

1 **SENATE FLOOR VERSION**

2 March 22, 2018

3 ENGROSSED HOUSE  
4 BILL NO. 3404

By: Watson of the House

and

Fields of the Senate

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7  
8 An Act relating to water; amending 27A O.S. 2011,  
9 Section 1-3-101, as last amended by Section 1,  
10 Chapter 129, O.S.L. 2017 (27A O.S. Supp. 2017,  
11 Section 1-3-101), which relates to state  
12 environmental agencies; implementing Oklahoma  
13 Groundwater Quality Standards under the Department of  
14 Environmental Quality; excepting Oklahoma Groundwater  
15 Quality Standards from water quality duties of  
16 Oklahoma Water Resources Board; amending 82 O.S.  
17 2011, Section 1085.30, which relates to water quality  
18 standards; granting Department of Environmental  
19 Quality certain duties; and providing an effective  
20 date.

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

22 SECTION 1. AMENDATORY 27A O.S. 2011, Section 1-3-101, as  
23 last amended by Section 1, Chapter 129, O.S.L. 2017 (27A O.S. Supp.  
24 2017, Section 1-3-101), is amended to read as follows:

Section 1-3-101. A. The provisions of this section specify the  
jurisdictional areas of responsibility for each state environmental  
agency and state agencies with limited environmental responsibility.  
The jurisdictional areas of environmental responsibility specified

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6 responsibilities specified by this section is hereby superseded.  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

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

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

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

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

5           4. Surface water and groundwater quality and protection and  
6 water quality certifications;

7           5. Waterworks and wastewater works operator certification;

8           6. Public and private water supplies;

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

11           a. Class II injection wells,

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

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

18           d. any aspect of any CO<sub>2</sub> sequestration facility, including  
19 any associated CO<sub>2</sub> injection well, over which the  
20 Commission is given jurisdiction pursuant to the  
21 Oklahoma Carbon Capture and Geologic Sequestration  
22 Act;

23           8. Notwithstanding any other provision in this section or other  
24 environmental jurisdiction statute, sole and exclusive jurisdiction

1 for air quality under the federal Clean Air Act and applicable state  
2 law, except for indoor air quality and asbestos as regulated for  
3 worker safety by the federal Occupational Safety and Health Act and  
4 by Chapter 11 of Title 40 of the Oklahoma Statutes;

5 9. Hazardous waste and solid waste, including industrial,  
6 commercial and municipal waste;

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

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

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

21 13. Emergency response as specified by law;

22 14. Environmental laboratory services and laboratory  
23 certification;

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1 15. Hazardous substances other than branding, package and  
2 labeling requirements;

3 16. Freshwater wellhead protection;

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

7 18. Utilization and enforcement of Oklahoma Water Quality  
8 Standards and implementation documents;

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

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

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

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

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

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

7 2. Weather modification;

8 3. Dam safety;

9 4. Flood plain management;

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

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

17 7. Water well drillers/pump installers licensing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20                   (1) natural gas liquids extraction plant,

21                   (2) refinery,

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

24                   subsection,

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

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

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

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

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

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

7 5. The Commission shall have jurisdiction over:

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

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

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

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



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

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

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

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

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

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

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

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

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

10        3. Wetlands strategy;

11        4. Abandoned mine reclamation;

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

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

15        7. Complaint data management;

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

18        9. Federal upstream flood control program;

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

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

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

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

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

9 1. Mining regulation;

10 2. Mining reclamation of active mines;

11 3. Groundwater protection for activities subject to the  
12 jurisdictional areas of environmental responsibility of the  
13 Commission; and

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

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

20 1. Investigating wildlife kills;

21 2. Wildlife protection and seeking wildlife damage claims; and

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

19          SECTION 2.           AMENDATORY           82 O.S. 2011, Section 1085.30, is  
20 amended to read as follows:

21          Section 1085.30.   A.   1.   In order to effectuate a comprehensive  
22 program to assist in the prevention, control and abatement of  
23 pollution of the waters of this state, and in order to establish  
24 state standards which comply with the Federal Water Pollution

1 Control Act as amended, the Oklahoma Water Resources Board is  
2 authorized to promulgate rules to be known as "Oklahoma Water  
3 Quality Standards" which establish classifications of uses of waters  
4 of the state, criteria to maintain and protect such classifications,  
5 and other standards or policies pertaining to the quality of such  
6 waters.

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

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

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

21 b. The Board may amend the Oklahoma Water Quality  
22 Standards to downgrade a designated use, establish  
23 subcategories of a use or may provide for less  
24 stringent criteria or other provisions thereof only to

1 the extent as will maintain or improve the existing  
2 uses and the water quality of the water affected;  
3 provided, however, the Board shall not modify the  
4 Oklahoma Water Quality Standards applicable to scenic  
5 river areas as such areas are described by Section  
6 ~~1452~~ 896.5 of this title, to downgrade a designated  
7 use, establish a subcategory of a use or provide for  
8 less stringent criteria or other provisions thereof.

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

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

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

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

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

23 3. Any discharge in accord with such standards of the Board and  
24 in compliance with rules, requirements and wasteload allocations



1 established by the Department of Environmental Quality and with  
2 rules promulgated by other state environmental agencies shall not be  
3 deemed to be pollution.

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

9 SECTION 3. This act shall become effective November 1, 2018.

10 COMMITTEE REPORT BY: COMMITTEE ON ENERGY  
11 March 22, 2018 - DO PASS  
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