

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 2ND CONFERENCE COMMITTEE

4 SUBSTITUTE

5 FOR ENGROSSED

6 HOUSE BILL NO. 2197

By: Lowe (Dick) of the House

and

Paxton of the Senate

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9 2ND CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to waters and water rights; amending
11 82 O.S. 2021, Section 105.1, which relates to
12 definitions; modifying definition; amending 82 O.S.
13 2021, Section 105.13, which relates to permits;
14 modifying entity granting certain approval; making
15 certain exception; amending 82 O.S. 2021, Section
16 105.17, which relates to reversion of water to the
17 public; requiring certain report by permit holders;
18 allowing report to contain certain explanation;
19 authorizing the Oklahoma Water Resources Board to
20 promulgate certain rules; allowing for certain
21 cancellation of permit; amending 82 O.S. 2021,
22 Section 105.20, as amended by Section 1, Chapter 218,
23 O.S.L. 2022 (82 O.S. Supp. 2023, Section 105.20),
24 which relates to violations; authorizing the issuance
of certain administrative orders upon findings;
requiring orders to make certain finding and
specifications; amending 82 O.S. 2021, Section
1020.10, which relates to permits; allowing certain
permit renewal; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 2021, Section 105.1, is
amended to read as follows:

1 As used in Sections 105.2 through 105.32 of this title:

2 1. "Definite stream" means a watercourse in a definite, natural
3 channel, with defined beds and banks, originating from a definite
4 source or sources of supply. The stream may flow intermittently or
5 at irregular intervals if that is characteristic of the sources of
6 supply in the area;

7 2. "Domestic use" means the use of water by a natural
8 individual or by a family or household for household purposes, for
9 farm and domestic animals up to the normal grazing capacity of the
10 land and for the irrigation of land not exceeding a total of three
11 (3) acres in area for the growing of gardens, orchards and lawns,
12 and for such other purposes, specified by Board rules, for which de
13 minimis amounts are used;

14 3. "Regular permit" means a permit granted by the Oklahoma
15 Water Resources Board authorizing the holder to appropriate water on
16 a year-round basis in an amount and from a source approved by the
17 Board;

18 4. "Seasonal permit" means a permit granted by the Board
19 authorizing the holder of such permit to divert available water for
20 specified time periods during the calendar year;

21 5. "Temporary permit" means a permit granted by the Board
22 authorizing the appropriation of water in an amount and from a
23 source approved by the Board which does not exceed a time period of
24 three (3) months, which does not vest in the holder any permanent

1 right and which may be canceled by the Board in accordance with its
2 terms;

3 6. "Term permit" means a permit granted by the Board
4 authorizing the appropriation of water in an amount and from a
5 source approved by the Board for a term of years which does not vest
6 the holder with any permanent right and which expires upon
7 expiration of the term of the permit; and

8 7. "Provisional temporary permit" means a ~~nonrenewable~~ permit
9 which may be summarily granted upon administrative approval by the
10 ~~Board~~ Executive Director of the Oklahoma Water Resources Board and
11 which authorizes an appropriation of water in an amount and from a
12 source approved by the ~~Board~~ Executive Director. A provisional
13 temporary permit shall ~~not~~ authorize an appropriation for a period
14 of time not exceeding ninety (90) days, shall not vest in the holder
15 any permanent water right and shall be subject to cancellation by
16 the Board at any time within its term in accordance with its
17 provisions. A provisional temporary permit may be renewed three (3)
18 times for the oil and natural gas industry except in a sole source
19 aquifer.

20 SECTION 2. AMENDATORY 82 O.S. 2021, Section 105.13, is
21 amended to read as follows:

22 Section 105.13 A. The Oklahoma Water Resources Board is
23 authorized to issue, in addition to regular permits, seasonal,
24 temporary, term or provisional temporary permits at any time the

1 Board finds such issuance will not impair or interfere with domestic
2 uses or existing rights of prior appropriators and may do so even
3 where it finds no unappropriated water is available for a regular
4 permit. All seasonal, temporary, term and provisional temporary
5 permits shall contain a provision making them subject to all rights
6 of prior appropriators. If any such permit is for water impounded
7 in any works for storage, diversion or carriage of water, the
8 applicant must comply with the provisions of Section 105.21 of this
9 title.

10 B. Except as otherwise provided by this section, application,
11 notice and administrative hearing as provided in Sections 105.9
12 through 105.12 of this title shall be required for all permits. A
13 provisional temporary permit may be immediately and summarily
14 granted upon administrative approval by the ~~Board~~ Executive
15 Director. Provisional temporary permits shall:

- 16 1. Not be effective for a period of more than ninety (90) days
17 except for the oil and natural gas industry;
- 18 2. Be granted at the discretion of the Board; and
- 19 3. Be subject to such terms, conditions and rules promulgated
20 by the Board for such purposes.

21 C. The Executive Director of the Board may administratively
22 issue permits to use limited quantities of stream water. Notice,
23 procedures and the maximum quantity authorized for limited quantity
24 stream water permits shall be in compliance with rules promulgated

1 by the Board. In no event shall the maximum quantity of water
2 authorized in a limited quantity stream water permit exceed the
3 amount of stream water that would otherwise be determined by the
4 Board pursuant to Section 105.12 of this title.

5 SECTION 3. AMENDATORY 82 O.S. 2021, Section 105.17, is
6 amended to read as follows:

7 Section 105.17 A. To the extent that the water authorized is
8 not put to beneficial use as provided by the terms of the permit,
9 that amount not so used shall be forfeited by the holder of the
10 permit and shall become public water and available for
11 appropriation.

12 B. When the party entitled to the use of water commences using
13 water but thereafter fails to beneficially use all or any part of
14 the water claimed by him or her, for which a right of use has been
15 vested for the purpose for which it was appropriated for a period of
16 seven (7) continuous years, such unused water shall revert to the
17 public and shall be regarded as unappropriated public water.

18 C. Permit holders shall report their annual water use to the
19 Oklahoma Water Resources Board in a manner provided by the Board.
20 The water use report shall provide the permit holder an opportunity
21 to explain any nonuse of the water allocated by the permit. In
22 addition to the procedure for individual proceedings provided for in
23 Section 105.18 of this title, the Board is authorized to promulgate
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1 rules for reporting stream water used and the approval of excused
2 nonuse of stream water.

3 D. Failure to report annual water usage may result in
4 cancellation of the permit by the Board upon proper notice and
5 hearing as provided in Section 105.18 of this title.

6 SECTION 4. AMENDATORY 82 O.S. 2021, Section 105.20, as
7 amended by Section 1, Chapter 218, O.S.L. 2022 (82 O.S. Supp. 2023,
8 Section 105.20), is amended to read as follows:

9 Section 105.20 A. The unauthorized use of water, the
10 unauthorized transfer of a water right, the continued use of works
11 which are unsafe after receiving notice to repair, the waste of
12 water, the unauthorized severance of a water right from the land to
13 which it is appurtenant, the refusal to change unsafe works when
14 directed to do so, the injury or obstruction of waterworks, or the
15 violation of a permit condition shall be a misdemeanor and each day
16 such violation continues shall be a separate violation. In addition
17 to filing criminal complaints and any other remedies provided
18 herein, the Oklahoma Water Resources Board shall have the right to
19 bring an action in the district court of the county wherein such act
20 or omission occurs to enjoin the same.

21 B. The unauthorized use of water, the unauthorized transfer of
22 a water right, the continued use of works which are unsafe after
23 receiving notice to repair, the waste of water, the unauthorized
24 severance of a water right from the land to which it is appurtenant,

1 the refusal to change unsafe works when directed to do so, the
2 injury or obstruction of waterworks, or the violation of a permit
3 condition are considered violations of Sections 105.1 through 105.32
4 of this title and shall be subject to administrative penalties
5 issued by the Board of up to Five Thousand Dollars (\$5,000.00) per
6 day of violation. Such administrative penalties shall be imposed
7 only after notice and opportunity for hearing on the proposed
8 imposition of such penalties.

9 C. The Board and its authorized agents shall have a reasonable
10 right to go upon private property in the performance of their duties
11 hereunder and shall have the duty to file complaints of violations
12 of the penal provisions of this section.

13 D. Notwithstanding any other provision of law, the Executive
14 Director of the Oklahoma Water Resources Board may issue
15 administrative orders requiring the immediate cessation of water use
16 when Board staff has a reasonable belief the use is unauthorized or
17 continued use will damage rights of prior appropriators. Such
18 administrative orders shall indicate the finding of imminent peril
19 and shall specify the actions that are to be taken immediately. In
20 addition, the orders shall specify a time and place for a hearing to
21 be held after such actions are taken.

22 SECTION 5. AMENDATORY 82 O.S. 2021, Section 1020.10, is
23 amended to read as follows:

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1 Section 1020.10 A. The procedures provided for in this chapter
2 for the granting of regular permits shall be applicable to the
3 granting of temporary or special permits except that the
4 determination of the maximum annual yield shall not be a condition
5 precedent. Provided a provisional temporary permit for water may
6 immediately be granted upon administrative approval by the Oklahoma
7 Water Resources Board. This permit will ~~not~~ be effective for a
8 period of not more than ninety (90) days. A provisional temporary
9 permit may be renewed three (3) times for the oil and natural gas
10 industry except in a sole source aquifer.

11 B. The Executive Director of the Board may administratively
12 issue permits to use limited quantities of groundwater. Notice,
13 procedures and the maximum groundwater quantity authorized for
14 limited quantity groundwater permits shall be in compliance with
15 rules promulgated by the Board. In no event shall the maximum
16 quantity of water authorized in a limited quantity groundwater
17 permit exceed the amount that would otherwise be allocated by this
18 chapter.

19 SECTION 6. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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