

1 **SENATE FLOOR VERSION**

2 March 2, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 498

5 By: Allen

6 [ Department of Environmental Quality - issuance of  
7 discharge permits - ~~effective date~~ -  
8 **emergency** ]

9  
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-6-204, is  
12 amended to read as follows:

13 Section 2-6-204. A. Pollutant discharge permits issued by the  
14 Executive Director may include schedules of compliance and such  
15 conditions as the Executive Director may prescribe which:

16 1. Prevent, control or abate pollution, including such water-  
17 quality-related and technology-based effluent limitations as are  
18 necessary to protect the water quality and existing and designated  
19 beneficial uses of the waters of the state;

20 2. Require application of best practicable control technology  
21 currently available, best conventional pollutant control technology,  
22 or best available technology economically achievable or such other  
23 limitations as the Executive Director may prescribe;

1           3. Require compliance with national standards of performance,  
2 toxic and pretreatment effluent standards;

3           4. Set limitations or prohibitions designed to prohibit the  
4 discharge of toxic pollutants in toxic amounts or to require  
5 pretreatment of pollutants;

6           5. Set interim compliance dates which are enforceable without  
7 otherwise showing a violation of an effluent limitation or harm to  
8 water quality;

9           6. Set terms and conditions for sludge and land application of  
10 wastewater and for impoundments in accordance with rules promulgated  
11 by the Board; and

12           7. Comply with the provisions of the Oklahoma Pollutant  
13 Discharge Elimination System Act and the requirements of the Clean  
14 Water Act.

15           B. The Executive Director shall:

16           1. Have authority to issue individual permits and  
17 authorizations under general discharge permits for pollutants and  
18 stormwater and sludge as authorized by the Oklahoma Pollutant  
19 Discharge Elimination System Act;

20           2. Issue permits for fixed terms not to exceed five (5) years;

21           3. Have the authority to require in permits issued to publicly  
22 or privately owned treatment works conditions requiring the  
23 permittee to give notice to the Department of new introductions into  
24 such works of pollutants from any source which would be a new source

1 as defined in Section 306 of the Clean Water Act or from a source  
2 which would be a point source subject to Section 301 of the Clean  
3 Water Act if it were discharging directly to waters of the state, a  
4 substantial change in volume or character of pollutants being  
5 introduced into such works by a source introducing pollutants into  
6 such works at the time of issuance of the permit, or such other  
7 conditions as may be required under the Clean Water Act or state  
8 law;

9 4. Issue "de minimis exemption" pollutant discharge permits to  
10 the owners or operators of properties whose pollutant discharges are  
11 determined not to reach a threshold that threatens the water quality  
12 of the receiving body of surface water. The pollutant discharge  
13 threshold shall be determined by the Board of Environmental Quality  
14 and consistent with federal law. The Board shall promulgate rules  
15 and regulations necessary to exercise the authority provided in this  
16 paragraph by July 1, 2018;

17 5. Have the authority to ensure compliance with Sections  
18 204(b), 307, and 308 and other provisions of the Clean Water Act and  
19 with other applicable federal law;

20 ~~5.~~ 6. Have all necessary and incidental authority to comply  
21 with the requirements of the Clean Water Act and requirements of the  
22 United States Environmental Protection Agency set forth in duly  
23 promulgated federal regulations adopted under the Clean Water Act;

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1       ~~6.~~ 7. Have the authority to terminate or modify permits issued  
2 by the Executive Director for cause, including but not limited to:

- 3           a. violation of any condition of the permit, including  
4                 but not limited to conditions related to monitoring  
5                 requirements, entry and inspections,
- 6           b. obtaining a permit by misrepresentation, or failure to  
7                 disclose fully all relevant facts, or
- 8           c. change in any condition that requires either a  
9                 temporary or permanent reduction or elimination of the  
10                permitted discharge;

11       ~~7.~~ 8. Have all necessary authority to implement and enforce  
12 Department programs and requirements established by the  
13 Environmental Quality Board in duly promulgated rules, including but  
14 not limited to the authority to implement and enforce a statewide  
15 pretreatment program required under federal law and regulations and  
16 to implement and enforce requirements applicable to dischargers into  
17 municipal separate storm sewer systems;

18       ~~8.~~ 9. Have all necessary or incidental authority to investigate  
19 and abate violations of permits issued by the Executive Director,  
20 violations of administrative orders, violations of duly promulgated  
21 rules, and violations of the Oklahoma Pollutant Discharge  
22 Elimination System Act, and shall have all necessary and incidental  
23 authority to apply sanctions through administrative proceedings for  
24 violations, including but not limited to violations of requirements

1 to obtain permits, terms and conditions of permits, effluent  
2 standards and limitations and water quality standards, and  
3 violations of requirements for recording, reporting, monitoring,  
4 entry, inspection and sampling; and

5 ~~9.~~ 10. Have authority to require permits for indirect  
6 discharges or other introductions of pollutants to publicly owned  
7 treatment works, impose pretreatment standards and other  
8 requirements upon users of such treatment works, and to enforce such  
9 permits and requirements pursuant to Section 2-6-206 of this title.

10 C. Authorized employees or representatives of the Department  
11 shall, upon presentation of credentials, have:

12 1. A right of entry to, upon, or through any private or public  
13 premises upon which an effluent or sludge source is or may be  
14 located or in which any records are required to be maintained;

15 2. Access to at any reasonable time for the purposes of  
16 reviewing and copying any records required to be maintained;

17 3. Authority to inspect any monitoring equipment, methods,  
18 disposal systems or other facilities or equipment which may be  
19 required; and

20 4. Access for the purpose of inspecting and sampling any  
21 effluent streams or any discharge of pollutants to waters of the  
22 state or to treatment systems discharging into waters of the state  
23 or for inspection and sampling of any sludge source, storage,  
24 beneficial use, reuse or disposal site.

1 D. The Executive Director shall not issue a discharge permit if  
2 the permit:

3 1. Would authorize the discharge of a radiological, chemical or  
4 biological warfare agent, or high-level radioactive waste;

5 2. Would, in the judgment of the Secretary of the Army acting  
6 through the Chief of Engineers, result in the substantial impairment  
7 of anchorage and navigation of any waters of the United States as  
8 those waters are defined in the Clean Water Act;

9 3. Is objected to in writing by the Administrator of the United  
10 States Environmental Protection Agency or his designee, pursuant to  
11 any right to object which is granted to the Administrator under  
12 Section 402(d) of the Clean Water Act; or

13 4. Would authorize a discharge from a point source which is in  
14 conflict with a plan approved under Section 208(b) of the Clean  
15 Water Act.

16 E. Copies of records, plans, reports or other information  
17 required by the Department shall be submitted upon request and shall  
18 be subject to and made available for inspection at reasonable times  
19 to any authorized representative of the Department of Environmental  
20 Quality upon showing of proper credentials. Any authorized  
21 representative of the Department may examine any records or  
22 memoranda pertaining to discharges, treatment, or other limitations  
23 set by permit, order or duly promulgated rules of the Board.

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1 F. Any records, reports, or information obtained pursuant to  
2 this section shall be available to the public, except that upon  
3 submission of sufficient evidence showing that records, reports, or  
4 information, or particular parts thereof, other than effluent data,  
5 if made public would divulge methods or processes entitled to  
6 protection as trade secrets of such person, such record, report, or  
7 information, or particular portion thereof shall be considered  
8 confidential in accordance with the purposes of the Uniform Trade  
9 Secrets Act. Nothing in this subsection shall prohibit the  
10 Department or an authorized representative of the Department,  
11 including, but not limited to, any authorized contractor, from  
12 disclosing records, reports, or information to other officers,  
13 employees, or authorized representatives of the State of Oklahoma or  
14 the United States concerned with carrying out provisions of state or  
15 federal law under their respective jurisdictions or within their  
16 respective authorities.

17 G. The Executive Director and any person designated by him to  
18 approve all or portions of permits, or to modify, revoke or reissue  
19 permits or to make any final decisions in the first instance or on  
20 appeal relating to permits or enforcement actions related thereto,  
21 shall be required to meet all requirements of Section 304 of the  
22 Clean Water Act and federal regulations promulgated thereunder.

23 ~~**SECTION 2. This act shall become effective July 1, 2017.**~~

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1        ~~SECTION 3. It being immediately necessary for the preservation~~  
2 ~~of the public peace, health or safety, an emergency is hereby~~  
3 ~~declared to exist, by reason whereof this act shall take effect and~~  
4 ~~be in full force from and after its passage and approval.~~

5 COMMITTEE REPORT BY: COMMITTEE ON ENERGY  
6 March 2, 2017 - DO PASS AS AMENDED  
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