

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 3404, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Fields

Fields-CB-FS-Req#3655
4/26/2018 8:52 AM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 3404

By: Watson of the House

and

Fields of the House

6
7
8
9 FLOOR SUBSTITUTE

10 An Act relating to water; amending 27A O.S. 2011,
11 Section 1-3-101, as last amended by Section 1,
12 Chapter 129, O.S.L. 2017 (27A O.S. Supp. 2017,
13 Section 1-3-101), which relates to jurisdiction of
14 environmental responsibilities; modifying
15 jurisdictional areas of Department of Environmental
16 Quality and Oklahoma Water Resources Board; amending
17 82 O.S. 2011, Sections 1020.1, 1020.10 and 1085.30,
18 which relate to definitions, groundwater permits, and
19 the Oklahoma Water Quality Standards; amending
20 definitions; authorizing Water Resources Board to
21 issue certain groundwater permits; updating statutory
22 references; granting DEQ certain duties; and
23 providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 1-3-101, as
last amended by Section 1, Chapter 129, O.S.L. 2017 (27A O.S. Supp.
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

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8 responsibilities specified by this section is hereby superseded.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

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

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

24

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

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

7 4. Surface water and groundwater quality and protection and
8 water quality certifications;

9 5. Waterworks and wastewater works operator certification;

10 6. Public and private water supplies;

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

13 a. Class II injection wells,

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

17 c. those wells used for the recovery, injection or

18 disposal of mineral brines as defined in the Oklahoma
19 Brine Development Act regulated by the Commission, and

20 d. any aspect of any CO₂ sequestration facility, including
21 any associated CO₂ injection well, over which the
22 Commission is given jurisdiction pursuant to the
23 Oklahoma Carbon Capture and Geologic Sequestration
24 Act;

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

7 9. Hazardous waste and solid waste, including industrial,
8 commercial and municipal waste;

9 10. Superfund responsibilities of the state under the
10 Comprehensive Environmental Response, Compensation and Liability Act
11 of 1980 and amendments thereto, except the planning requirements of
12 Title III of the Superfund Amendment and Reauthorization Act of
13 1986;

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

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

23 13. Emergency response as specified by law;
24

- 1 14. Environmental laboratory services and laboratory
2 certification;
- 3 15. Hazardous substances other than branding, package and
4 labeling requirements;
- 5 16. Freshwater wellhead protection;
- 6 17. Groundwater protection for activities subject to the
7 jurisdictional areas of environmental responsibility of the
8 Department;
- 9 18. Utilization and enforcement of Oklahoma Water Quality
10 Standards and implementation documents;
- 11 19. Environmental regulation of any entity or activity, and the
12 prevention, control and abatement of any pollution, not subject to
13 the specific statutory authority of another state environmental
14 agency;
- 15 20. Development and maintenance of a computerized information
16 system relating to water quality pursuant to Section 1-4-107 of this
17 title; ~~and~~
- 18 21. Development and promulgation of a Water Quality Standards
19 Implementation Plan pursuant to Section 1-1-202 of this title for
20 its jurisdictional area of environmental responsibility; and
- 21 22. Development and utilization of policies and requirements
22 necessary for the implementation of Oklahoma Groundwater Quality
23 Standards to the extent that the implementation of such standards is
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1 within the scope of the Department's jurisdiction, including but not
2 limited to the establishment of points of compliance when warranted.

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

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

9 2. Weather modification;

10 3. Dam safety;

11 4. Flood plain management;

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

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

19 7. Water well drillers/pump installers licensing;

20 8. Technical lead agency for clean lakes eligible for funding
21 under Section 314 of the federal Clean Water Act or other applicable
22 sections of the federal Clean Water Act or other subsequent state
23 and federal clean lakes programs; administration of a state program
24 for assessing, monitoring, studying and restoring Oklahoma lakes

1 with administration to include, but not be limited to, receipt and
2 expenditure of funds from federal, state and private sources for
3 clean lakes and implementation of a volunteer monitoring program to
4 assess and monitor state water resources, provided such funds from
5 federal Clean Water Act sources are administered and disbursed by
6 the Office of the Secretary of Environment;

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

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

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

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

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

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

8 15. Development and submission of a report concerning the
9 status of water quality monitoring in this state pursuant to Section
10 1-1-202 of this title.

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

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

15 a. point source discharges and nonpoint source runoff
16 from agricultural crop production, agricultural
17 services, livestock production, silviculture, feed
18 yards, livestock markets and animal waste,

19 b. pesticide control,

20 c. forestry and nurseries,

21 d. fertilizer,

22 e. facilities which store grain, feed, seed, fertilizer
23 and agricultural chemicals,

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- 1 f. dairy waste and wastewater associated with milk
- 2 production facilities,
- 3 g. groundwater protection for activities subject to the
- 4 jurisdictional areas of environmental responsibility
- 5 of the Department,
- 6 h. utilization and enforcement of Oklahoma Water Quality
- 7 Standards and implementation documents,
- 8 i. development and promulgation of a Water Quality
- 9 Standards Implementation Plan pursuant to Section 1-1-
- 10 202 of this title for its jurisdictional areas of
- 11 environmental responsibility, and
- 12 j. storm water discharges for activities subject to the
- 13 jurisdictional areas of environmental responsibility
- 14 of the Department.

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

- 19 a. (1) commercial manufacturers of fertilizers, grain
- 20 and feed products, and chemicals, and over
- 21 manufacturing of food and kindred products,
- 22 tobacco, paper, lumber, wood, textile mill and
- 23 other agricultural products,
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1 (2) slaughterhouses, but not including feedlots at
2 these facilities, and
3 (3) aquaculture and fish hatcheries,
4 including, but not limited to, discharges of pollutants
5 and storm water to waters of the state, surface
6 impoundments and land application of wastes and
7 sludge, and other pollution originating at these
8 facilities, and

9 b. facilities which store grain, feed, seed, fertilizer,
10 and agricultural chemicals that are required by
11 federal NPDES regulations to obtain a permit for storm
12 water discharges shall only be subject to the
13 jurisdiction of the Department of Environmental
14 Quality with respect to such storm water discharges.

15 E. Corporation Commission.

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

- 20 a. the conservation of oil and gas,
21 b. field operations for geologic and geophysical
22 exploration for oil, gas and brine, including seismic
23 survey wells, stratigraphic test wells and core test
24 wells,

- 1 c. the exploration, drilling, development, producing or
2 processing for oil and gas on the lease site,
- 3 d. the exploration, drilling, development, production and
4 operation of wells used in connection with the
5 recovery, injection or disposal of mineral brines,
- 6 e. reclaiming facilities only for the processing of salt
7 water, crude oil, natural gas condensate and tank
8 bottoms or basic sediment from crude oil tanks,
9 pipelines, pits and equipment associated with the
10 exploration, drilling, development, producing or
11 transportation of oil or gas,
- 12 f. underground injection control pursuant to the federal
13 Safe Drinking Water Act and 40 CFR Parts 144 through
14 148, of:
- 15 (1) Class II injection wells,
- 16 (2) Class V injection wells utilized in the
17 remediation of groundwater associated with
18 underground or aboveground storage tanks
19 regulated by the Commission,
- 20 (3) those wells used for the recovery, injection or
21 disposal of mineral brines as defined in the
22 Oklahoma Brine Development Act, and
- 23 (4) any aspect of any CO₂ sequestration facility,
24 including any associated CO₂ injection well, over

1 which the Commission is given jurisdiction
2 pursuant to the Oklahoma Carbon Capture and
3 Geologic Sequestration Act.

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

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

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

21 (1) natural gas liquids extraction plant,

22 (2) refinery,

1 (3) reclaiming facility other than for those
2 specified within subparagraph e of this
3 subsection,

4 (4) mineral brine processing plant, and

5 (5) petrochemical manufacturing plant,

6 i. the handling, transportation, storage and disposition
7 of saltwater, mineral brines, waste oil and other
8 deleterious substances produced from or obtained or
9 used in connection with the drilling, development,
10 producing and operating of oil and gas wells, at:

11 (1) any facility or activity specifically listed in
12 paragraphs 1 and 2 of this subsection as being
13 subject to the jurisdiction of the Commission,
14 and

15 (2) other oil and gas extraction facilities and
16 activities,

17 j. spills of deleterious substances associated with
18 facilities and activities specified in paragraph 1 of
19 this subsection or associated with other oil and gas
20 extraction facilities and activities,

21 k. subsurface storage of oil, natural gas and liquefied
22 petroleum gas in geologic strata,
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- 1 1. groundwater protection for activities subject to the
2 jurisdictional areas of environmental responsibility
3 of the Commission,
4 m. utilization and enforcement of Oklahoma Water Quality
5 Standards and implementation documents, and
6 n. 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.

10 2. The exclusive jurisdiction, power and authority of the
11 Commission shall also extend to the construction, operation,
12 maintenance, site remediation, closure and abandonment of the
13 facilities and activities described in paragraph 1 of this
14 subsection.

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

23 4. The Commission and the Department of Environmental Quality
24 are hereby authorized to obtain authorization from the Environmental

1 Protection Agency to administer, within their respective
2 jurisdictions, any and all programs regulating oil and gas
3 discharges into the waters of this state. For purposes of the
4 federal Clean Water Act, any facility or activity which is subject
5 to the jurisdiction of the Commission pursuant to paragraph 1 of
6 this subsection and any other oil and gas extraction facility or
7 activity which requires a permit for the discharge of a pollutant or
8 storm water to waters of the United States shall be subject to the
9 direct jurisdiction and permitting authority of the Oklahoma agency
10 having received delegation of this program from the Environmental
11 Protection Agency.

12 5. The Commission shall have jurisdiction over:

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

1 remediation or the off-site disposal of contaminated
2 soil, media, or debris shall be regulated by the
3 Department of Environmental Quality,

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

19 c. the Petroleum Storage Tank Release Environmental
20 Cleanup Indemnity Fund, the Oklahoma Petroleum Storage
21 Tank Release Indemnity Program, and the Oklahoma
22 Leaking Underground Storage Tank Trust Fund.

23 6. The Department of Environmental Quality shall have sole
24 jurisdiction to regulate the transportation, discharge or release of

1 deleterious substances or solid or hazardous waste or other
2 pollutants from rolling stock and rail facilities. The Department
3 of Environmental Quality shall not have any jurisdiction with
4 respect to pipeline transportation of carbon dioxide.

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

8 a. refineries, petrochemical manufacturing plants and
9 natural gas liquid extraction plants,

10 b. manufacturing of equipment and products related to oil
11 and gas,

12 c. bulk terminals, aboveground and underground storage
13 tanks not subject to the jurisdiction of the
14 Commission pursuant to this subsection, and

15 d. other facilities, activities and sources not subject
16 to the jurisdiction of the Commission or the Oklahoma
17 Department of Agriculture, Food, and Forestry as
18 specified by this section.

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

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1 F. Oklahoma Conservation Commission. The Oklahoma Conservation
2 Commission shall have the following jurisdictional areas of
3 environmental responsibility:

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

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

15 3. Wetlands strategy;

16 4. Abandoned mine reclamation;

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

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

20 7. Complaint data management;

21 8. Coordination of environmental and natural resources
22 education;

23 9. Federal upstream flood control program;

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

4 11. 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 environmental responsibility;

7 12. Utilization of Oklahoma Water Quality Standards and
8 Implementation documents; and

9 13. Verification and certification of carbon sequestration
10 pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This
11 responsibility shall not be superseded by the Oklahoma Carbon
12 Capture and Geologic Sequestration Act.

13 G. Department of Mines. The Department of Mines shall have the
14 following jurisdictional areas of environmental responsibility:

15 1. Mining regulation;

16 2. Mining reclamation of active mines;

17 3. Groundwater protection for activities subject to the
18 jurisdictional areas of environmental responsibility of the
19 Commission; and

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

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1 H. Department of Wildlife Conservation. The Department of
2 Wildlife Conservation shall have the following jurisdictional areas
3 of environmental responsibilities:

- 4 1. Investigating wildlife kills;
- 5 2. Wildlife protection and seeking wildlife damage claims; and
- 6 3. Development and promulgation of a Water Quality Standards
7 Implementation Plan pursuant to Section 1-1-202 of this title for
8 its jurisdictional areas of environmental responsibility.

9 I. Department of Public Safety. The Department of Public
10 Safety shall have the following jurisdictional areas of
11 environmental responsibilities:

- 12 1. Hazardous waste, substances and material transportation
13 inspections as authorized by the Hazardous Materials Transportation
14 Act; and
- 15 2. Inspection and audit activities of hazardous waste and
16 materials carriers and handlers as authorized by the Hazardous
17 Materials Transportation Act.

18 J. Department of Labor. The Department of Labor shall have the
19 following jurisdictional areas of environmental responsibility:

- 20 1. Regulation of asbestos in the workplace pursuant to Chapter
21 11 of Title 40 of the Oklahoma Statutes;
- 22 2. Asbestos monitoring in public and private buildings; and
- 23 3. Indoor air quality as regulated under the authority of the
24 Oklahoma Occupational Health and Safety Standards Act, except for

1 those indoor air quality issues specifically authorized to be
2 regulated by another agency.

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

5 K. Oklahoma Department of Emergency Management. The Oklahoma
6 Department of Emergency Management shall have the following
7 jurisdictional areas of environmental responsibilities:

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

11 2. Administer and enforce the planning requirements of Title
12 III of the Superfund Amendments and Reauthorization Act of 1986 and
13 develop such other emergency operations plans that will enable the
14 state to prepare for, respond to, recover from and mitigate
15 potential environmental emergencies and disasters pursuant to the
16 Oklahoma Hazardous Materials Planning and Notification Act;

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

20 4. Administer and facilitate hazardous materials training for
21 state and local emergency planners and first responders pursuant to
22 the Oklahoma Emergency Resources Management Act of 1967; and
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1 5. Maintain a computerized emergency information system
2 allowing state and local access to information regarding hazardous
3 materials' location, quantity and potential threat.

4 SECTION 2. AMENDATORY 82 O.S. 2011, Section 1020.1, is
5 amended to read as follows:

6 Section 1020.1. As used in ~~this act~~ Section 1020.1 et seq. of
7 this title:

8 1. "Groundwater" means fresh water and marginal water under the
9 surface of the earth regardless of the geologic structure in which
10 it is standing or moving outside the cut bank of any definite
11 stream;

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

19 3. "Major groundwater basin" shall mean a distinct underground
20 body of water overlain by contiguous land and having substantially
21 the same geological and hydrological characteristics and from which
22 groundwater wells yield at least fifty (50) gallons per minute on
23 the average basinwide if from a bedrock aquifer and at least one
24 hundred fifty (150) gallons per minute on the average basinwide if

1 from an alluvium or alluvium and terrace aquifer, or as otherwise
2 designated by the Board;

3 4. "Subbasin" means a subdivision of a major or minor
4 groundwater basin overlain by contiguous land and having
5 substantially the same geological and hydrological characteristics
6 and yield capabilities;

7 5. "Board" means the Oklahoma Water Resources Board;

8 6. "Person" means any individual, firm, partnership,
9 association, corporation, business trust, federal agency, state
10 agency, the state or any political subdivision thereof,
11 municipalities, and any other legal entities;

12 7. "Fresh water" means water which has less than five thousand
13 (5,000) parts per million total dissolved solids. For the purpose
14 of ~~this act~~ Section 1020.1 et seq. of this title all other water is
15 salt water;

16 8. "Commercial drilling", "commercial plugging" and "commercial
17 installation" mean drilling or plugging and installation as a
18 business, trade or occupation for compensation; ~~and~~

19 9. "Minor groundwater basin" means a distinct underground body
20 of water overlain by contiguous land and having substantially the
21 same geological and hydrological characteristics and which is not a
22 major groundwater basin; and

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1 10. "Marginal water" means water which has at least five
2 thousand (5,000) and less than ten thousand (10,000) parts per
3 million total dissolved solids.

4 SECTION 3. AMENDATORY 82 O.S. 2011, Section 1020.10, is
5 amended to read as follows:

6 Section 1020.10. A. The procedures provided for in this
7 chapter for the granting of regular permits shall be applicable to
8 the granting of temporary or special permits except that the
9 determination of the maximum annual yield shall not be a condition
10 precedent. Provided a provisional temporary permit for water may
11 immediately be granted upon administrative approval by the Oklahoma
12 Water Resources Board. This permit will not be effective for a
13 period of more than ninety (90) days.

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

23 SECTION 4. AMENDATORY 82 O.S. 2011, Section 1085.30, is
24 amended to read as follows:

1 Section 1085.30. A. 1. In order to effectuate a comprehensive
2 program to assist in the prevention, control and abatement of
3 pollution of the waters of this state, and in order to establish
4 state standards which comply with the Federal Water Pollution
5 Control Act as amended, the Oklahoma Water Resources Board is
6 authorized to promulgate rules to be known as "Oklahoma Water
7 Quality Standards" which establish classifications of uses of waters
8 of the state, criteria to maintain and protect such classifications,
9 and other standards or policies pertaining to the quality of such
10 waters.

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

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

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

1 b. The Board may amend the Oklahoma Water Quality
2 Standards to downgrade a designated use, establish
3 subcategories of a use or may provide for less
4 stringent criteria or other provisions thereof only to
5 the extent as will maintain or improve the existing
6 uses and the water quality of the water affected;
7 provided, however, the Board shall not modify the
8 Oklahoma Water Quality Standards applicable to scenic
9 river areas as such areas are described by Section
10 ~~1452~~ 896.5 of this title, to downgrade a designated
11 use, establish a subcategory of a use or provide for
12 less stringent criteria or other provisions thereof.

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

22 2. If adoption or amendment of a classification to a lower or
23 downgraded classification is proposed because treatment controls
24 required of the current or a higher or upgraded classification would

1 result in substantial and widespread social and economic impact, the
2 Board shall, in addition to any hearing required by this subsection
3 ~~B of this section~~, conduct a public meeting within a central
4 location within the area to be affected. The Board shall cause
5 notice of such additional public meeting to be published for at
6 least two (2) consecutive weeks in a newspaper of general
7 circulation published in the county or counties in the area
8 affected.

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

22 2. In promulgating Oklahoma Water Quality Standards or making
23 any modification or change thereof, the Board shall announce a
24 reasonable time for persons discharging waste into the waters of the

1 state to comply with such new or modified standards unless such
2 discharges create an actual or potential hazard to public health.

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

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

13 SECTION 5. This act shall become effective November 1, 2018.

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