with

interstate agencies in the furtherance of the purposes of this subsection, and to this end and for the purposes of studies, scientific or other investigations, research, experiments and demonstrations pertaining thereto, receive and spend funds as appropriated by the Legislature, and from such agencies and other officers and persons on behalf of the state,

- b. encourage the formulation and execution of plans to maintain and protect groundwater by cooperative groups or associations of municipal corporations, industries, industrial users and other users of groundwaters of the state, who, jointly or severally, are or may be impacting on the maintenance and protection of groundwater,
- c. encourage, participate in or conduct or cause to be conducted studies, scientific or other investigations, research, experiments and demonstrations relating to the maintenance and protection of groundwater, and to collect data with respect thereto, all as may be deemed advisable and necessary to carry out the purposes of this subsection, and to make reports and recommendations with respect thereto,
- d. conduct groundwater sampling, data collection, analyses and evaluations with sufficient frequency to ascertain the characteristics and quality of groundwater and the sufficiency of the groundwater protection programs established pursuant to this subsection, and
- e. develop a public education and promotion program to aid and assist in publicizing the need of, and securing support for, the maintenance and protection of groundwater.

D. Each state environmental agency and each state agency with limited environmental responsibilities shall participate in the information management system developed by the Department of

Environmental Quality, pursuant to Section 1-4-107 of this title, with such information as the Department shall reasonably request.

E. In each even-numbered year, in cooperation with other state environmental agencies participating in the monitoring of water resources, the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality shall provide a report on the status of water quality monitoring to the Legislature for review.

SECTION 4. 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 in this section shall be in addition to those otherwise provided by law and assigned to the specific state environmental agency; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional environmental responsibilities specified by this section is hereby superseded. The provisions of this subsection shall not nullify any financial obligation arising from services rendered pursuant to any interagency agreement or executive order entered into prior to July 1, 1993, nor nullify any obligations or agreements with private persons or parties entered into with any state environmental agency before July 1, 1993.

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

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

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

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

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

5. Waterworks and wastewater works operator certification;

6. Public and private water supplies;

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

- a. Class II injection wells,
- b. Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Corporation Commission,
- c. those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act regulated by the Commission, and
- d. any aspect of any CO2 sequestration facility, including any associated CO2 injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act;

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

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

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

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

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

13. Emergency response as specified by law;

14. Environmental laboratory services and laboratory certification;

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

16. Freshwater wellhead protection;

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

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

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

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

21. Development and promulgation of a Oklahoma Water Quality Standards, their accompanying use support assessment protocols, anti-degradation policies generally affecting Oklahoma Water Quality Standards application and implementation including but not limited to mixing zones, low flows and variances or any modification or change thereof pursuant to Section 1085.30 of Title 82 of the Oklahoma Statutes, and the Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility; and

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

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

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

2. Weather modification;

3. Dam safety;

4. Flood plain management;

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

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

7. Water well drillers/pump installers licensing;

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

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

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

~~11.~~ 10. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility;

~~12.~~ 11. Development of classifications and identification of permitted uses of groundwater, in recognized water rights, and associated groundwater recharge areas;

~~13.~~ 12. Establishment and implementation of a statewide beneficial use monitoring program for waters of the state in coordination with the other state environmental agencies;

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

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

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

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

- a. point source discharges and nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed 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:

a. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,

(2) slaughterhouses, but not including feedlots at these facilities, and

(3) aquaculture and fish hatcheries,

including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities, and

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

E. Corporation Commission.

1. The Corporation Commission is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to promulgate and enforce rules, and issue and enforce orders governing 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,
 - (3) those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act, and
 - (4) any aspect of any CO2 sequestration facility, including any associated CO2 injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act.

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

- g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,
- h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:
 - (1) natural gas liquids extraction plant,
 - (2) refinery,
 - (3) reclaiming facility other than for those specified within subparagraph e of this subsection,
 - (4) mineral brine processing plant, and
 - (5) petrochemical manufacturing plant,
- i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells, at:
 - (1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
 - (2) other oil and gas extraction facilities and activities,

- j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas 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.

4. The Commission and the Department of Environmental Quality are hereby authorized to obtain authorization from the Environmental Protection Agency to administer, within their respective jurisdictions, any and all programs regulating oil and gas discharges into the waters of this state. For purposes of the federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Commission pursuant to paragraph 1 of

this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or storm water to waters of the United States shall be subject to the direct jurisdiction and permitting authority of the Oklahoma agency having received delegation of this program from the Environmental Protection Agency.

5. The Commission shall have jurisdiction over:

- a. underground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality,
- b. aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality, and

- c. the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund, the Oklahoma Petroleum Storage Tank Release Indemnity Program, and the Oklahoma Leaking Underground Storage Tank Trust Fund.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities. The Department of Environmental Quality shall not have any jurisdiction with respect to pipeline transportation of carbon dioxide.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for point and nonpoint source discharges of pollutants and storm water to waters of the state from:

- a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,
- b. manufacturing of equipment and products related to oil and gas,
- c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection, and
- d. other facilities, activities and sources not subject to the jurisdiction of the Commission or the Oklahoma Department of Agriculture, Food, and Forestry as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the federal Clean Air Act as amended.

F. Oklahoma Conservation Commission. The Oklahoma Conservation Commission shall have the following jurisdictional areas of environmental responsibility:

- 1. Soil conservation, erosion control and nonpoint source management except as otherwise provided by law;

2. Monitoring, evaluation and assessment of waters to determine the condition of streams and rivers being impacted by nonpoint source pollution. In carrying out this area of responsibility, the Oklahoma Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the federal Clean Water Act or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal storm water or as otherwise provided by state law;

3. Wetlands strategy;

4. Abandoned mine reclamation;

5. Cost-share program for land use activities;

6. Assessment and conservation plan development and implementation in watersheds of clean lakes, as specified by law;

7. Complaint data management;

8. Coordination of environmental and natural resources education;

9. Federal upstream flood control program;

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

11. 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;

12. Utilization of Oklahoma Water Quality Standards and Implementation documents; and

13. Verification and certification of carbon sequestration pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This responsibility shall not be superseded by the Oklahoma Carbon Capture and Geologic Sequestration Act.

G. Department of Mines. The Department of Mines shall have the following jurisdictional areas of environmental responsibility:

1. Mining regulation;
2. Mining reclamation of active mines;
3. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission; and
4. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of responsibility.

H. Department of Wildlife Conservation. The Department of Wildlife Conservation shall have the following jurisdictional areas of environmental responsibilities:

1. Investigating wildlife kills;
2. Wildlife protection and seeking wildlife damage claims; and
3. 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.

I. Department of Public Safety. The Department of Public Safety shall have the following jurisdictional areas of environmental responsibilities:

1. Hazardous waste, substances and material transportation inspections as authorized by the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act; and
2. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act.

J. Department of Labor. The Department of Labor shall have the following jurisdictional areas of environmental responsibility:

1. Regulation of asbestos in the workplace pursuant to Chapter 11 of Title 40 of the Oklahoma Statutes;

2. Asbestos monitoring in public and private buildings; and

3. Indoor air quality as regulated under the authority of the Oklahoma Occupational Health and Safety Standards Act, except for those indoor air quality issues specifically authorized to be regulated by another agency.

Such programs shall be a function of the Department's occupational safety and health jurisdiction.

K. Oklahoma Department of Emergency Management. The Oklahoma Department of Emergency Management shall have the following jurisdictional areas of environmental responsibilities:

1. Coordination of all emergency resources and activities relating to threats to citizens' lives and property pursuant to the Oklahoma Emergency Resources Management Act of 1967;

2. Administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 and develop such other emergency operations plans that will enable the state to prepare for, respond to, recover from and mitigate potential environmental emergencies and disasters pursuant to the Oklahoma Hazardous Materials Planning and Notification Act;

3. Administer and conduct periodic exercises of emergency operations plans provided for in this subsection pursuant to the Oklahoma Emergency Resources Management Act of 1967;

4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders pursuant to the Oklahoma Emergency Resources Management Act of 1967; and

5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

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

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

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

2. Encourage, participate in, or conduct studies, investigations, research and demonstrations relating to water pollution and causes, prevention, control and abatement thereof as it may deem advisable and necessary in the public interest for the discharge of its duties under ~~this act~~ Section 2-6-101 et seq. of this title;

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

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

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

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

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

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

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

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

2. The Board may adopt by reference standards of quality of the waters of the state and classifications of such waters as are lawfully established by the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality and the United States Environmental Protection Agency as ~~Oklahoma's~~ Oklahoma Water Quality Standards and promulgate other rules to protect, maintain and improve the best uses of waters in this state in the interest of the public under such conditions as may be necessary or appropriate for the prevention, control and abatement of pollution.

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

- a. be in substantial conformance with any applicable federal requirements and may incorporate appropriate U.S. Environmental Protection Agency regulations by reference, and
- b. require public notice to be given of any major amendment and of any update of the Water Quality Management Plan and allow not less than a forty-five-day opportunity for public comment thereon. Such rules shall also authorize the Department, if it determines public interest in the proposed amendment

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

C. The Executive Director may:

1. Issue, modify, or revoke orders:

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

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

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

SECTION 6. AMENDATORY 82 O.S. 2021, 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~~ Department of Environmental Quality is authorized to promulgate rules to be known as "Oklahoma Water Quality Standards" which establish classifications of uses of waters of the state, criteria to maintain and protect such classifications, and other standards or policies pertaining to the quality of such waters.

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

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

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

b. The ~~Board~~ Department may amend the Oklahoma Water Quality Standards to downgrade a designated use, establish subcategories of a use or may provide for less stringent criteria or other provisions thereof only to the extent as will maintain or improve the existing uses and the water quality of the water affected; provided, however, the ~~Board~~ Department shall not modify the Oklahoma Water Quality Standards applicable to scenic river areas as such areas are described by Section 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~~ Department 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~~ Department 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 Quality 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~~ Department shall, in addition to any hearing required by subsection B of this section, conduct a public meeting within a central location within the area to be affected. The ~~Board~~ Department shall cause notice of such additional public meeting to be published for at least two (2) consecutive weeks in a newspaper of general circulation published in the county or counties in the area affected.

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

2. In promulgating Oklahoma Water Quality Standards or making any modification or change thereof, the ~~Board~~ Department shall

announce a reasonable time for persons discharging waste into the waters of the state to comply with such new or modified standards unless such discharges create an actual or potential hazard to public health.

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

4. Notwithstanding the implementation jurisdiction provided to the ~~Board~~ Department in paragraph 1 of subsection C of this section, the Department of Environmental Quality shall also 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 7. AMENDATORY 82 O.S. 2021, Section 1085.30a, is amended to read as follows:

Section 1085.30a. Oklahoma Water Quality Standards, promulgated by the ~~Oklahoma Water Resources Board~~ Department of Environmental Quality, shall designate:

1. Watersheds that are nutrient-limited; and
2. Groundwaters that are nutrient-vulnerable.

SECTION 8. This act shall become effective November 1, 2022.

Passed the Senate the 8th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 28th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____