

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1093

By: Kerbs

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8                               COMMITTEE SUBSTITUTE

9                   An Act relating to waters and water rights; amending  
10                   82 O.S. 2011, Section 1085.30, as amended by Section  
11                   2, Chapter 137, O.S.L. 2018 (82 O.S. Supp. 2020,  
12                   Section 1085.30), which relates to classification of  
13                   water uses; requiring the Oklahoma Water Resources  
14                   Board to propose certain rules; and providing an  
15                   effective date.

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

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

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

1 Quality Standards" which establish classifications of uses of waters  
2 of the state, criteria to maintain and protect such classifications,  
3 and other standards or policies pertaining to the quality of such  
4 waters.

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

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

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

19 b. The Board may amend the Oklahoma Water Quality  
20 Standards to downgrade a designated use, establish  
21 subcategories of a use or may provide for less  
22 stringent criteria or other provisions thereof only to  
23 the extent as will maintain or improve the existing  
24 uses and the water quality of the water affected;

1 provided, however, the Board shall not modify the  
2 Oklahoma Water Quality Standards applicable to scenic  
3 river areas as such areas are described by Section  
4 ~~1452~~ 896.5 of this title, to downgrade a designated  
5 use, establish a subcategory of a use or provide for  
6 less stringent criteria or other provisions thereof.

7 5. The Board shall propose any necessary rules to allow  
8 for the development of nutrient trading programs by  
9 state environmental agencies no later than November 1,  
10 2026.

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

20 2. If adoption or amendment of a classification to a lower or  
21 downgraded classification is proposed because treatment controls  
22 required of the current or a higher or upgraded classification would  
23 result in substantial and widespread social and economic impact, the  
24 Board shall, in addition to any hearing required by subsection B of

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

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

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

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

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

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

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14 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,  
15 dated 02/23/2021 - DO PASS, As Amended.  
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