

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1325

By: Daniels

AS INTRODUCED

An Act relating to water and water rights; amending 2 O.S. 2021, Section 20-21, which relates to Oklahoma Swine Feeding Operations Act; amending 27A O.S. 2021, Sections 1-1-202, 1-3-101, and 2-6-103, which relate to powers of state environmental agencies and powers and duties of Department of Environmental Quality; amending 82 O.S. 2021, Sections 1085.30, and 1085.30a, which relate to Oklahoma Water Quality Standards; transferring authority to administer Oklahoma Water Quality Standards to the Department of Environmental Quality; conforming language; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 20-21, is amended to read as follows:

Section 20-21. Except as otherwise provided by Section 20-19 of this title and subsection I of this section, swine feeding operations using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within the following applicable distances from an occupied residence:

1. More than 4000 swine animal units.....2 miles;
2. 2001 to 4000 swine animal units.....1 1/4 miles;

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

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

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

23 D. Except as otherwise provided by this section, no licensed  
24 managed feeding operation which applies for a new or expanding

1 concentrated swine feeding operation license shall be located within  
2 three (3) miles of the outside boundary of any area or facility  
3 owned or operated as a camp or recreational site by a nonprofit  
4 organization established prior to application of the concentrated  
5 swine feeding operation.

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

- 9 a. whether a reasonable person, after considering the  
10 totality of the circumstances, would determine that  
11 the area or facility is predominately used for camping  
12 or recreational purposes,
- 13 b. the type of permanent structures or fixtures of a  
14 recreational nature located on the land,
- 15 c. the frequency with which the site is used for  
16 recreational purposes,
- 17 d. the types of activities which are conducted or engaged  
18 in on the site, and
- 19 e. any other factors the Board deems directly relevant to  
20 the question of whether a site is recreational in  
21 nature.

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

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

14 G. No licensed managed feeding operation established after June  
15 10, 1998 which applies for a new or expanding license shall be  
16 located:

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

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

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

23 4. Within one (1) mile of a water body specified as ~~Outstanding~~  
24 ~~Resource Waters~~ outstanding resource waters that has recreational or  
25

1 ecological significance as outlined by the most current Oklahoma  
2 Water Quality Standards promulgated by the ~~Oklahoma Water Resources~~  
3 ~~Board~~ Department of Environmental Quality; or

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

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

13 I. The provisions of this section shall not apply to any swine  
14 feeding operation which has been licensed by or which had submitted  
15 an application to the Department on or prior to March 9, 1998. In  
16 addition, the provisions of this section shall not apply to any  
17 swine feeding operation with a capacity of 2000 swine animal units  
18 or less which was established prior to June 1, 1998.

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

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

22 1. Be responsible for fully implementing and enforcing the laws  
23 and rules within its jurisdictional areas of environmental  
24 responsibility;

1           2. Utilize and enforce the Oklahoma Water Quality Standards  
2 established by the ~~Oklahoma Water Resources Board~~ Department of  
3 Environmental Quality;

4           3. Seek to strengthen relationships between state, regional,  
5 local and federal environmental planning, development and management  
6 programs;

7           4. Specifically facilitate cooperation across jurisdictional  
8 lines of authority with other state environmental agencies regarding  
9 programs to resolve environmental concerns;

10          5. Cooperate with all state environmental agencies, other state  
11 agencies and local or federal governmental entities to protect,  
12 foster, and promote the general welfare, and the environment and  
13 natural resources of this state;

14          6. Have the authority to engage in environmental and natural  
15 resource information dissemination and education activities within  
16 their respective areas of environmental jurisdiction; and

17          7. Participate in every hearing conducted by the ~~Oklahoma Water~~  
18 ~~Resources Board~~ Department of Environmental Quality for the  
19 consideration, adoption or amendment of the classification of waters  
20 of the state and standards of purity and quality thereof, and shall  
21 have the opportunity to present written comment to the members of  
22 the ~~Oklahoma Water Resources Board~~ Department of Environmental  
23 Quality at the same time staff recommendations are submitted to  
24 those members for Board review and consideration.

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

9 2. Upon the request of any state environmental agency, the  
10 ~~Oklahoma Water Resources Board~~ Department of Environmental Quality  
11 shall provide consulting assistance to such agency in developing a  
12 Water Quality Standards Implementation Plan as required by this  
13 subsection.

14 3. Each Water Quality Standards Implementation Plan shall:

15 a. describe, generally, the processes, procedures and  
16 methodologies the state environmental agency will  
17 utilize to ensure that programs within its  
18 jurisdictional areas of environmental responsibility  
19 will comply with anti-degradation standards and lead  
20 to:

21 (1) maintenance of water quality where beneficial  
22 uses are supported,  
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1 (2) removal of threats to water quality where  
2 beneficial uses are in danger of not being  
3 supported, and

4 (3) restoration of water quality where beneficial  
5 uses are not being supported,

6 b. include the procedures to be utilized in the  
7 application of use support assessment protocols to  
8 make impairment determinations,

9 c. list and describe programs affecting water quality,

10 d. include technical information and procedures to be  
11 utilized in implementing the Water Quality Standards  
12 Implementation Plan,

13 e. describe the method by which the Water Quality  
14 Standards Implementation Plan will be integrated into  
15 the water quality management activities within the  
16 jurisdictional areas of environmental responsibility  
17 of the state environmental agency,

18 f. detail the manner in which the agency will comply with  
19 mandated statewide requirements affecting water  
20 quality developed by other state environmental  
21 agencies including, but not limited to, total maximum  
22 daily load development, water discharge permit  
23 activities and nonpoint source pollution prevention  
24 programs,



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

7 h. describe objective methods and means to evaluate the  
8 effectiveness of activities conducted pursuant to the  
9 Water Quality Standards Implementation Plan to achieve  
10 Water Quality Standards.

11 C. 1. Each state environmental agency with groundwater  
12 protection authority pursuant to Article III of the Oklahoma  
13 Environmental Quality Act shall be the groundwater protection agency  
14 for activities within its jurisdictional areas of environmental  
15 responsibility.

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

19 3. Groundwater regulatory agencies shall develop groundwater  
20 protection practices to prevent groundwater contamination from  
21 activities within their respective jurisdictional areas of  
22 environmental responsibility.

23 4. Each groundwater protection agency shall promulgate such  
24 rules, and issue such permits, policies, directives or any other

1 appropriate requirements, as necessary, to implement the  
2 requirements of this subsection.

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

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

- 10 a. engage the voluntary cooperation of all persons in the  
11 maintenance and protection of groundwater, and to  
12 advise, consult and cooperate with all persons, all  
13 agencies of the state, universities and colleges, the  
14 federal government or other states, and with  
15 interstate agencies in the furtherance of the purposes  
16 of this subsection, and to this end and for the  
17 purposes of studies, scientific or other  
18 investigations, research, experiments and  
19 demonstrations pertaining thereto, receive and spend  
20 funds as appropriated by the Legislature, and from  
21 such agencies and other officers and persons on behalf  
22 of the state,
- 23 b. encourage the formulation and execution of plans to  
24 maintain and protect groundwater by cooperative groups

1 or associations of municipal corporations, industries,  
2 industrial users and other users of groundwaters of  
3 the state, who, jointly or severally, are or may be  
4 impacting on the maintenance and protection of  
5 groundwater,

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

14 d. conduct groundwater sampling, data collection,  
15 analyses and evaluations with sufficient frequency to  
16 ascertain the characteristics and quality of  
17 groundwater and the sufficiency of the groundwater  
18 protection programs established pursuant to this  
19 subsection, and

20 e. develop a public education and promotion program to  
21 aid and assist in publicizing the need of, and  
22 securing support for, the maintenance and protection  
23 of groundwater.

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

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

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

13 Section 1-3-101. A. The provisions of this section specify the  
14 jurisdictional areas of responsibility for each state environmental  
15 agency and state agencies with limited environmental responsibility.  
16 The jurisdictional areas of environmental responsibility specified  
17 in this section shall be in addition to those otherwise provided by  
18 law and assigned to the specific state environmental agency;  
19 provided that any rule, interagency agreement or executive order  
20 enacted or entered into prior to the effective date of this section  
21 which conflicts with the assignment of jurisdictional environmental  
22 responsibilities specified by this section is hereby superseded.  
23 The provisions of this subsection shall not nullify any financial  
24 obligation arising from services rendered pursuant to any

1 interagency agreement or executive order entered into prior to July  
2 1, 1993, nor nullify any obligations or agreements with private  
3 persons or parties entered into with any state environmental agency  
4 before July 1, 1993.

5 B. Department of Environmental Quality. The Department of  
6 Environmental Quality shall have the following jurisdictional areas  
7 of environmental responsibility:

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

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

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

20 4. Surface water and groundwater quality and protection and  
21 water quality certifications;

22 5. Waterworks and wastewater works operator certification;

23 6. Public and private water supplies;

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

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

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

21           9. Hazardous waste and solid waste, including industrial,  
22 commercial and municipal waste;

23           10. Superfund responsibilities of the state under the  
24 Comprehensive Environmental Response, Compensation and Liability Act

1 of 1980 and amendments thereto, except the planning requirements of  
2 Title III of the Superfund Amendment and Reauthorization Act of  
3 1986;

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

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

13 13. Emergency response as specified by law;

14 14. Environmental laboratory services and laboratory  
15 certification;

16 15. Hazardous substances other than branding, package and  
17 labeling requirements;

18 16. Freshwater wellhead protection;

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

22 18. Utilization and enforcement of Oklahoma Water Quality  
23 Standards and implementation documents;

1 19. Environmental regulation of any entity or activity, and the  
2 prevention, control and abatement of any pollution, not subject to  
3 the specific statutory authority of another state environmental  
4 agency;

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

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

17 22. Development and utilization of policies and requirements  
18 necessary for the implementation of Oklahoma Groundwater Quality  
19 Standards to the extent that the implementation of such standards  
20 are within the scope of the Department's jurisdiction, including but  
21 not limited to the establishment of points of compliance when  
22 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 Clean Water State Revolving  
13 Fund Program including, but not limited to, making application for  
14 and receiving capitalization grant awards, wastewater prioritization  
15 for funding, technical project reviews, environmental review  
16 process, and 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 22 of subsection B of this~~  
6 ~~section, statewide water quality standards and their accompanying~~  
7 ~~use support assessment protocols, anti-degradation policy and~~  
8 ~~implementation, and policies generally affecting Oklahoma Water~~  
9 ~~Quality Standards application and implementation including but not~~  
10 ~~limited to mixing zones, low flows and variances or any modification~~  
11 ~~or change thereof pursuant to Section 1085.30 of Title 82 of the~~  
12 ~~Oklahoma Statutes;~~

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

15 ~~11.~~ 10. Development and promulgation of a Water Quality  
16 Standards Implementation Plan pursuant to Section 1-1-202 of this  
17 title for its jurisdictional area of environmental responsibility;

18 ~~12.~~ 11. Development of classifications and identification of  
19 permitted uses of groundwater, in recognized water rights, and  
20 associated groundwater recharge areas;

21 ~~13.~~ 12. Establishment and implementation of a statewide  
22 beneficial use monitoring program for waters of the state in  
23 coordination with the other state environmental agencies;

1       ~~14.~~ 13. Coordination with other state environmental agencies  
2 and other public entities of water resource investigations conducted  
3 by the federal United States Geological Survey for water quality and  
4 quantity monitoring in the state; and

5       ~~15.~~ 14. 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,

- 1 g. groundwater protection for activities subject to the  
2 jurisdictional areas of environmental responsibility  
3 of the Department,  
4 h. utilization and enforcement of Oklahoma Water Quality  
5 Standards and implementation documents,  
6 i. 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, and  
10 j. storm water discharges for activities subject to the  
11 jurisdictional areas of environmental responsibility  
12 of the Department.

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

- 17 a. (1) commercial manufacturers of fertilizers, grain  
18 and feed products, and chemicals, and over  
19 manufacturing of food and kindred products,  
20 tobacco, paper, lumber, wood, textile mill and  
21 other agricultural products,  
22 (2) slaughterhouses, but not including feedlots at  
23 these facilities, and  
24 (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~~7~~ 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~~7~~,  
22 including any associated CO2 injection well, over  
23 which the Commission is given jurisdiction  
24

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,  
25

- 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  
25



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;

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 Oklahoma Motor Carrier Safety and  
6 Hazardous Materials Transportation Act; and

7 2. Inspection and audit activities of hazardous waste and  
8 materials carriers and handlers as authorized by the Oklahoma Motor  
9 Carrier Safety and Hazardous 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 4. 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:



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~~ Section 2-6-101 et seq. of  
9 this title;

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

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

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

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

22           7. Require the submission of reports or laboratory analyses  
23 performed by certified laboratories or operators for purposes of  
24 compliance monitoring and testing or other purposes for which

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~~  
19 Department of Environmental Quality and the United States  
20 Environmental Protection Agency as Oklahoma's Water Quality  
21 Standards and promulgate other rules to protect, maintain and  
22 improve the best uses of waters in this state in the interest of the  
23 public under such conditions as may be necessary or appropriate for  
24 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 5. AMENDATORY 82 O.S. 2021, Section 1085.30, is  
22 amended to read as follows:

23 Section 1085.30. A. 1. In order to effectuate a comprehensive  
24 program to assist in the prevention, control and abatement of  
25

1 pollution of the waters of this state, and in order to establish  
2 state standards which comply with the Federal Water Pollution  
3 Control Act as amended, the ~~Oklahoma Water Resources Board~~  
4 Department of Environmental Quality is authorized to promulgate  
5 rules to be known as "Oklahoma Water Quality Standards" which  
6 establish classifications of uses of waters of the state, criteria  
7 to maintain and protect such classifications, and other standards or  
8 policies pertaining to the quality of such waters.

9 2. The Oklahoma Water Quality Standards shall, at a minimum, be  
10 designed to maintain and protect the quality of the waters of the  
11 state.

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

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

23 b. The ~~Board~~ Department may amend the Oklahoma Water  
24 Quality Standards to downgrade a designated use,

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

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

15 B. 1. Prior to adopting such standards or any amendment  
16 thereof, the ~~Board~~ Department shall conduct public hearings thereon.  
17 Notice of such hearing shall be published in accordance with the  
18 Administrative Procedures Act and shall be mailed at least twenty  
19 (20) days before such public hearing to the chief executive of each  
20 municipality and county in the area affected and shall be mailed to  
21 all affected holders of permits obtained pursuant to the Oklahoma  
22 Environmental Quality Code, and such other persons that have  
23 requested notice of hearings on such standard modifications.  
24

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

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

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

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

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

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

20           Section 1085.30a. Oklahoma Water Quality Standards, promulgated  
21 by the ~~Oklahoma Water Resources Board~~ Department of Environmental  
22 Quality, shall designate:

- 23           1. Watersheds that are nutrient-limited; and
- 24           2. Groundwaters that are nutrient-vulnerable.



1 SECTION 7. This act shall become effective November 1, 2022.

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