

1 ENGROSSED SENATE
2 BILL NO. 1325

By: Daniels of the Senate

3 and

4 Moore of the House

5
6 An Act relating to water and water rights; amending 2
7 O.S. 2021, Sections 10-9.8a and 20-21, which relate
8 to the Oklahoma Registered Poultry Feeding Operations
9 Act and Oklahoma Swine Feeding Operations Act;
10 amending 27A O.S. 2021, Sections 1-1-202, 1-3-101,
11 and 2-6-103, which relate to powers of state
12 environmental agencies and powers and duties of
13 Department of Environmental Quality; amending 82 O.S.
14 2021, Sections 1085.30 and 1085.30a, which relate to
15 Oklahoma Water Quality Standards; transferring
16 authority to administer Oklahoma Water Quality
17 Standards to the Department of Environmental Quality;
18 conforming language; updating statutory language; and
19 providing an effective date.

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

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

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

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

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

6 a. one and one-half (1 1/2) miles of the high water mark
7 of a surface public water supply if the poultry
8 feeding operation is located within the watershed for
9 the public water supply,

10 b. one (1) mile of any designated scenic river area as
11 specified by the Scenic Rivers Act,

12 c. one (1) mile of a public drinking water well, and

13 d. one (1) mile of a water body specified as ~~Outstanding~~
14 ~~Resource Waters~~ outstanding resource waters that has
15 recreational or ecological significance as outlined by
16 the most current Oklahoma Water Quality Standards
17 promulgated by the ~~Oklahoma Water Resources Board~~
18 Department of Environmental Quality.

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

21 Section 20-21. Except as otherwise provided by Section 20-19 of
22 this title and subsection I of this section, swine feeding
23 operations using liquid swine waste management systems and housing
24

1 swine in roof-covered structures shall not be located within the
2 following applicable distances from an occupied residence:

- 3 1. More than 4000 swine animal units.....2 miles;
- 4 2. 2001 to 4000 swine animal units.....1 1/4 miles;
- 5 3. 1001 to 2000 swine animal units.....3/4 mile;
- 6 4. 601 to 1000 swine animal units.....1/2 mile;
- 7 5. 300 to 600 swine animal units.....1/4 mile; and
- 8 6. Less than 300 swine animal units.....no setback.

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

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

1 camp or recreational site by a nonprofit organization established
2 prior to application of the swine feeding operation.

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

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

- 13 a. whether a reasonable person, after considering the
14 totality of the circumstances, would determine that
15 the area or facility is predominately used for camping
16 or recreational purposes,
- 17 b. the type of permanent structures or fixtures of a
18 recreational nature located on the land,
- 19 c. the frequency with which the site is used for
20 recreational purposes,
- 21 d. the types of activities which are conducted or engaged
22 in on the site, and

23

24

1 e. any other factors the Board deems directly relevant to
2 the question of whether a site is recreational in
3 nature.

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

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

20 G. No licensed managed feeding operation established after June
21 10, 1998 which applies for a new or expanding license shall be
22 located:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 7. Participate in every hearing conducted by the ~~Oklahoma Water~~
24 ~~Resources Board~~ Department of Environmental Quality for the

1 consideration, adoption or amendment of the classification of waters
2 of the state and standards of purity and quality thereof, and shall
3 have the opportunity to present written comment to the members of
4 the ~~Oklahoma Water Resources Board~~ Department of Environmental
5 Quality at the same time staff recommendations are submitted to
6 those members for Board review and consideration.

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

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

20 3. Each Water Quality Standards Implementation Plan shall:
21 a. describe, generally, the processes, procedures and
22 methodologies the state environmental agency will
23 utilize to ensure that programs within its
24 jurisdictional areas of environmental responsibility

1 will comply with anti-degradation standards and lead
2 to:

3 (1) maintenance of water quality where beneficial
4 uses are supported,

5 (2) removal of threats to water quality where
6 beneficial uses are in danger of not being
7 supported, and

8 (3) restoration of water quality where beneficial
9 uses are not being supported,

10 b. include the procedures to be utilized in the
11 application of use support assessment protocols to
12 make impairment determinations,

13 c. list and describe programs affecting water quality,

14 d. include technical information and procedures to be
15 utilized in implementing the Water Quality Standards
16 Implementation Plan,

17 e. describe the method by which the Water Quality
18 Standards Implementation Plan will be integrated into
19 the water quality management activities within the
20 jurisdictional areas of environmental responsibility
21 of the state environmental agency,

22 f. detail the manner in which the agency will comply with
23 mandated statewide requirements affecting water
24 quality developed by other state environmental

1 agencies including, but not limited to, total maximum
2 daily load development, water discharge permit
3 activities and nonpoint source pollution prevention
4 programs,

5 g. include a brief summary of the written comments and
6 testimony received pursuant to all public meetings
7 held or sponsored by the state environmental agency
8 for the purpose of providing the public and other
9 state environmental agencies an opportunity to comment
10 on the plan, and

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

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

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

23 3. Groundwater regulatory agencies shall develop groundwater
24 protection practices to prevent groundwater contamination from

1 activities within their respective jurisdictional areas of
2 environmental responsibility.

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

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

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

14 a. engage the voluntary cooperation of all persons in the
15 maintenance and protection of groundwater, and to
16 advise, consult and cooperate with all persons, all
17 agencies of the state, universities and colleges, the
18 federal government or other states, and with
19 interstate agencies in the furtherance of the purposes
20 of this subsection, and to this end and for the
21 purposes of studies, scientific or other
22 investigations, research, experiments and
23 demonstrations pertaining thereto, receive and spend
24 funds as appropriated by the Legislature, and from

1 such agencies and other officers and persons on behalf
2 of the state,

3 b. encourage the formulation and execution of plans to
4 maintain and protect groundwater by cooperative groups
5 or associations of municipal corporations, industries,
6 industrial users and other users of groundwaters of
7 the state, who, jointly or severally, are or may be
8 impacting on the maintenance and protection of
9 groundwater,

10 c. encourage, participate in or conduct or cause to be
11 conducted studies, scientific or other investigations,
12 research, experiments and demonstrations relating to
13 the maintenance and protection of groundwater, and to
14 collect data with respect thereto, all as may be
15 deemed advisable and necessary to carry out the
16 purposes of this subsection, and to make reports and
17 recommendations with respect thereto,

18 d. conduct groundwater sampling, data collection,
19 analyses and evaluations with sufficient frequency to
20 ascertain the characteristics and quality of
21 groundwater and the sufficiency of the groundwater
22 protection programs established pursuant to this
23 subsection, and
24

1 e. develop a public education and promotion program to
2 aid and assist in publicizing the need of, and
3 securing support for, the maintenance and protection
4 of groundwater.

5 D. Each state environmental agency and each state agency with
6 limited environmental responsibilities shall participate in the
7 information management system developed by the Department of
8 Environmental Quality, pursuant to Section 1-4-107 of this title,
9 with such information as the Department shall reasonably request.

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

15 SECTION 4. AMENDATORY 27A O.S. 2021, Section 1-3-101, is
16 amended to read as follows:

17 Section 1-3-101. A. The provisions of this section specify the
18 jurisdictional areas of responsibility for each state environmental
19 agency and state agencies with limited environmental responsibility.
20 The jurisdictional areas of environmental responsibility specified
21 in this section shall be in addition to those otherwise provided by
22 law and assigned to the specific state environmental agency;
23 provided that any rule, interagency agreement or executive order
24 enacted or entered into prior to the effective date of this section

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

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

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

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

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

24

- 1 4. Surface water and groundwater quality and protection and
2 water quality certifications;
- 3 5. Waterworks and wastewater works operator certification;
- 4 6. Public and private water supplies;
- 5 7. Underground injection control pursuant to the federal Safe
6 Drinking Water Act and 40 CFR Parts 144 through 148, except for:
- 7 a. Class II injection wells,
- 8 b. Class V injection wells utilized in the remediation of
9 groundwater associated with underground or aboveground
10 storage tanks regulated by the Corporation Commission,
- 11 c. those wells used for the recovery, injection or
12 disposal of mineral brines as defined in the Oklahoma
13 Brine Development Act regulated by the Commission, and
- 14 d. any aspect of any CO2 sequestration facility,
15 including any associated CO2 injection well, over
16 which the Commission is given jurisdiction pursuant to
17 the Oklahoma Carbon Capture and Geologic Sequestration
18 Act;
- 19 8. Notwithstanding any other provision in this section or other
20 environmental jurisdiction statute, sole and exclusive jurisdiction
21 for air quality under the federal Clean Air Act and applicable state
22 law, except for indoor air quality and asbestos as regulated for
23 worker safety by the federal Occupational Safety and Health Act and
24 by Chapter 11 of Title 40 of the Oklahoma Statutes;

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

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

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

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

17 13. Emergency response as specified by law;

18 14. Environmental laboratory services and laboratory
19 certification;

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

22 16. Freshwater wellhead protection;

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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;

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

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

13 21. Development and promulgation of a Oklahoma Water Quality
14 Standards, their accompanying use support assessment protocols,
15 anti-degradation policies generally affecting Oklahoma Water Quality
16 Standards application and implementation including but not limited
17 to mixing zones, low flows and variances or any modification or
18 change thereof pursuant to Section 1085.30 of Title 82 of the
19 Oklahoma Statutes, and the Implementation Plan pursuant to Section
20 1-1-202 of this title for its jurisdictional area of environmental
21 responsibility; and

22 22. Development and utilization of policies and requirements
23 necessary for the implementation of Oklahoma Groundwater Quality
24 Standards to the extent that the implementation of such standards

1 are within the scope of the Department's jurisdiction, including but
2 not limited to the establishment of points of compliance when
3 warranted.

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

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

10 2. Weather modification;

11 3. Dam safety;

12 4. Flood plain management;

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

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

20 7. Water well drillers/pump installers licensing;

21 8. Technical lead agency for clean lakes eligible for funding
22 under Section 314 of the federal Clean Water Act or other applicable
23 sections of the federal Clean Water Act or other subsequent state
24 and federal clean lakes programs; administration of a state program

1 for assessing, monitoring, studying and restoring Oklahoma lakes
2 with administration to include, but not be limited to, receipt and
3 expenditure of funds from federal, state and private sources for
4 clean lakes and implementation of a volunteer monitoring program to
5 assess and monitor state water resources, provided such funds from
6 federal Clean Water Act sources are administered and disbursed by
7 the Office of the Secretary of Environment;

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

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

18 ~~11.~~ 10. Development and promulgation of a Water Quality
19 Standards Implementation Plan pursuant to Section 1-1-202 of this
20 title for its jurisdictional area of environmental responsibility;

21 ~~12.~~ 11. Development of classifications and identification of
22 permitted uses of groundwater, in recognized water rights, and
23 associated groundwater recharge areas;

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1 ~~13.~~ 12. Establishment and implementation of a statewide
2 beneficial use monitoring program for waters of the state in
3 coordination with the other state environmental agencies;

4 ~~14.~~ 13. Coordination with other state environmental agencies
5 and other public entities of water resource investigations conducted
6 by the federal United States Geological Survey for water quality and
7 quantity monitoring in the state; and

8 ~~15.~~ 14. Development and submission of a report concerning the
9 status of water quality monitoring in this state pursuant to Section
10 1-1-202 of this title.

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

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

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

- f. dairy waste and wastewater associated with milk production facilities,
- g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
- h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
- i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and
- j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

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

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

1 (2) slaughterhouses, but not including feedlots at
2 these facilities, and
3 (3) aquaculture and fish hatcheries,
4 including, but not limited to, discharges of
5 pollutants and storm water to waters of the state,
6 surface impoundments and land application of wastes
7 and sludge, and other pollution originating at these
8 facilities, and

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

15 E. Corporation Commission.

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

- 20 a. the conservation of oil and gas,
21 b. field operations for geologic and geophysical
22 exploration for oil, gas and brine, including seismic
23 survey wells, stratigraphic test wells and core test
24 wells,

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

1 which the Commission is given jurisdiction
2 pursuant to the Oklahoma Carbon Capture and
3 Geologic Sequestration Act.

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

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

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

21 (1) natural gas liquids extraction plant,

22 (2) refinery,

1 (3) reclaiming facility other than for those
2 specified within subparagraph e of this
3 subsection,

4 (4) mineral brine processing plant, and

5 (5) petrochemical manufacturing plant,

6 i. the handling, transportation, storage and disposition
7 of saltwater, mineral brines, waste oil and other
8 deleterious substances produced from or obtained or
9 used in connection with the drilling, development,
10 producing and operating of oil and gas wells, at:

11 (1) any facility or activity specifically listed in
12 paragraphs 1 and 2 of this subsection as being
13 subject to the jurisdiction of the Commission,
14 and

15 (2) other oil and gas extraction facilities and
16 activities,

17 j. spills of deleterious substances associated with
18 facilities and activities specified in paragraph 1 of
19 this subsection or associated with other oil and gas
20 extraction facilities and activities,

21 k. subsurface storage of oil, natural gas and liquefied
22 petroleum gas in geologic strata,
23
24

- 1 1. groundwater protection for activities subject to the
2 jurisdictional areas of environmental responsibility
3 of the Commission,
4 m. utilization and enforcement of Oklahoma Water Quality
5 Standards and implementation documents, and
6 n. development and promulgation of a Water Quality
7 Standards Implementation Plan pursuant to Section 1-1-
8 202 of this title for its jurisdictional areas of
9 environmental responsibility.

10 2. The exclusive jurisdiction, power and authority of the
11 Commission shall also extend to the construction, operation,
12 maintenance, site remediation, closure and abandonment of the
13 facilities and activities described in paragraph 1 of this
14 subsection.

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

23 4. The Commission and the Department of Environmental Quality
24 are hereby authorized to obtain authorization from the Environmental

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

12 5. The Commission shall have jurisdiction over:

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

1 remediation or the off-site disposal of contaminated
2 soil, media, or debris shall be regulated by the
3 Department of Environmental Quality,

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

19 c. the Petroleum Storage Tank Release Environmental
20 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
21 Tank Release Indemnity Program, and the Oklahoma
22 Leaking Underground Storage Tank Trust Fund.

23 6. The Department of Environmental Quality shall have sole
24 jurisdiction to regulate the transportation, discharge or release of

1 deleterious substances or solid or hazardous waste or other
2 pollutants from rolling stock and rail facilities. The Department
3 of Environmental Quality shall not have any jurisdiction with
4 respect to pipeline transportation of carbon dioxide.

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

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

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

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

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

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

15 3. Wetlands strategy;

16 4. Abandoned mine reclamation;

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

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

20 7. Complaint data management;

21 8. Coordination of environmental and natural resources
22 education;

23 9. Federal upstream flood control program;

24

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

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

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

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

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

15 1. Mining regulation;

16 2. Mining reclamation of active mines;

17 3. Groundwater protection for activities subject to the
18 jurisdictional areas of environmental responsibility of the
19 Commission; and

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

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

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

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

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

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

- 20 1. Regulation of asbestos in the workplace pursuant to Chapter
21 11 of Title 40 of the Oklahoma Statutes;
- 22 2. Asbestos monitoring in public and private buildings; and
- 23 3. Indoor air quality as regulated under the authority of the
24 Oklahoma Occupational Health and Safety Standards Act, except for

1 those indoor air quality issues specifically authorized to be
2 regulated by another agency.

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

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

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

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

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

20 4. Administer and facilitate hazardous materials training for
21 state and local emergency planners and first responders pursuant to
22 the Oklahoma Emergency Resources Management Act of 1967; and
23
24

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

18 b. require public notice to be given of any major
19 amendment and of any update of the Water Quality
20 Management Plan and allow not less than a forty-five-
21 day opportunity for public comment thereon. Such
22 rules shall also authorize the Department, if it
23 determines public interest in the proposed amendment
24 or update is significant, to give notice of and

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

10 C. The Executive Director may:

11 1. Issue, modify, or revoke orders:

12 a. prohibiting or abating pollution of the waters of the
13 state,

14 b. requiring the construction of new disposal or
15 treatment systems or any parts thereof or the
16 modification, extension or alteration of existing
17 disposal or treatment systems or any part thereof, or
18 the adoption of other remedial measures to prevent,
19 control or abate pollution, and

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

23 2. Issue, continue in effect, revoke, amend, modify or deny,
24 renew, or refuse to renew under such conditions as the Department

1 may prescribe, permits, licenses and certifications, including
2 certifications under Section 401 of the Clean Water Act, to prevent,
3 control or abate pollution of waters of the state; and

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

6 SECTION 6. AMENDATORY 82 O.S. 2021, Section 1085.30, is
7 amended to read as follows:

8 Section 1085.30. A. 1. In order to effectuate a comprehensive
9 program to assist in the prevention, control and abatement of
10 pollution of the waters of this state, and in order to establish
11 state standards which comply with the Federal Water Pollution
12 Control Act as amended, the ~~Oklahoma Water Resources Board~~
13 Department of Environmental Quality is authorized to promulgate
14 rules to be known as "Oklahoma Water Quality Standards" which
15 establish classifications of uses of waters of the state, criteria
16 to maintain and protect such classifications, and other standards or
17 policies pertaining to the quality of such waters.

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

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

24

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

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

22 5. The ~~Board~~ Department shall propose any necessary rules to
23 allow for the development of nutrient trading programs by state
24 environmental agencies no later than November 1, 2026.

1 B. 1. Prior to adopting such standards or any amendment
2 thereof, the ~~Board~~ Department shall conduct public hearings thereon.
3 Notice of such hearing shall be published in accordance with the
4 Administrative Procedures Act and shall be mailed at least twenty
5 (20) days before such public hearing to the chief executive of each
6 municipality and county in the area affected and shall be mailed to
7 all affected holders of permits obtained pursuant to the Oklahoma
8 Environmental Quality Code, and such other persons that have
9 requested notice of hearings on such standard modifications.

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

21 C. 1. The Oklahoma Water Quality Standards, their accompanying
22 use support assessment protocols, anti-degradation policy and
23 implementation, and policies generally affecting Oklahoma Water
24 Quality Standards application and implementation including, but not

1 limited to, mixing zones, low flows and variances or any
2 modification or change thereof shall be promulgated by the ~~Board~~
3 Department in compliance with the Administrative Procedures Act and
4 shall be enforced by all state agencies within the scope of their
5 jurisdiction. All use support assessment protocols promulgated by
6 the ~~Board~~ Department shall be consistent with state and federal law
7 and guidance specifically related to beneficial use support
8 determinations as set forth in Section 305(b) of the Federal Water
9 Pollution Control Act, where applicable.

10 2. In promulgating Oklahoma Water Quality Standards or making
11 any modification or change thereof, the ~~Board~~ Department shall
12 announce a reasonable time for persons discharging waste into the
13 waters of the state to comply with such new or modified standards
14 unless such discharges create an actual or potential hazard to
15 public health.

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

21 4. Notwithstanding the implementation jurisdiction provided to
22 the ~~Board~~ Department in paragraph 1 of subsection C of this section,
23 the Department of Environmental Quality shall also have jurisdiction
24 to develop and utilize policies and requirements, as provided in

1 paragraph 22 of subsection B of Section 1-3-101 of Title 27A of the
2 Oklahoma Statutes.

3 SECTION 7. AMENDATORY 82 O.S. 2021, Section 1085.30a, is
4 amended to read as follows:

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

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

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

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

12
13 _____
14 Presiding Officer of the Senate

15 Passed the House of Representatives the ____ day of _____,
16 2022.

17
18 _____
19 Presiding Officer of the House
20 of Representatives

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