

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 1093

By: Kerbs

AS INTRODUCED

An Act relating to waters and water rights; amending 82 O.S. 2011, Section 1085.30, as amended by Section 2, Chapter 137, O.S.L. 2018 (82 O.S. Supp. 2020, Section 1085.30), which relates to classification of water uses; requiring the Oklahoma Water Resources Board to update Oklahoma Water Quality Standards to allow for watershed trading programs by certain date; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 2011, Section 1085.30, as amended by Section 2, Chapter 137, O.S.L. 2018 (82 O.S. Supp. 2020, 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 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,

1 and other standards or policies pertaining to the quality of such  
2 waters.

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

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

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

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

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

5 c. The Board shall update Oklahoma Water Quality  
6 Standards to include a provision to allow for the  
7 development of watershed trading programs no later  
8 than November 1, 2026.

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

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

1 such additional public meeting to be published for at least two (2)  
2 consecutive weeks in a newspaper of general circulation published in  
3 the county or counties in the area affected.

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

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

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

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

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

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