

1 ENGROSSED SENATE
2 BILL NO. 41

By: Coates of the Senate

3 and

4 Moore of the House

5
6 [environmental agency jurisdiction - modifying
7 authorization over certain wetlands]
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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

14 Section 1-3-101. A. The provisions of this section specify the
15 jurisdictional areas of responsibility for each state environmental
16 agency and state agencies with limited environmental responsibility.
17 The jurisdictional areas of environmental responsibility specified
18 in this section shall be in addition to those otherwise provided by
19 law and assigned to the specific state environmental agency;
20 provided that any rule, interagency agreement or executive order
21 enacted or entered into prior to the effective date of this section
22 which conflicts with the assignment of jurisdictional environmental
23 responsibilities specified by this section is hereby superseded.
24 The provisions of this subsection shall not nullify any financial

1 obligation arising from services rendered pursuant to any
2 interagency agreement or executive order entered into prior to July
3 1, 1993, nor nullify any obligations or agreements with private
4 persons or parties entered into with any state environmental agency
5 before July 1, 1993.

6 B. Department of Environmental Quality. The Department of
7 Environmental Quality shall have the following jurisdictional areas
8 of environmental responsibility:

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

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

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

21 4. Surface water and groundwater quality and protection and
22 water quality certifications;

23 5. Waterworks and wastewater works operator certification;

24 6. Public and private water supplies;

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

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

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

21 9. Hazardous waste and solid waste, including industrial,
22 commercial and municipal waste;

23 10. Superfund responsibilities of the state under the
24 Comprehensive Environmental Response, Compensation and Liability Act

1 of 1980 and amendments thereto, except the planning requirements of
2 Title III of the Superfund Amendment and Reauthorization Act of
3 1986;

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

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

13 13. Emergency response as specified by law;

14 14. Environmental laboratory services and laboratory
15 certification;

16 15. Hazardous substances other than branding, package and
17 labeling requirements;

18 16. Freshwater wellhead protection;

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

22 18. Utilization and enforcement of Oklahoma Water Quality
23 Standards and implementation documents;

1 19. Environmental regulation of any entity or activity, and the
2 prevention, control and abatement of any pollution, not subject to
3 the specific statutory authority of another state environmental
4 agency;

5 20. Development and maintenance of a computerized information
6 system relating to water quality pursuant to Section 1-4-107 of this
7 title; and

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

11 C. Oklahoma Water Resources Board. The Oklahoma Water
12 Resources Board shall have the following jurisdictional areas of
13 environmental responsibility:

14 1. Water quantity including, but not limited to, water rights,
15 surface water and underground water, planning, and interstate stream
16 compacts;

17 2. Weather modification;

18 3. Dam safety;

19 4. Flood plain management;

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

22 6. Administration of the federal State Revolving Fund Program
23 including, but not limited to, making application for and receiving
24 capitalization grant awards, wastewater prioritization for funding,

1 technical project reviews, environmental review process, and
2 financial review and administration;

3 7. Water well drillers/pump installers licensing;

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

15 9. Statewide water quality standards and their accompanying use
16 support assessment protocols, anti-degradation policy and
17 implementation, and policies generally affecting Oklahoma Water
18 Quality Standards application and implementation including but not
19 limited to mixing zones, low flows and variances or any modification
20 or change thereof pursuant to Section 1085.30 of Title 82 of the
21 Oklahoma Statutes;

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

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

4 12. Development of classifications and identification of
5 permitted uses of groundwater, in recognized water rights, and
6 associated groundwater recharge areas;

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

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

14 15. Development and submission of a report concerning the
15 status of water quality monitoring in this state pursuant to Section
16 1-1-202 of this title.

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

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

21 a. point source discharges and nonpoint source runoff
22 from agricultural crop production, agricultural
23 services, livestock production, silviculture, feed
24 yards, livestock markets and animal waste,

- b. pesticide control,
- c. forestry and nurseries,
- d. fertilizer,
- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals,
- f. dairy waste and wastewater associated with milk production facilities,
- g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
- h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
- i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and
- j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

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

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

20 E. Corporation Commission.

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

- a. the conservation of oil and gas,
- b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,
- c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,
- d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines,
- e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,
- f. underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, of:
 - (1) Class II injection wells,
 - (2) Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Commission,

1 (3) those wells used for the recovery, injection or
2 disposal of mineral brines as defined in the
3 Oklahoma Brine Development Act, and
4 (4) any aspect of any CO2 sequestration facility,
5 including any associated CO2 injection well, over
6 which the Commission is given jurisdiction
7 pursuant to the Oklahoma Carbon Capture and
8 Geologic Sequestration Act.

9 Any substance that the United States Environmental
10 Protection Agency allows to be injected into a Class
11 II well may continue to be so injected,

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

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

- 3 (1) natural gas liquids extraction plant,
- 4 (2) refinery,
- 5 (3) reclaiming facility other than for those
6 specified within subparagraph e of this
7 subsection,
- 8 (4) mineral brine processing plant, and
- 9 (5) petrochemical manufacturing plant,

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

- 15 (1) any facility or activity specifically listed in
16 paragraphs 1 and 2 of this subsection as being
17 subject to the jurisdiction of the Commission,
18 and
- 19 (2) other oil and gas extraction facilities and
20 activities,

21 j. spills of deleterious substances associated with
22 facilities and activities specified in paragraph 1 of
23 this subsection or associated with other oil and gas
24 extraction facilities and activities,

- k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata,
- l. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission,
- m. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents, and
- n. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

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

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

1 4. For purposes of the federal Clean Water Act, any facility or
2 activity which is subject to the jurisdiction of the Commission
3 pursuant to paragraph 1 of this subsection and any other oil and gas
4 extraction facility or activity which requires a permit for the
5 discharge of a pollutant or storm water to waters of the United
6 States shall be subject to the direct jurisdiction of the federal
7 Environmental Protection Agency and shall not be required to be
8 permitted by the Department of Environmental Quality or the
9 Commission for such discharge.

10 5. The Commission shall have jurisdiction over:

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

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

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

22 6. The Department of Environmental Quality shall have sole
23 jurisdiction to regulate the transportation, discharge or release of
24 deleterious substances or solid or hazardous waste or other

1 pollutants from rolling stock and rail facilities. The Department
2 of Environmental Quality shall not have any jurisdiction with
3 respect to pipeline transportation of carbon dioxide.

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

- 7 a. refineries, petrochemical manufacturing plants and
8 natural gas liquid extraction plants,
- 9 b. manufacturing of equipment and products related to oil
10 and gas,
- 11 c. bulk terminals, aboveground and underground storage
12 tanks not subject to the jurisdiction of the
13 Commission pursuant to this subsection, and
- 14 d. other facilities, activities and sources not subject
15 to the jurisdiction of the Commission or the Oklahoma
16 Department of Agriculture, Food, and Forestry as
17 specified by this section.

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

22 F. Oklahoma Conservation Commission. The Oklahoma Conservation
23 Commission shall have the following jurisdictional areas of
24 environmental responsibility:

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

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

12 3. Wetlands strategy, including wetlands managed by the
13 Oklahoma Department of Wildlife Conservation and the impact of such
14 management upon surrounding lands;

15 4. Abandoned mine reclamation;

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

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

19 7. Complaint data management;

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

22 9. Federal upstream flood control program;

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 27A O.S. 2011, Section 3-2-108, is
5 amended to read as follows:

6 Section 3-2-108. A. The Oklahoma Conservation Commission is
7 hereby given exclusive jurisdiction to prepare a Wetlands Management
8 Strategy for the State of Oklahoma. The Strategy shall:

- 9 1. Define wetlands;
- 10 2. Enumerate their beneficial uses;
- 11 3. Identify and inventory wetlands within this state;
- 12 4. Recommend measures to mitigate losses of wetlands;
- 13 5. Provide measures to protect wetlands; and
- 14 6. Define standards for critical wetlands and measures to
15 ensure protection of property rights of landowners, including, but
16 not limited to, the harmful impact of wetlands managed by the
17 Oklahoma Department of Wildlife Conservation upon other lands
18 specifically including, but not limited to, the area known as
19 Hackberry Flat Wildlife Management Area.

20 B. Upon completion, the Conservation Commission is to forward
21 the Wetlands Management Strategy for the State of Oklahoma and to
22 submit said Strategy to the President Pro Tempore of the Oklahoma
23 Senate, the Speaker of the Oklahoma House of Representatives, and to
24 the Secretary of the Environment or successor secretary position.

1 Passed the Senate the 26th day of February, 2013.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2013.

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9 Presiding Officer of the House
10 of Representatives
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