

1 **SENATE FLOOR VERSION**

2 April 7, 2022

3 ENGROSSED HOUSE
4 BILL NO. 3824

By: Newton of the House

and

Jech of the Senate

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8
9 An Act relating to environment and natural resources;
10 amending 27A O.S. 2021, Section 1-3-101, which
11 relates to state environmental agencies; modifying
12 certain responsibilities of Department of
13 Environmental Quality; providing for adoption of
14 certain variances and site-specific criteria;
15 amending 27A O.S. 2021, Section 2-6-103, which
16 relates to powers and duties of the Department of
17 Environmental Quality; allowing for the direct
18 adoption of certain water quality variances and site-
19 specific criteria; amending 82 O.S. 2021, Section
20 1085.2, which relates to the authority of the
21 Oklahoma Water Resources Board; modifying certain
22 authority of the Board; amending 82 O.S. 2021,
23 Section 1085.30, which relates to Oklahoma Water
24 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

1 agency and state agencies with limited environmental responsibility.
2 The jurisdictional areas of environmental responsibility specified
3 in this section shall be in addition to those otherwise provided by
4 law and assigned to the specific state environmental agency;
5 provided that any rule, interagency agreement or executive order
6 enacted or entered into prior to the effective date of this section
7 which conflicts with the assignment of jurisdictional environmental
8 responsibilities specified by this section is hereby superseded.
9 The provisions of this subsection shall not nullify any financial
10 obligation arising from services rendered pursuant to any
11 interagency agreement or executive order entered into prior to July
12 1, 1993, nor nullify any obligations or agreements with private
13 persons or parties entered into with any state environmental agency
14 before July 1, 1993.

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

18 1. All point source discharges of pollutants and storm water to
19 waters of the state which originate from municipal, industrial,
20 commercial, mining, transportation and utilities, construction,
21 trade, real estate and finance, services, public administration,
22 manufacturing and other sources, facilities and activities, except
23 as provided in subsections D and E of this section;
24

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

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

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

9 5. Waterworks and wastewater works operator certification;

10 6. Public and private water supplies;

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

13 a. Class II injection wells,

14 b. Class V injection wells utilized in the remediation of
15 groundwater associated with underground or aboveground
16 storage tanks regulated by the Corporation Commission,

17 c. those wells used for the recovery, injection or
18 disposal of mineral brines as defined in the Oklahoma
19 Brine Development Act regulated by the Commission, and

20 d. any aspect of any CO2 sequestration facility,
21 including any associated CO2 injection well, over
22 which the Commission is given jurisdiction pursuant to
23 the Oklahoma Carbon Capture and Geologic Sequestration
24 Act;

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

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

9 10. Superfund responsibilities of the state under the
10 Comprehensive Environmental Response, Compensation and Liability Act
11 of 1980 and amendments thereto, except the planning requirements of
12 Title III of the Superfund Amendment and Reauthorization Act of
13 1986;

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

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

23 13. Emergency response as specified by law;
24

1 14. Environmental laboratory services and laboratory
2 certification;

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

5 16. Freshwater wellhead protection;

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

9 18. Utilization and enforcement of Oklahoma Water Quality
10 Standards and implementation documents, and adoption of water
11 quality standard variances and site-specific criteria to the extent
12 that such variances and site-specific criteria are utilized in and
13 enforced through water quality permits issued by the Department.
14 Such variances and site-specific criteria may be adopted through
15 rulemaking or through the permitting process; provided that the
16 process satisfies the public participation and water quality
17 standard variance requirements set forth in the corresponding
18 federal regulations;

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

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

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

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

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

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

19 2. Weather modification;

20 3. Dam safety;

21 4. Flood plain management;

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

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

6 7. Water well drillers/pump installers licensing;

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

18 9. Except as set forth in ~~paragraph~~ paragraphs 18 and 22 of
19 subsection B of this section, statewide water quality standards and
20 their accompanying use support assessment protocols, anti-
21 degradation policy and implementation, and policies generally
22 affecting Oklahoma Water Quality Standards application and
23 implementation including but not limited to mixing zones, low flows
24

1 and variances or any modification or change thereof pursuant to
2 Section 1085.30 of Title 82 of the Oklahoma Statutes;

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

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

8 12. Development of classifications and identification of
9 permitted uses of groundwater, in recognized water rights, and
10 associated groundwater recharge areas;

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

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

18 15. Development and submission of a report concerning the
19 status of water quality monitoring in this state pursuant to Section
20 1-1-202 of this title.

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

22 1. The Oklahoma Department of Agriculture, Food, and Forestry
23 shall have the following jurisdictional areas of environmental
24 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.

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

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

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

12 (3) aquaculture and fish hatcheries,
13 including, but not limited to, discharges of
14 pollutants and storm water to waters of the state,
15 surface impoundments and land application of wastes
16 and sludge, and other pollution originating at these
17 facilities, and

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

24 E. Corporation Commission.

1 1. The Corporation Commission is hereby vested with exclusive
2 jurisdiction, power and authority, and it shall be its duty to
3 promulgate and enforce rules, and issue and enforce orders governing
4 and regulating:

5 a. the conservation of oil and gas,

6 b. field operations for geologic and geophysical
7 exploration for oil, gas and brine, including seismic
8 survey wells, stratigraphic test wells and core test
9 wells,

10 c. the exploration, drilling, development, producing or
11 processing for oil and gas on the lease site,

12 d. the exploration, drilling, development, production and
13 operation of wells used in connection with the
14 recovery, injection or disposal of mineral brines,

15 e. reclaiming facilities only for the processing of salt
16 water, crude oil, natural gas condensate and tank
17 bottoms or basic sediment from crude oil tanks,
18 pipelines, pits and equipment associated with the
19 exploration, drilling, development, producing or
20 transportation of oil or gas,

21 f. underground injection control pursuant to the federal
22 Safe Drinking Water Act and 40 CFR Parts 144 through
23 148, of:

24 (1) Class II injection wells,

- 1 (2) Class V injection wells utilized in the
2 remediation of groundwater associated with
3 underground or aboveground storage tanks
4 regulated by the Commission,
5 (3) those wells used for the recovery, injection or
6 disposal of mineral brines as defined in the
7 Oklahoma Brine Development Act, and
8 (4) any aspect of any CO2 sequestration facility,
9 including any associated CO2 injection well, over
10 which the Commission is given jurisdiction
11 pursuant to the Oklahoma Carbon Capture and
12 Geologic Sequestration Act.

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

- 16 g. tank farms for storage of crude oil and petroleum
17 products which are located outside the boundaries of
18 refineries, petrochemical manufacturing plants,
19 natural gas liquid extraction plants, or other
20 facilities which are subject to the jurisdiction of
21 the Department of Environmental Quality with regard to
22 point source discharges,
23 h. the construction and operation of pipelines and
24 associated rights-of-way, equipment, facilities or

1 buildings used in the transportation of oil, gas,
2 petroleum, petroleum products, anhydrous ammonia or
3 mineral brine, or in the treatment of oil, gas or
4 mineral brine during the course of transportation but
5 not including line pipes in any:

6 (1) natural gas liquids extraction plant,

7 (2) refinery,

8 (3) reclaiming facility other than for those
9 specified within subparagraph e of this
10 subsection,

11 (4) mineral brine processing plant, and

12 (5) petrochemical manufacturing plant,

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

18 (1) any facility or activity specifically listed in
19 paragraphs 1 and 2 of this subsection as being
20 subject to the jurisdiction of the Commission,
21 and

22 (2) other oil and gas extraction facilities and
23 activities,
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- 1 j. spills of deleterious substances associated with
2 facilities and activities specified in paragraph 1 of
3 this subsection or associated with other oil and gas
4 extraction facilities and activities,
5 k. subsurface storage of oil, natural gas and liquefied
6 petroleum gas in geologic strata,
7 l. groundwater protection for activities subject to the
8 jurisdictional areas of environmental responsibility
9 of the Commission,
10 m. utilization and enforcement of Oklahoma Water Quality
11 Standards and implementation documents, and
12 n. development and promulgation of a Water Quality
13 Standards Implementation Plan pursuant to Section 1-1-
14 202 of this title for its jurisdictional areas of
15 environmental responsibility.

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

21 3. When a deleterious substance from a Commission-regulated
22 facility or activity enters a point source discharge of pollutants
23 or storm water from a facility or activity regulated by the
24 Department of Environmental Quality, the Department shall have sole

1 jurisdiction over the point source discharge of the commingled
2 pollutants and storm water from the two facilities or activities
3 insofar as Department-regulated facilities and activities are
4 concerned.

5 4. The Commission and the Department of Environmental Quality
6 are hereby authorized to obtain authorization from the Environmental
7 Protection Agency to administer, within their respective
8 jurisdictions, any and all programs regulating oil and gas
9 discharges into the waters of this state. For purposes of the
10 federal Clean Water Act, any facility or activity which is subject
11 to the jurisdiction of the Commission pursuant to paragraph 1 of
12 this subsection and any other oil and gas extraction facility or
13 activity which requires a permit for the discharge of a pollutant or
14 storm water to waters of the United States shall be subject to the
15 direct jurisdiction and permitting authority of the Oklahoma agency
16 having received delegation of this program from the Environmental
17 Protection Agency.

18 5. The Commission shall have jurisdiction over:

19 a. underground storage tanks that contain antifreeze,
20 motor oil, motor fuel, gasoline, kerosene, diesel, or
21 aviation fuel and that are not located at refineries
22 or at the upstream or intermediate shipment points of
23 pipeline operations, including, but not limited to,
24 tanks from which these materials are dispensed into

1 vehicles, or tanks used in wholesale or bulk
2 distribution activities, as well as leaks from pumps,
3 hoses, dispensers, and other ancillary equipment
4 associated with the tanks, whether above the ground or
5 below; provided, that any point source discharge of a
6 pollutant to waters of the United States during site
7 remediation or the off-site disposal of contaminated
8 soil, media, or debris shall be regulated by the
9 Department of Environmental Quality,

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

1 c. the Petroleum Storage Tank Release Environmental
2 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
3 Tank Release Indemnity Program, and the Oklahoma
4 Leaking Underground Storage Tank Trust Fund.

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

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

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

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

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

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

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

19 3. Wetlands strategy;

20 4. Abandoned mine reclamation;

21 5. Cost-share program for land use activities;

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

24 7. Complaint data management;

1 8. Coordination of environmental and natural resources
2 education;

3 9. Federal upstream flood control program;

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

7 11. Development and promulgation of a Water Quality Standards
8 Implementation Plan pursuant to Section 1-1-202 of this title for
9 its jurisdictional areas of environmental responsibility;

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

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

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

18 1. Mining regulation;

19 2. Mining reclamation of active mines;

20 3. Groundwater protection for activities subject to the
21 jurisdictional areas of environmental responsibility of the
22 Commission; and
23
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1 4. Development and promulgation of a Water Quality Standards
2 Implementation Plan pursuant to Section 1-1-202 of this title for
3 its jurisdictional areas of responsibility.

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

- 7 1. Investigating wildlife kills;
- 8 2. Wildlife protection and seeking wildlife damage claims; and
- 9 3. Development and promulgation of a Water Quality Standards
10 Implementation Plan pursuant to Section 1-1-202 of this title for
11 its jurisdictional areas of environmental responsibility.

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

- 15 1. Hazardous waste, substances and material transportation
16 inspections as authorized by the Hazardous Materials Transportation
17 Act; and
- 18 2. Inspection and audit activities of hazardous waste and
19 materials carriers and handlers as authorized by the Hazardous
20 Materials Transportation Act.

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

- 23 1. Regulation of asbestos in the workplace pursuant to Chapter
24 11 of Title 40 of the Oklahoma Statutes;

1 2. Asbestos monitoring in public and private buildings; and

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

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

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

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

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

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

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

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

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

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

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

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

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

22 4. Require the submission of and review plans, specifications
23 and other data relative to disposal or treatment systems or any part
24

1 thereof in connection with the issuance of such permits as are
2 required by this article;

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

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

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

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

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

20 B. 1. The Environmental Quality Board shall have the authority
21 to promulgate such rules as may be necessary to implement the
22 policies and duties set forth in this article including, but not
23 limited to, rules pertaining to services, permits, licenses and
24 certifications, including certifications under Section 401 of the

1 Clean Water Act, and, pursuant to Section 2-3-402 of this title, fee
2 schedules for such services, permits, licenses and certifications.

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

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

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

21 b. require public notice to be given of any major
22 amendment and of any update of the Water Quality
23 Management Plan and allow not less than a forty-five-
24 day opportunity for public comment thereon. Such

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

13 C. The Executive Director may:

14 1. Issue, modify, or revoke orders:

- 15 a. prohibiting or abating pollution of the waters of the
16 state,
- 17 b. requiring the construction of new disposal or
18 treatment systems or any parts thereof or the
19 modification, extension or alteration of existing
20 disposal or treatment systems or any part thereof, or
21 the adoption of other remedial measures to prevent,
22 control or abate pollution, and

1 c. requiring other actions such as the Executive Director
2 may deem necessary to enforce the provisions of this
3 article and rules promulgated thereunder;

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

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

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

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

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

18 2. To make such contracts and execute such instruments as in
19 the judgment of the Board are necessary or convenient to the
20 exercise of any of the powers conferred upon it by law. Provided,
21 however, no contract shall be made conveying the title or use of any
22 waters of the State of Oklahoma to any person, firm, corporation or
23 other state or subdivision of government, for sale or use in any
24

1 other state, unless such contract be specifically authorized by an
2 act of the Oklahoma Legislature and thereafter as approved by it;

3 3. To negotiate contracts and other agreements with the federal
4 government to arrange for the development of water resources and for
5 the storage and distribution of water for beneficial purposes;
6 provided, however, that the Board shall act in such capacity only as
7 an intermediary in assisting others, and under no circumstances
8 shall the Board have any power or authority to build, construct or
9 finance any waterways, dams or other such projects for itself,
10 except as may be otherwise specifically provided by the laws of this
11 state;

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

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

24 6. To adopt and use an official seal;

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

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

16 9. To determine, charge and receive fees to be collected in
17 advance for the filing and examination of applications for permits
18 to:

- 19 a. construct water use works,
- 20 b. appropriate groundwater,
- 21 c. appropriate stream water,
- 22 d. establish vested rights,
- 23 e. inspect water use works,
- 24 f. file other papers,

- g. make copies of documents,
- h. make prints of maps and drawings,
- i. certify copies of documents, maps and drawings,
- j. file transfers of water rights,
- k. gauge wells and ditches, changes in point of diversion and changes in place of use of water,
- l. test wells, and
- m. hold hearings, make records and provide transcripts of hearings.

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

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

1 11. To accept gifts and grants of money and property or any
2 interest therein;

3 12. To provide funding from federal and state monies for water
4 and wastewater project purposes to eligible entities for preliminary
5 engineering reports and planning and feasibility studies;

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

8 14. To make appropriations of water to all special purpose
9 districts;

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

19 16. To adopt, modify or repeal and promulgate standards of
20 quality of the waters of the state and to classify such waters
21 according to their best uses in the interest of the public under
22 such conditions as the Board may prescribe for the prevention,
23 control, and abatement of pollution. The standard of quality of
24 waters of the state adopted by the Board pursuant to the provisions

1 of Section 1085.30 of this title shall be utilized by all
2 appropriate state environmental agencies in implementing their
3 respective duties to abate and prevent pollution to the waters of
4 the state, except the Department of Environmental Quality shall have
5 the authority to adopt water quality standard variances and site-
6 specific criteria to the extent that such variances and site-
7 specific criteria are utilized in and enforced through water quality
8 permits issued by the Department;

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

21 18. To provide workshop training sessions for board members of
22 rural water districts and not-for-profit rural water corporations
23 throughout the year on a regional basis for the purpose of study and
24 instruction in the areas of financing, law and the ethics, duties

1 and responsibilities of such board members. Such training shall be
2 provided by the Board in conjunction with the Oklahoma Rural Water
3 Association as required by law. To the extent possible, the Board
4 shall attempt to schedule training workshops in three-hour segments
5 to be held in any public facility at a time convenient to the
6 attendees;

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

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

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

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

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
2 896.5 of this title, to downgrade a designated use,
3 establish a subcategory of a use or provide for less
4 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, except for
8 variances and site-specific criteria adopted by the Department of
9 Environmental Quality pursuant to paragraph 18 of subsection B of
10 Section 1-3-101 of Title 27A of the Oklahoma Statutes, or any
11 modification or change thereof shall be promulgated by the Board in
12 compliance with the Administrative Procedures Act and shall be
13 enforced by all state agencies within the scope of their
14 jurisdiction. All use support assessment protocols promulgated by
15 the Board shall be consistent with state and federal law and
16 guidance specifically related to beneficial use support
17 determinations as set forth in Section 305(b) of the Federal Water
18 Pollution Control Act, where 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 adopt
9 variances and site-specific criteria and to develop and utilize
10 policies and requirements, as provided in ~~paragraph~~ paragraphs 18
11 and 22 of subsection B of Section 1-3-101 of Title 27A of the
12 Oklahoma Statutes.

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

14 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
15 April 7, 2022 - DO PASS
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