

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3824

By: Newton

AS INTRODUCED

An Act relating to environment and natural resources; amending 27A O.S. 2021, Section 1-3-101, which relates to state environmental agencies; modifying certain responsibilities of Department of Environmental Quality; amending 27A O.S. 2021, Section 2-6-103, which relates to powers and duties of the Department of Environmental Quality; allowing for the direct adoption of certain water quality variances; amending 82 O.S. 2021, Section 1085.2, which relates to the authority of the Oklahoma Water Resources Board; modifying certain authority of the Board; amending 82 O.S. 2021, Section 1085.30, which relates to Oklahoma Water Quality Standards; making exception for certain Department-adopted variances; 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 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

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5 responsibilities specified by this section is hereby superseded.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

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

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

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

23 3. Technical lead agency for point source, nonpoint source and
24 storm water pollution control programs funded under Section 106 of

1 the federal Clean Water Act, for areas within the Department's
2 jurisdiction as provided in this subsection;

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

5 5. Waterworks and wastewater works operator certification;

6 6. Public and private water supplies;

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

9 a. Class II injection wells,

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

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

16 d. any aspect of any CO2 sequestration facility,
17 including any associated CO2 injection well, over
18 which the Commission is given jurisdiction pursuant to
19 the Oklahoma Carbon Capture and Geologic Sequestration
20 Act;

21 8. Notwithstanding any other provision in this section or other
22 environmental jurisdiction statute, sole and exclusive jurisdiction
23 for air quality under the federal Clean Air Act and applicable state
24 law, except for indoor air quality and asbestos as regulated for

1 worker safety by the federal Occupational Safety and Health Act and
2 by Chapter 11 of Title 40 of the Oklahoma Statutes;

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

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

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

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

19 13. Emergency response as specified by law;

20 14. Environmental laboratory services and laboratory
21 certification;

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

24 16. Freshwater wellhead protection;

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

4 18. Utilization and enforcement of Oklahoma Water Quality
5 Standards and implementation documents, and adoption of water
6 quality standard variances to the extent that such variances are
7 utilized in and enforced through water quality permits issued by the
8 Department;

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

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

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

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

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

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

7 2. Weather modification;

8 3. Dam safety;

9 4. Flood plain management;

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

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

17 7. Water well drillers/pump installers licensing;

18 8. Technical lead agency for clean lakes eligible for funding
19 under Section 314 of the federal Clean Water Act or other applicable
20 sections of the federal Clean Water Act or other subsequent state
21 and federal clean lakes programs; administration of a state program
22 for assessing, monitoring, studying and restoring Oklahoma lakes
23 with administration to include, but not be limited to, receipt and
24 expenditure of funds from federal, state and private sources for

1 clean lakes and implementation of a volunteer monitoring program to
2 assess and monitor state water resources, provided such funds from
3 federal Clean Water Act sources are administered and disbursed by
4 the Office of the Secretary of Environment;

5 9. Except as set forth in ~~paragraph~~ paragraphs 18 and 22 of
6 subsection B of this section, statewide water quality standards and
7 their accompanying use support assessment protocols, anti-
8 degradation policy and implementation, and policies generally
9 affecting Oklahoma Water Quality Standards application and
10 implementation including but not limited to mixing zones, low flows
11 and variances or any modification or change thereof pursuant to
12 Section 1085.30 of Title 82 of the Oklahoma Statutes;

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

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

18 12. Development of classifications and identification of
19 permitted uses of groundwater, in recognized water rights, and
20 associated groundwater recharge areas;

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

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

5 15. Development and submission of a report concerning the
6 status of water quality monitoring in this state pursuant to Section
7 1-1-202 of this title.

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

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

- 12 a. point source discharges and nonpoint source runoff
- 13 from agricultural crop production, agricultural
- 14 services, livestock production, silviculture, feed
- 15 yards, livestock markets and animal waste,
- 16 b. pesticide control,
- 17 c. forestry and nurseries,
- 18 d. fertilizer,
- 19 e. facilities which store grain, feed, seed, fertilizer
- 20 and agricultural chemicals,
- 21 f. dairy waste and wastewater associated with milk
- 22 production facilities,
- 23
- 24

- 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,

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

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

12 E. Corporation Commission.

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

- 17 a. the conservation of oil and gas,
18 b. field operations for geologic and geophysical
19 exploration for oil, gas and brine, including seismic
20 survey wells, stratigraphic test wells and core test
21 wells,
22 c. the exploration, drilling, development, producing or
23 processing for oil and gas on the lease site,
24

- 1 d. the exploration, drilling, development, production and
2 operation of wells used in connection with the
3 recovery, injection or disposal of mineral brines,
- 4 e. reclaiming facilities only for the processing of salt
5 water, crude oil, natural gas condensate and tank
6 bottoms or basic sediment from crude oil tanks,
7 pipelines, pits and equipment associated with the
8 exploration, drilling, development, producing or
9 transportation of oil or gas,
- 10 f. underground injection control pursuant to the federal
11 Safe Drinking Water Act and 40 CFR Parts 144 through
12 148, of:
- 13 (1) Class II injection wells,
- 14 (2) Class V injection wells utilized in the
15 remediation of groundwater associated with
16 underground or aboveground storage tanks
17 regulated by the Commission,
- 18 (3) those wells used for the recovery, injection or
19 disposal of mineral brines as defined in the
20 Oklahoma Brine Development Act, and
- 21 (4) any aspect of any CO2 sequestration facility,
22 including any associated CO2 injection well, over
23 which the Commission is given jurisdiction
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1 pursuant to the Oklahoma Carbon Capture and
2 Geologic Sequestration Act.

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

6 g. tank farms for storage of crude oil and petroleum
7 products which are located outside the boundaries of
8 refineries, petrochemical manufacturing plants,
9 natural gas liquid extraction plants, or other
10 facilities which are subject to the jurisdiction of
11 the Department of Environmental Quality with regard to
12 point source discharges,

13 h. the construction and operation of pipelines and
14 associated rights-of-way, equipment, facilities or
15 buildings used in the transportation of oil, gas,
16 petroleum, petroleum products, anhydrous ammonia or
17 mineral brine, or in the treatment of oil, gas or
18 mineral brine during the course of transportation but
19 not including line pipes in any:

20 (1) natural gas liquids extraction plant,

21 (2) refinery,

22 (3) reclaiming facility other than for those
23 specified within subparagraph e of this
24 subsection,

- 1 (4) mineral brine processing plant, and
2 (5) petrochemical manufacturing plant,
- 3 i. the handling, transportation, storage and disposition
4 of saltwater, mineral brines, waste oil and other
5 deleterious substances produced from or obtained or
6 used in connection with the drilling, development,
7 producing and operating of oil and gas wells, at:
- 8 (1) any facility or activity specifically listed in
9 paragraphs 1 and 2 of this subsection as being
10 subject to the jurisdiction of the Commission,
11 and
- 12 (2) other oil and gas extraction facilities and
13 activities,
- 14 j. spills of deleterious substances associated with
15 facilities and activities specified in paragraph 1 of
16 this subsection or associated with other oil and gas
17 extraction facilities and activities,
- 18 k. subsurface storage of oil, natural gas and liquefied
19 petroleum gas in geologic strata,
- 20 l. groundwater protection for activities subject to the
21 jurisdictional areas of environmental responsibility
22 of the Commission,
- 23 m. utilization and enforcement of Oklahoma Water Quality
24 Standards and implementation documents, and

1 n. development and promulgation of a Water Quality
2 Standards Implementation Plan pursuant to Section 1-1-
3 202 of this title for its jurisdictional areas of
4 environmental responsibility.

5 2. The exclusive jurisdiction, power and authority of the
6 Commission shall also extend to the construction, operation,
7 maintenance, site remediation, closure and abandonment of the
8 facilities and activities described in paragraph 1 of this
9 subsection.

10 3. When a deleterious substance from a Commission-regulated
11 facility or activity enters a point source discharge of pollutants
12 or storm water from a facility or activity regulated by the
13 Department of Environmental Quality, the Department shall have sole
14 jurisdiction over the point source discharge of the commingled
15 pollutants and storm water from the two facilities or activities
16 insofar as Department-regulated facilities and activities are
17 concerned.

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

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

7 5. The Commission shall have jurisdiction over:

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

1 aviation fuel and that are not located at refineries
2 or at the upstream or intermediate shipment points of
3 pipeline operations including, but not limited to,
4 tanks from which these materials are dispensed into
5 vehicles, or tanks used in wholesale or bulk
6 distribution activities, as well as leaks from pumps,
7 hoses, dispensers, and other ancillary equipment
8 associated with the tanks, whether above the ground or
9 below; provided, that any point source discharge of a
10 pollutant to waters of the United States during site
11 remediation or the off-site disposal of contaminated
12 soil, media, or debris shall be regulated by the
13 Department of Environmental Quality, and

14 c. the Petroleum Storage Tank Release Environmental
15 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
16 Tank Release Indemnity Program, and the Oklahoma
17 Leaking Underground Storage Tank Trust Fund.

18 6. The Department of Environmental Quality shall have sole
19 jurisdiction to regulate the transportation, discharge or release of
20 deleterious substances or solid or hazardous waste or other
21 pollutants from rolling stock and rail facilities. The Department
22 of Environmental Quality shall not have any jurisdiction with
23 respect to pipeline transportation of carbon dioxide.
24

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

4 a. refineries, petrochemical manufacturing plants and
5 natural gas liquid extraction plants,

6 b. manufacturing of equipment and products related to oil
7 and gas,

8 c. bulk terminals, aboveground and underground storage
9 tanks not subject to the jurisdiction of the
10 Commission pursuant to this subsection, and

11 d. other facilities, activities and sources not subject
12 to the jurisdiction of the Commission or the Oklahoma
13 Department of Agriculture, Food, and Forestry as
14 specified by this section.

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

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

22 1. Soil conservation, erosion control and nonpoint source
23 management except as otherwise provided by law;
24

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

10 3. Wetlands strategy;

11 4. Abandoned mine reclamation;

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

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

15 7. Complaint data management;

16 8. Coordination of environmental and natural resources
17 education;

18 9. Federal upstream flood control program;

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

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

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

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

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

- 9 1. Mining regulation;
10 2. Mining reclamation of active mines;
11 3. Groundwater protection for activities subject to the
12 jurisdictional areas of environmental responsibility of the
13 Commission; and

14 4. Development and promulgation of a Water Quality Standards
15 Implementation Plan pursuant to Section 1-1-202 of this title for
16 its jurisdictional areas of responsibility.

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

- 20 1. Investigating wildlife kills;
21 2. Wildlife protection and seeking wildlife damage claims; and
22 3. Development and promulgation of a Water Quality Standards
23 Implementation Plan pursuant to Section 1-1-202 of this title for
24 its jurisdictional areas of environmental responsibility.

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

4 1. Hazardous waste, substances and material transportation
5 inspections as authorized by the Hazardous Materials Transportation
6 Act; and

7 2. Inspection and audit activities of hazardous waste and
8 materials carriers and handlers as authorized by the Hazardous
9 Materials Transportation Act.

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

12 1. Regulation of asbestos in the workplace pursuant to Chapter
13 11 of Title 40 of the Oklahoma Statutes;

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

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

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

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

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

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

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

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

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

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

21 Section 2-6-103. A. The Department of Environmental Quality
22 shall have and is hereby authorized to exercise the power and duty
23 to:
24

- 1 1. Develop comprehensive programs for the prevention, control
2 and abatement of new or existing pollution of the waters of this
3 state;
- 4 2. Encourage, participate in, or conduct studies,
5 investigations, research and demonstrations relating to water
6 pollution and causes, prevention, control and abatement thereof as
7 it may deem advisable and necessary in the public interest for the
8 discharge of its duties under this act;
- 9 3. Collect and disseminate information relating to water
10 pollution and the prevention, control and abatement thereof;
- 11 4. Require the submission of and review plans, specifications
12 and other data relative to disposal or treatment systems or any part
13 thereof in connection with the issuance of such permits as are
14 required by this article;
- 15 5. Enforce the provisions of this article, rules promulgated
16 thereunder, and permits, licenses, and certifications issued
17 pursuant thereto and Oklahoma Water Quality Standards;
- 18 6. Establish, implement, amend and enforce the Water Quality
19 Management Plan, the continuing planning process documents, and
20 total maximum daily loads;
- 21 7. Require the submission of reports or laboratory analyses
22 performed by certified laboratories or operators for purposes of
23 compliance monitoring and testing or other purposes for which
24

1 laboratory reports or analyses are required pursuant to this
2 article;

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

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

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

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

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

5 a. be in substantial conformance with any applicable
6 federal requirements and may incorporate appropriate
7 U.S. Environmental Protection Agency regulations by
8 reference, and

9 b. require public notice to be given of any major
10 amendment and of any update of the Water Quality
11 Management Plan and allow not less than a forty-five-
12 day opportunity for public comment thereon. Such
13 rules shall also authorize the Department, if it
14 determines public interest in the proposed amendment
15 or update is significant, to give notice of and
16 conduct a public meeting on the proposals in
17 accordance with federal requirements. The rules shall
18 provide that the notice, comment period, and public
19 meeting if any, related to an amendment or update
20 proposed in conjunction with the issuance,
21 modification or renewal of a discharge permit or
22 permits, may be combined with the notice, comment
23 period, and public meeting if any, held on the
24 proposed permit action or actions.

1 C. The Executive Director may:

2 1. Issue, modify, or revoke orders:

3 a. prohibiting or abating pollution of the waters of the
4 state,

5 b. requiring the construction of new disposal or
6 treatment systems or any parts thereof or the
7 modification, extension or alteration of existing
8 disposal or treatment systems or any part thereof, or
9 the adoption of other remedial measures to prevent,
10 control or abate pollution, and

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

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

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

21 SECTION 3. AMENDATORY 82 O.S. 2021, Section 1085.2, is
22 amended to read as follows:
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24

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

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

6 2. To make such contracts and execute such instruments as in
7 the judgment of the Board are necessary or convenient to the
8 exercise of any of the powers conferred upon it by law. Provided,
9 however, no contract shall be made conveying the title or use of any
10 waters of the State of Oklahoma to any person, firm, corporation or
11 other state or subdivision of government, for sale or use in any
12 other state, unless such contract be specifically authorized by an
13 act of the Oklahoma Legislature and thereafter as approved by it;

14 3. To negotiate contracts and other agreements with the federal
15 government to arrange for the development of water resources and for
16 the storage and distribution of water for beneficial purposes;
17 provided, however, that the Board shall act in such capacity only as
18 an intermediary in assisting others, and under no circumstances
19 shall the Board have any power or authority to build, construct or
20 finance any waterways, dams or other such projects for itself,
21 except as may be otherwise specifically provided by the laws of this
22 state;

23 4. To develop statewide and local plans to assure the best and
24 most effective use and control of water to meet both the current and

1 long-range needs of the people of Oklahoma; to cooperate in such
2 planning with any public or private agency, entity or person
3 interested in water, and is directed to prepare such plans for
4 consideration and approval by the Legislature; and to aid, at all
5 times, counties, incorporated cities and towns and special purpose
6 districts in the state in promoting and developing flood control and
7 water conservation in the state;

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

11 6. To adopt and use an official seal;

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

16 8. To institute and maintain, or to intervene in, any actions
17 or proceedings in or before any court, board, commission or officer
18 of this or any other state or of the United States to stop or
19 prevent any use, misuse, appropriation or taking of any of the
20 waters of this state which is in whole or in part in violation of
21 any law, or of any rules, orders, judgments or decrees of any court,
22 board, commission or officer of this or any state or of the United
23 States; and to institute and maintain or intervene in any other
24 action or proceeding where the Board deems it necessary to the

proper execution and discharge of any of the powers or duties conferred or imposed upon it by law;

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

- a. construct water use works,
- b. appropriate groundwater,
- c. appropriate stream water,
- d. establish vested rights,
- e. inspect water use works,
- 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

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

12 11. To accept gifts and grants of money and property or any
13 interest therein;

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

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

19 14. To make appropriations of water to all special purpose
20 districts;

21 15. To execute and deliver, without actual consideration
22 therefor, a written release of any easement or easement deed
23 heretofore given to the Conservation Commission of the State of
24 Oklahoma, the Planning and Resources Board or the Oklahoma Water

1 Resources Board on lands situated in this state, whenever it shall
2 appear to said Oklahoma Water Resources Board that the need for such
3 easement or easement deed no longer exists; provided, the owner of
4 the lands affected shall file a written application for such release
5 with the Oklahoma Water Resources Board;

6 16. To adopt, modify or repeal and promulgate standards of
7 quality of the waters of the state and to classify such waters
8 according to their best uses in the interest of the public under
9 such conditions as the Board may prescribe for the prevention,
10 control, and abatement of pollution. The standard of quality of
11 waters of the state adopted by the Board pursuant to the provisions
12 of Section 1085.30 of this title shall be utilized by all
13 appropriate state environmental agencies in implementing their
14 respective duties to abate and prevent pollution to the waters of
15 the state, except the Department of Environmental Quality shall have
16 the authority to adopt water quality standard variances to the
17 extent that such variances are utilized in and enforced through
18 water quality permits issued by the Department;

19 17. To review disputes involving service areas or territories,
20 rates for raw or treated water, and abrogation clauses in contracts
21 among municipalities and rural water districts or not-for-profit
22 rural water corporations; to recommend mediation and refer parties
23 in appropriate disputes to mediators and provide technical
24 information to such mediators; and to recommend other means of

1 resolving disputes; provided, that no party to such dispute may
2 initiate action in any district court regarding the dispute until
3 written notice of the dispute has been filed with the Board;
4 provided further that the provisions of this paragraph shall not be
5 construed to diminish any right of access to the court granted to a
6 party by law;

7 18. To provide workshop training sessions for board members of
8 rural water districts and not-for-profit rural water corporations
9 throughout the year on a regional basis for the purpose of study and
10 instruction in the areas of financing, law and the ethics, duties
11 and responsibilities of such board members. Such training shall be
12 provided by the Board in conjunction with the Oklahoma Rural Water
13 Association as required by law. To the extent possible, the Board
14 shall attempt to schedule training workshops in three-hour segments
15 to be held in any public facility at a time convenient to the
16 attendees;

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

22 20. To accredit persons having requisite knowledge in
23 floodplain management and in minimization and prevention of flood
24 hazards and losses.

SECTION 4. 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 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 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 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

1 the Federal Water Pollution Control Act as amended or
2 federal rules which implement the act.

3 b. The Board may amend the Oklahoma Water Quality
4 Standards to downgrade a designated use, establish
5 subcategories of a use or may provide for less
6 stringent criteria or other provisions thereof only to
7 the extent as will maintain or improve the existing
8 uses and the water quality of the water affected;
9 provided, however, the Board shall not modify the
10 Oklahoma Water Quality Standards applicable to scenic
11 river areas as such areas are described by Section
12 896.5 of this title, to downgrade a designated use,
13 establish a subcategory of a use or provide for less
14 stringent criteria or other provisions thereof.

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

18 B. 1. Prior to adopting such standards or any amendment
19 thereof, the Board shall conduct public hearings thereon. Notice of
20 such hearing shall be published in accordance with the
21 Administrative Procedures Act and shall be mailed at least twenty
22 (20) days before such public hearing to the chief executive of each
23 municipality and county in the area affected and shall be mailed to
24 all affected holders of permits obtained pursuant to the Oklahoma

1 Environmental Code, and such other persons that have requested
2 notice of hearings on such standard modifications.

3 2. If adoption or amendment of a classification to a lower or
4 downgraded classification is proposed because treatment controls
5 required of the current or a higher or upgraded classification would
6 result in substantial and widespread social and economic impact, the
7 Board shall, in addition to any hearing required by subsection B of
8 this section, conduct a public meeting within a central location
9 within the area to be affected. The Board shall cause notice of
10 such additional public meeting to be published for at least two (2)
11 consecutive weeks in a newspaper of general circulation published in
12 the county or counties in the area affected.

13 C. 1. The Oklahoma Water Quality Standards, their accompanying
14 use support assessment protocols, anti-degradation policy and
15 implementation, and policies generally affecting Oklahoma Water
16 Quality Standards application and implementation including, but not
17 limited to, mixing zones, low flows and variances, except for
18 variances adopted the Department of Environmental Quality pursuant
19 to paragraph 18 of subsection B of Section 1-3-101 of Title 27A of
20 the Oklahoma Statutes, or any modification or change thereof shall
21 be promulgated by the Board in compliance with the Administrative
22 Procedures Act and shall be enforced by all state agencies within
23 the scope of their jurisdiction. All use support assessment
24 protocols promulgated by the Board shall be consistent with state

1 and federal law and guidance specifically related to beneficial use
2 support determinations as set forth in Section 305(b) of the Federal
3 Water Pollution Control Act, where applicable.

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

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

14 4. Notwithstanding the implementation jurisdiction provided to
15 the Board in paragraph 1 of subsection C of this section, the
16 Department of Environmental Quality shall have jurisdiction to adopt
17 variances and to develop and utilize policies and requirements, as
18 provided in ~~paragraph~~ paragraphs 18 and 22 of subsection B of
19 Section 1-3-101 of Title 27A of the Oklahoma Statutes.

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

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