

1 **SENATE FLOOR VERSION**

2 February 23, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 287

5 By: Griffin

6
7 An Act relating to state environmental agencies;
8 amending 27A O.S. 2011, Section 1-3-101, as amended
9 by Section 1, Chapter 110, O.S.L. 2012 (27A O.S.
10 Supp. 2016, Section 1-3-101), which relates to
11 jurisdictional areas of environmental
12 responsibilities; authorizing Corporation Commission
13 and Department of Environmental Quality to obtain
14 certain authorization to administer certain programs;
15 modifying jurisdictional authority of certain water
16 discharge; and providing an effective date.

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

18 SECTION 1. AMENDATORY 27A O.S. 2011, Section 1-3-101, as
19 amended by Section 1, Chapter 110, O.S.L. 2012 (27A O.S. Supp. 2016,
20 Section 1-3-101), is amended to read as follows:

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

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3 responsibilities specified by this section is hereby superseded.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

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

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

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

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

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

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

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

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

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

17 13. Emergency response as specified by law;

18 14. Environmental laboratory services and laboratory
19 certification;

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

22 16. Freshwater wellhead protection;

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

4 18. Utilization and enforcement of Oklahoma Water Quality
5 Standards and implementation documents;

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

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

13 21. Development and promulgation of a Water Quality Standards
14 Implementation Plan pursuant to Section 1-1-202 of this title for
15 its jurisdictional area of environmental responsibility.

16 C. Oklahoma Water Resources Board. The Oklahoma Water
17 Resources Board shall have the following jurisdictional areas of
18 environmental responsibility:

19 1. Water quantity including, but not limited to, water rights,
20 surface water and underground water, planning, and interstate stream
21 compacts;

22 2. Weather modification;

23 3. Dam safety;

24 4. Flood plain management;

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

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

8 7. Water well drillers/pump installers licensing;

9 8. Technical lead agency for clean lakes eligible for funding
10 under Section 314 of the federal Clean Water Act or other applicable
11 sections of the federal Clean Water Act or other subsequent state
12 and federal clean lakes programs; administration of a state program
13 for assessing, monitoring, studying and restoring Oklahoma lakes
14 with administration to include, but not be limited to, receipt and
15 expenditure of funds from federal, state and private sources for
16 clean lakes and implementation of a volunteer monitoring program to
17 assess and monitor state water resources, provided such funds from
18 federal Clean Water Act sources are administered and disbursed by
19 the Office of the Secretary of Environment;

20 9. Statewide water quality standards and their accompanying use
21 support assessment protocols, anti-degradation policy and
22 implementation, and policies generally affecting Oklahoma Water
23 Quality Standards application and implementation including but not
24 limited to mixing zones, low flows and variances or any modification

1 or change thereof pursuant to Section 1085.30 of Title 82 of the
2 Oklahoma Statutes;

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

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

8 12. Development of classifications and identification of
9 permitted uses of groundwater, in recognized water rights, and
10 associated groundwater recharge areas;

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

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

18 15. Development and submission of a report concerning the
19 status of water quality monitoring in this state pursuant to Section
20 1-1-202 of this title.

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

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

- 1 a. point source discharges and nonpoint source runoff
2 from agricultural crop production, agricultural
3 services, livestock production, silviculture, feed
4 yards, livestock markets and animal waste,
5 b. pesticide control,
6 c. forestry and nurseries,
7 d. fertilizer,
8 e. facilities which store grain, feed, seed, fertilizer
9 and agricultural chemicals,
10 f. dairy waste and wastewater associated with milk
11 production facilities,
12 g. groundwater protection for activities subject to the
13 jurisdictional areas of environmental responsibility
14 of the Department,
15 h. utilization and enforcement of Oklahoma Water Quality
16 Standards and implementation documents,
17 i. development and promulgation of a Water Quality
18 Standards Implementation Plan pursuant to Section 1-1-
19 202 of this title for its jurisdictional areas of
20 environmental responsibility, and
21 j. storm water discharges for activities subject to the
22 jurisdictional areas of environmental responsibility
23 of the Department.
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1 2. In addition to the jurisdictional areas of environmental
2 responsibility specified in subsection B of this section, the
3 Department of Environmental Quality shall have environmental
4 jurisdiction over:

- 5 a. (1) commercial manufacturers of fertilizers, grain
6 and feed products, and chemicals, and over
7 manufacturing of food and kindred products,
8 tobacco, paper, lumber, wood, textile mill and
9 other agricultural products,
10 (2) slaughterhouses, but not including feedlots at
11 these facilities, and
12 (3) aquaculture and fish hatcheries,
13 including, but not limited to, discharges of pollutants
14 and storm water to waters of the state, surface
15 impoundments and land application of wastes and
16 sludge, and other pollution originating at these
17 facilities, and
18 b. facilities which store grain, feed, seed, fertilizer,
19 and agricultural chemicals that are required by
20 federal NPDES regulations to obtain a permit for storm
21 water discharges shall only be subject to the
22 jurisdiction of the Department of Environmental
23 Quality with respect to such storm water discharges.

24 E. Corporation Commission.

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

5 a. the conservation of oil and gas,

6 b. field operations for geologic and geophysical
7 exploration for oil, gas and brine, including seismic
8 survey wells, stratigraphic test wells and core test
9 wells,

10 c. the exploration, drilling, development, producing or
11 processing for oil and gas on the lease site,

12 d. the exploration, drilling, development, production and
13 operation of wells used in connection with the
14 recovery, injection or disposal of mineral brines,

15 e. reclaiming facilities only for the processing of salt
16 water, crude oil, natural gas condensate and tank
17 bottoms or basic sediment from crude oil tanks,
18 pipelines, pits and equipment associated with the
19 exploration, drilling, development, producing or
20 transportation of oil or gas,

21 f. underground injection control pursuant to the federal
22 Safe Drinking Water Act and 40 CFR Parts 144 through
23 148, of:

24 (1) Class II injection wells,

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

13 Any substance that the United States Environmental
14 Protection Agency allows to be injected into a Class
15 II well may continue to be so injected,

- 16 g. tank farms for storage of crude oil and petroleum
17 products which are located outside the boundaries of
18 refineries, petrochemical manufacturing plants,
19 natural gas liquid extraction plants, or other
20 facilities which are subject to the jurisdiction of
21 the Department of Environmental Quality with regard to
22 point source discharges,
- 23 h. the construction and operation of pipelines and
24 associated rights-of-way, equipment, facilities or

1 buildings used in the transportation of oil, gas,
2 petroleum, petroleum products, anhydrous ammonia or
3 mineral brine, or in the treatment of oil, gas or
4 mineral brine during the course of transportation but
5 not including line pipes in any:

6 (1) natural gas liquids extraction plant,

7 (2) refinery,

8 (3) reclaiming facility other than for those
9 specified within subparagraph e of this
10 subsection,

11 (4) mineral brine processing plant, and

12 (5) petrochemical manufacturing plant,

13 i. the handling, transportation, storage and disposition
14 of saltwater, mineral brines, waste oil and other
15 deleterious substances produced from or obtained or
16 used in connection with the drilling, development,
17 producing and operating of oil and gas wells, at:

18 (1) any facility or activity specifically listed in
19 paragraphs 1 and 2 of this subsection as being
20 subject to the jurisdiction of the Commission,
21 and

22 (2) other oil and gas extraction facilities and
23 activities,
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- 1 j. spills of deleterious substances associated with
2 facilities and activities specified in paragraph 1 of
3 this subsection or associated with other oil and gas
4 extraction facilities and activities,
5 k. subsurface storage of oil, natural gas and liquefied
6 petroleum gas in geologic strata,
7 l. groundwater protection for activities subject to the
8 jurisdictional areas of environmental responsibility
9 of the Commission,
10 m. utilization and enforcement of Oklahoma Water Quality
11 Standards and implementation documents, and
12 n. development and promulgation of a Water Quality
13 Standards Implementation Plan pursuant to Section 1-1-
14 202 of this title for its jurisdictional areas of
15 environmental responsibility.

16 2. The exclusive jurisdiction, power and authority of the
17 Commission shall also extend to the construction, operation,
18 maintenance, site remediation, closure and abandonment of the
19 facilities and activities described in paragraph 1 of this
20 subsection.

21 3. When a deleterious substance from a Commission-regulated
22 facility or activity enters a point source discharge of pollutants
23 or storm water from a facility or activity regulated by the
24 Department of Environmental Quality, the Department shall have sole

1 jurisdiction over the point source discharge of the commingled
2 pollutants and storm water from the two facilities or activities
3 insofar as Department-regulated facilities and activities are
4 concerned.

5 4. The Commission and the Department of Environmental Quality
6 are hereby authorized to obtain authorization from the Environmental
7 Protection Agency to administer, within their respective
8 jurisdictions, any and all programs regulating oil and gas
9 discharges into the waters of this state. For purposes of the
10 federal Clean Water Act, any facility or activity which is subject
11 to the jurisdiction of the Commission pursuant to paragraph 1 of
12 this subsection and any other oil and gas extraction facility or
13 activity which requires a permit for the discharge of a pollutant or
14 storm water to waters of the United States shall be subject to the
15 direct jurisdiction ~~of the federal Environmental Protection Agency~~
16 ~~and shall not be required to be permitted by the Department of~~
17 ~~Environmental Quality or the Commission for such discharge~~ and
18 permitting authority of the Oklahoma agency having received
19 delegation of this program from the Environmental Protection Agency.

20 5. The Commission shall have jurisdiction over:

21 a. underground storage tanks that contain antifreeze,
22 motor oil, motor fuel, gasoline, kerosene, diesel, or
23 aviation fuel and that are not located at refineries
24 or at the upstream or intermediate shipment points of

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

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

1 soil, media, or debris shall be regulated by the
2 Department of Environmental Quality, and

3 c. the Petroleum Storage Tank Release Environmental
4 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
5 Tank Release Indemnity Program, and the Oklahoma
6 Leaking Underground Storage Tank Trust Fund.

7 6. The Department of Environmental Quality shall have sole
8 jurisdiction to regulate the transportation, discharge or release of
9 deleterious substances or solid or hazardous waste or other
10 pollutants from rolling stock and rail facilities. The Department
11 of Environmental Quality shall not have any jurisdiction with
12 respect to pipeline transportation of carbon dioxide.

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

- 16 a. refineries, petrochemical manufacturing plants and
17 natural gas liquid extraction plants,
18 b. manufacturing of equipment and products related to oil
19 and gas,
20 c. bulk terminals, aboveground and underground storage
21 tanks not subject to the jurisdiction of the
22 Commission pursuant to this subsection, and
23 d. other facilities, activities and sources not subject
24 to the jurisdiction of the Commission or the Oklahoma

1 Department of Agriculture, Food, and Forestry as
2 specified by this section.

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

7 F. Oklahoma Conservation Commission. The Oklahoma Conservation
8 Commission shall have the following jurisdictional areas of
9 environmental responsibility:

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

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

21 3. Wetlands strategy;

22 4. Abandoned mine reclamation;

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

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

3 7. Complaint data management;

4 8. Coordination of environmental and natural resources
5 education;

6 9. Federal upstream flood control program;

7 10. Groundwater protection for activities subject to the
8 jurisdictional areas of environmental responsibility of the
9 Commission;

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

13 12. Utilization of Oklahoma Water Quality Standards and
14 Implementation documents; and

15 13. Verification and certification of carbon sequestration
16 pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This
17 responsibility shall not be superseded by the Oklahoma Carbon
18 Capture and Geologic Sequestration Act.

19 G. Department of Mines. The Department of Mines shall have the
20 following jurisdictional areas of environmental responsibility:

21 1. Mining regulation;

22 2. Mining reclamation of active mines;

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

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

7 H. Department of Wildlife Conservation. The Department of
8 Wildlife Conservation shall have the following jurisdictional areas
9 of environmental responsibilities:

- 10 1. Investigating wildlife kills;
- 11 2. Wildlife protection and seeking wildlife damage claims; and
- 12 3. Development and promulgation of a Water Quality Standards
13 Implementation Plan pursuant to Section 1-1-202 of this title for
14 its jurisdictional areas of environmental responsibility.

15 I. Department of Public Safety. The Department of Public
16 Safety shall have the following jurisdictional areas of
17 environmental responsibilities:

- 18 1. Hazardous waste, substances and material transportation
19 inspections as authorized by the Hazardous Materials Transportation
20 Act; and
- 21 2. Inspection and audit activities of hazardous waste and
22 materials carriers and handlers as authorized by the Hazardous
23 Materials Transportation Act.

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1 J. Department of Labor. The Department of Labor shall have the
2 following jurisdictional areas of environmental responsibility:

3 1. Regulation of asbestos in the workplace pursuant to Chapter
4 11 of Title 40 of the Oklahoma Statutes;

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

6 3. Indoor air quality as regulated under the authority of the
7 Oklahoma Occupational Health and Safety Standards Act, except for
8 those indoor air quality issues specifically authorized to be
9 regulated by another agency.

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

12 K. Oklahoma Department of Emergency Management. The Oklahoma
13 Department of Emergency Management shall have the following
14 jurisdictional areas of environmental responsibilities:

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

18 2. Administer and enforce the planning requirements of Title
19 III of the Superfund Amendments and Reauthorization Act of 1986 and
20 develop such other emergency operations plans that will enable the
21 state to prepare for, respond to, recover from and mitigate
22 potential environmental emergencies and disasters pursuant to the
23 Oklahoma Hazardous Materials Planning and Notification Act;

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

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

7 5. Maintain a computerized emergency information system
8 allowing state and local access to information regarding hazardous
9 materials' location, quantity and potential threat.

10 SECTION 2. This act shall become effective November 1, 2017.

11 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
12 February 23, 2017 - DO PASS AS AMENDED

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