

US EPA ARCHIVE DOCUMENT

TITLE 27A

ENVIRONMENT AND NATURAL RESOURCES

Chapter	Section
1. Oklahoma Environmental Quality Act	1
2. Oklahoma Environmental Quality Code	2-1-101
3. Conservation	3-1-101
4. Emergency Response and Notification	4-1-101
10. Miscellaneous	1001

CHAPTER 1.—OKLAHOMA ENVIRONMENTAL QUALITY ACT

Section
1. Renumbered.
2. Renumbered.
3, 4. Repealed.
5. Renumbered.
6. Renumbered.
7. Renumbered.
8. Renumbered.
9. Renumbered.
10. Renumbered.
11. Renumbered.
12. Renumbered.

ARTICLE I. ENVIRONMENTAL OFFICES AND AGENCIES

PART 1. SHORT TITLE AND PURPOSE

- 1-1-101. Short title.
1-1-102. Purpose of act.

PART 2. GENERAL DEFINITIONS. POWERS AND DUTIES

- 1-1-201. Definitions.
1-1-202. State environmental agencies—Powers, duties and responsibilities.
1-1-203. State environmental agencies—Establishment of rules for issuance or denial of permits or licenses and complaint resolution.
1-1-204. State environmental agencies—Development, implementation and utilization of complaint investigation and response process—Promulgation of rules—False complaints or misrepresentations—Transfer of funds, property, records, personnel and financial obligations or encumbrances.
1-1-205. State environmental agencies—Transferred and assigned programs and functions—Unexpired or unrevoked licenses, permits, certifications or registrations—Existing rights, obligations and remedies—Existing orders, claims or causes of action.
1-1-206. Economic impact and environmental benefit statements.

ARTICLE II. SECRETARY OF ENVIRONMENT

- 1-2-101. Secretary of Environment or successor cabinet position—Powers, duties and responsibilities.
1-2-102. Coordination of monitoring of lakes—Identification of eutrophic lakes—Discharge of wastewater into eutrophic lake—Penalties—Order of suspension and forfeiture.

ARTICLE III. JURISDICTION OF ENVIRONMENTAL AGENCIES

- 1-3-101. State environmental agencies—Jurisdictional areas of environmental responsibilities.
1-3-102. Repealed.
1-3-103. Department of Agriculture—Official environmental regulatory agency.

§ 1. Renumbered as Title 27A, § 1-1-101 by Laws 1993, c. 145, § 359, eff. July 1, 1993

§ 2. Renumbered as Title 27A, § 1-1-102 by Laws 1993, c. 145, § 359, eff. July 1, 1993

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Laws 1992, c. 398, §§ 3, 4.

§ 5. Renumbered as Title 27A, § 1-1-204 by Laws 1993, c. 145, § 359, eff. July 1, 1993

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§ 7. Renumbered as Title 27A, § 2-2-101 by Laws 1993, c. 145, § 359, eff. July 1, 1993

§ 8. Renumbered as Title 27A, § 2-3-201 by Laws 1993, c. 145, § 359, eff. July 1, 1993

§ 9. Renumbered as Title 27A, § 2-3-101 by Laws 1993, c. 145, § 359, eff. July 1, 1993

§ 10. Renumbered as Title 27A, § 2-2-201 by Laws 1993, c. 145, § 359, eff. July 1, 1993

§ 11. Renumbered as Title 27A, § 1-1-203 by Laws 1993, c. 145, § 359, eff. July 1, 1993

§ 12. Renumbered as Title 27A, § 1-1-205 by Laws 1993, c. 145, § 359, eff. July 1, 1993

ARTICLE I. ENVIRONMENTAL
OFFICES AND AGENCIES

PART 1. SHORT TITLE AND PURPOSE

§ 1-1-101. Short title

Chapter 1 of this title¹ shall be known and may be cited as the "Oklahoma Environmental Quality Act". Added by Laws 1992, c. 398, § 1, emerg. eff. June 12, 1992. Renumbered from Title 27A, § 1 and amended by Laws 1993, c. 145, §§ 1, 359, eff. July 1, 1993.

¹ Title 27A, § 1-1-101 et seq.

§ 1-1-102. Purpose of act

The purpose of the Oklahoma Environmental Quality Act¹ is to provide for the administration of environmental functions which will:

1. Provide that environmental regulatory concerns of industry and the public shall be addressed in an expedient manner;
2. Improve the manner in which citizen complaints are tracked and resolved;
3. Better utilize state financial resources for environmental regulatory services; and
4. Coordinate environmental activities of state environmental agencies.

Added by Laws 1992, c. 398, § 2, emerg. eff. June 12, 1992. Renumbered from Title 27A, § 2 and amended by Laws 1993, c. 145, §§ 2, 359, eff. July 1, 1993.

¹ Title 27A, § 1-1-101 et seq.

PART 2. GENERAL DEFINITIONS, POWERS AND DUTIES

§ 1-1-201. Definitions

As used in the Oklahoma Environmental Quality Act:¹

1. "Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;
2. "Discharge" includes but is not limited to a discharge of a pollutant, and means any addition of any pollutant to waters of the state from any point source;
3. "Environment" includes the air, land, wildlife, and waters of the state;
4. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined;
5. "N.P.D.E.S." or "National Pollutant Discharge Elimination System" means the system for the issuance of permits under the Federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;
6. "Point source" means any discernible, confined and discrete conveyance or outlet including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure container, rolling stock or vessel or other floating craft from which pollutants are or may be discharged into waters of the state. The term "point source" shall not include agricultural storm

water discharge and return flows from irrigated agriculture;

7. "Pollutant" includes but is not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agribusiness waste;

8. "Pollution" means the presence in the environment of any substance, contaminant or pollutant, or any other alteration of the physical, chemical or biological properties of the environment or the release of any liquid, gaseous or solid substance into the environment in quantities which are or will likely create a nuisance or which render or will likely render the environment harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property;

9. "Source" means any and all points of origin of any wastes, pollutants or contaminants whether publicly or privately owned or operated;

10. "State environmental agency" includes the:

- a. Oklahoma Water Resources Board,
- b. Oklahoma Corporation Commission,
- c. State Department of Agriculture,
- d. Oklahoma Conservation Commission,
- e. Department of Wildlife Conservation,
- f. Department of Mines,
- g. Department of Public Safety,
- h. Department of Labor,
- i. Department of Environmental Quality, and
- j. Department of Civil Emergency Management;

11. "Storm water" means rain water runoff, snow melt runoff, and surface runoff and drainage;

12. "Waste" means any liquid, gaseous or solid or semi-solid substance, or thermal component, whether domestic, municipal, commercial, agricultural or industrial in origin, which may pollute or contaminate or tend to pollute or contaminate, any air, land or waters of the state;

13. "Wastewater" includes any substance, including sewage, that contains any discharge from the bodies of human beings or animals, or pollutants or contaminating chemicals or other contaminating wastes from domestic, municipal, commercial, industrial, agricultural, manufacturing or other forms of industry; and

14. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through,

or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof.

Added by Laws 1993, c. 145, § 3, eff. July 1, 1993.

¹ Title 27A, § 1-1-101 et seq.

§ 1-1-202. State environmental agencies—Powers, duties and responsibilities

Each state environmental agency shall:

1. Be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of responsibility;
2. Utilize and enforce the Oklahoma Water Quality Standards established by the Oklahoma Water Resources Board;
3. Seek to strengthen relationships between state, regional, local and federal environmental planning, development and management programs;
4. Specifically facilitate cooperation across jurisdictional lines of authority with other state environmental agencies to resolve environmental problems;
5. Cooperate with all state environmental agencies, other state agencies and local or federal governmental entities to protect, foster, and promote the general welfare, and the environment and natural resources of this state;
6. Have the authority to engage in environmental and natural resource information dissemination and education activities within their respective areas of environmental jurisdiction; and
7. Participate in every hearing conducted by the Oklahoma Water Resources Board for the consideration, adoption or amendment of the classification of waters of the state and standards of purity and quality thereof, and shall have the opportunity to present written comment to the members of the Oklahoma Water Resources Board at the same time staff recommendations are submitted to those members for Board review and consideration.

Added by Laws 1993, c. 145, § 4, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 1, eff. July 1, 1993.

§ 1-1-203. State environmental agencies—Establishment of rules for issuance or denial of permits or licenses and complaint resolution

A. Each state environmental agency, within its areas of environmental jurisdiction, shall promulgate, by rule, time periods for issuance or denial of permits and licenses that are required by law. Any such matter requiring an individual proceeding shall be resolved in accordance with the rules of the agency and any applicable statutes. The rules shall provide that such time periods shall only be extended by agreement with the licensee or permittee or if circumstances outside the agency's control prevent that agency from meeting its time periods. If the agency fails to issue or deny a permit or license within the

required time periods because of circumstances outside of the agency's control, the agency shall state in writing the reasons such licensing or permitting is not ready for issuance or denial.

B. Each state environmental agency shall promulgate rules establishing time periods for complaint resolution as required by law. Complaints received by any state environmental agency concerning a site or facility permitted by or which clearly falls within the jurisdiction of another state environmental agency shall be immediately referred to the appropriate state environmental agency for investigation and resolution. Such investigation shall be made by the appropriate division and employees of the appropriate state environmental agency.

Added by Laws 1992, c. 398, § 11, emerg. eff. June 12, 1992. Renumbered from Title 27A, § 11 and amended by Laws 1993, c. 145, §§ 5, 359, eff. July 1, 1993.

§ 1-1-204. State environmental agencies—Development, implementation and utilization of complaint investigation and response process—Promulgation of rules—False complaints or misrepresentations—Transfer of funds, property, records, personnel and financial obligations or encumbrances

A. Each state environmental agency shall develop, implement and utilize a complaint investigation and response process that will ensure all state environmental agencies with authority to investigate, mitigate and resolve complaints, respond to complaints in a timely manner by initiating appropriate action and informing the complainant regarding potential actions that may occur. Complainants shall also be notified, in writing:

1. Of the resolution of the complaint; and
 2. Of the complainant's options for further resolution of the complaint if such complainant objects or disagrees with the actions or decision of the agency.
- B. Rules to implement such system shall be promulgated by each state environmental agency.

C. 1. It shall be unlawful for any person to knowingly and willfully file a false complaint with a state environmental agency or to knowingly and willfully misrepresent material information to a state environmental agency relating to a complaint.

2. Any person filing such false complaint or misrepresenting such material information shall be deemed guilty of a misdemeanor and may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) or by imprisonment in the county jail for a term of not more than sixty (60) days or both such fine and imprisonment.

D. Effective January 1, 1993, all unexpended funds, property, records, personnel not to exceed four full-time-equivalent employees (FTE) and any outstanding financial obligations or encumbrances of the

Pollution Control Coordinating Board and the Department of Pollution Control related to the acceptance of loans, funds and grants from private and governmental sources by the Board and Department are hereby transferred to the Office of the Secretary of the Environment. The State Treasurer and the Director of State Finance shall take all necessary actions to facilitate the transfer to the Office of the Secretary of the Environment, including, but not limited to, the establishment of agency codes, accounts and funds. Employees transferred pursuant to this subsection shall be employees of the Office of the Secretary of the Environment and shall not be attached to any state environmental agency.

Added by Laws 1992, c. 398, § 5, emerg. eff. June 12, 1992. Renumbered from Title 27A, § 5 and amended by Laws 1993, c. 145, §§ 6, 359, eff. July 1, 1993. Amended by Laws 1996, c. 158, § 1, eff. Nov. 1, 1996.

§ 1-1-205. State environmental agencies—Transferred and assigned programs and functions—Unexpired or unrevoked licenses, permits, certifications or registrations—Existing rights, obligations and remedies—Existing orders, claims or causes of action

A. With regard to all programs and functions transferred and assigned among the state environmental agencies pursuant to Section 1-3-101 of this title, all agency rules, including fee schedules for state and county, relating to such programs and functions are hereby transferred to the receiving agency for the purpose of maintaining and operating such programs and functions. Such rules shall remain in effect only until June 30, 1994, at which time such transferred rules will terminate unless earlier superseded by rules promulgated by the receiving agency. By February 1, 1994, each agency receiving programs or functions shall have adopted new permanent rules to implement the programs and functions within the jurisdiction of the agency pursuant to Section 1-3-101 of this title.

B. Unexpired or unrevoked licenses, permits, certifications or registrations issued prior to July 1, 1993, shall remain valid for stated terms and conditions until otherwise provided by law. Such licenses, permits or registrations shall be subject to the laws and rules of the state agency to which jurisdiction over such licenses, permits or registrations are transferred pursuant to the Oklahoma Environmental Quality Act.¹

C. All rights, obligations and remedies arising out of laws, rules, agreements and causes of action are also transferred to such agency.

D. Nothing in the Oklahoma Environmental Quality Act shall operate to bar or negate any existing order, claim or cause of action transferred or available to any state environmental agency or its respective predecessor, nor shall it operate to affect enforcement action undertaken by any program, division or service prior to such transfer to any state environmental agency. Violations of provisions of law now contained

in this title, and violations of rules, permits or final orders which occurred prior to the transfer of jurisdiction and authority to any state environmental agency shall be subject to penalties available and existing at the time of violation.

E. Any application pending on June 30, 1993, before the Oklahoma Water Resources Board or the State Department of Health for a permit or license over which the Department has jurisdiction is hereby transferred to the Department and shall be subject to the Oklahoma Environmental Quality Code.²

F. All permit applications filed with the Oklahoma Water Resources Board on or before June 30, 1993, for which no permit has been issued by the Oklahoma Water Resources Board for the land application of industrial waste, sludge or wastewater shall be subject to the requirements of this Code.²

Added by Laws 1992, c. 398, § 12, eff. July 1, 1993. Renumbered from Title 27A, § 12 and amended by Laws 1993, c. 145, §§ 9, 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 8, eff. July 1, 1993.

¹ Title 27A, § 1-1-101 et seq.

² Title 27A, § 2-1-101 et seq.

§ 1-1-206. Economic impact and environmental benefit statements

A. Each state environmental agency in promulgation of permanent rules within its areas of environmental jurisdiction, prior to the submittal to public comment and review of any rule that is more stringent than corresponding federal requirements, unless such stringency is specifically authorized by state statute, shall duly determine the economic impact and the environmental benefit of such rule on the people of the State of Oklahoma including those entities that will be subject to the rule. Such determination shall be in written form.

B. Such economic impact and environmental benefit statement of a proposed permanent rule shall be issued prior to or within fifteen (15) days after the date of publication of the notice of the proposed permanent rule adoption. The statement may be modified after any hearing or comment period afforded pursuant to Article I of the Administrative Procedures Act.¹

C. The economic impact and environmental benefit statement shall be submitted to the Governor pursuant to Section 303.1 of Title 75 of the Oklahoma Statutes and to the Legislature pursuant to Section 308 of Title 75 of the Oklahoma Statutes. Such reports submitted to the Governor and to the Legislature shall include a brief summary of any public comments made concerning the statement and any response by the agency to the public comments demonstrating a reasoned evaluation of the relative impacts and benefits of the more stringent regulation. Added by Laws 1994, c. 96, § 1, eff. Sept. 1, 1994.

¹ Title 75, § 250 et seq.

ARTICLE II. SECRETARY OF ENVIRONMENT

§ 1-2-101. Secretary of Environment or successor cabinet position—Powers, duties and responsibilities

The Secretary of Environment or successor cabinet position having authority over the Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibilities:

1. Powers and duties for environmental areas designated to such position by the Governor;

2. The recipient of federal funds disbursed pursuant to the Federal Water Pollution Control Act,¹ provided the Oklahoma Water Resources Board is authorized to be the recipient of federal funds to administer the State Revolving Fund Program. The federal funds received by the Secretary of Environment shall be disbursed to each state environmental agency based upon its statutory duties and responsibilities relating to environmental areas. Such funds shall be distributed to the appropriate state environmental agency within thirty (30) days of its receipt by the Secretary or as otherwise provided by grant or contract terms without any assessment of administrative fees or costs. Disbursement of other federal environmental funds shall not be subject to this section;

3. Coordinate pollution control activities of the state carried on by all state agencies to avoid duplication of effort; and

4. Act on behalf of the public as trustee for natural resources under the federal Oil Pollution Act of 1990,² the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended,³ the federal Water Pollution Control Act and any other federal laws providing that a trustee for the natural resources is to be designated. The Secretary is authorized to make claims against federal funds, receive federal payments, establish and manage a revolving fund in relation to duties as the natural resources trustee consistent with the federal enabling acts and to coordinate, monitor and gather information from and enter into agreements with the appropriate state environmental agencies in carrying out the duties and functions of the trustee for the natural resources of this state.

Added by Laws 1993, c. 145, § 10, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 3, emerg. eff. June 7, 1993.

¹ 33 U.S.C.A. § 1251 et seq.

² 33 U.S.C.A. § 2701 et seq.

³ 42 U.S.C.A. § 9601 et seq.

§ 1-2-102. Coordination of monitoring of lakes—Identification of eutrophic lakes—Discharge of wastewater into eutrophic lake—Penalties—Order of suspension and forfeiture

A. The Office of the Secretary of the Environment shall coordinate monitoring lakes in the State of Oklahoma and identify those lakes which it determines to

be eutrophic as defined by Oklahoma's Water Quality Standards.

B. No person may discharge wastewaters from a point source within or outside of this state which will foreseeably enter a lake in this state which has been identified as eutrophic by the Oklahoma's Water Quality Standards without subjecting such wastewaters to the best available technology as identified in the federal Clean Water Act¹ for nitrogen and phosphorous. The Office of the Secretary of the Environment shall coordinate the monitoring of all lakes it identifies as eutrophic and notify by certified mail any person who discharges wastewater which enters such lakes in violation of this section of the provisions of this section and shall order such person to immediately cease and desist from any further violation of this section.

C. Any person who violates the provisions of subsection B of this section shall be guilty of a misdemeanor punishable by a penalty of not more than One Hundred Dollars (\$100.00) per day for each day on which a violation occurs. The Attorney General is authorized to prosecute violations of this section. Venue and jurisdiction shall be proper in a county which contains all or part of a eutrophic lake which is the subject of a discharge in violation of this section.

D. 1. In addition to the penalty provided in subsection C of this section if a person continues to violate subsection B of this section after having received notification from the Secretary of the Environment to cease and desist, such person shall be guilty of a misdemeanor punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) per day.

2. If the owner of a facility which discharges wastewater in violation of this subsection is a corporation authorized to do business in this state, the court may enter an order directing the suspension of any authorization to do business in this state and of the charter or other instrument of organization, under which the corporation may be organized and the forfeiture of all corporate or other rights inuring thereunder. The order of suspension and forfeiture shall have the same effect on the rights, privileges and liabilities of the corporation and its officers and directors as a suspension and forfeiture ordered pursuant to Section 1212 of Title 68 of the Oklahoma Statutes for failure to pay franchise tax. Additionally, all officers and directors of a corporation found to be in violation of this subsection shall be personally liable for any fine imposed pursuant to this subsection. Added by Laws 1998, c. 232, § 25, eff. July 1, 1998.

¹ 33 U.S.C.A. §1251 et seq.

ARTICLE III. JURISDICTION
OF ENVIRONMENTAL
AGENCIES**§ 1-3-101. State environmental agencies—Jurisdictional areas of environmental responsibilities**

A. The provisions of this section specify the jurisdictional areas of responsibility for each state environ-

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

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

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration, manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;
2. All nonpoint source discharges and pollution except as provided in subsections D, E and F of this section;
3. Surface water and groundwater quality and protection and water quality certifications;
4. Waterworks and wastewater works operator certification;
5. Public and private water supplies;
6. Underground injection control except for brine recovery, saltwater disposal or secondary or tertiary oil recovery;
7. Air quality under the Federal Clean Air Act¹ and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act² and by Chapter 11 of Title 40 of the Oklahoma Statutes;³
8. Hazardous waste and solid waste, including industrial, commercial and municipal waste;
9. Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto,⁴ except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986;⁵
10. Radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for the use of sources of radiation by diagnostic x-ray facilities;
11. Water, waste, and wastewater treatment systems including, but not limited to, septic tanks or other public or private waste disposal systems;

12. Emergency response as specified by law;
13. Environmental laboratory services and laboratory certification;
14. Hazardous substances other than branding, package and labeling requirements;
15. Freshwater wellhead protection; and
16. Environmental regulation of any entity or activity, and the prevention, control and abatement of any pollution, not subject to the specific statutory authority of another state environmental agency.

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

1. Water quantity including, but not limited to, water rights, surface water and underground water, planning, and interstate stream compacts;
2. Weather modification;
3. Dam safety;
4. Flood plain management;
5. State water/wastewater loans and grants revolving fund and other related financial aid programs;
6. Administration of the federal State Revolving Fund Program including, but not limited to, making application for and receiving capitalization grant awards, wastewater prioritization for funding, technical project reviews, environmental review process, and financial review and administration;
7. Water well drillers/pump installers licensing;
8. Technical lead agency for clean lakes eligible for funding under Section 314 of the Federal Clean Water Act⁶ or other applicable sections of the Federal Clean Water Act⁷ or other subsequent state and federal clean lakes programs; administration of a state program for assessing, monitoring, studying and restoring Oklahoma lakes with administration to include, but not be limited to, receipt and expenditure of funds from federal, state and private sources for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources, provided such funds from Federal Clean Water Act sources are administered and disbursed by the Office of the Secretary of Environment; and
9. Statewide water quality standards.

D. State Department of Agriculture. 1. The State Department of Agriculture shall have the following jurisdictional areas of environmental responsibility except as provided in subsection B of this section and paragraphs 2 and 3 of this subsection:

- a. point and nonpoint source discharges from agricultural crop production, agricultural services, livestock production, silviculture, feed 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, and
- f. dairy waste and wastewater associated with milk production facilities.

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

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

3. Any point source and nonpoint source discharges related to agriculture from sources specified in paragraph 1 of this subsection which require a federal National Pollutant Discharge Elimination Systems permit and which are not specified under paragraph 2 of this subsection as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture.

E. Corporation Commission. 1. The Corporation Commission is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to promulgate and enforce rules, and issue and enforce orders governing 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 dis-

posal of mineral brines produced from geological strata lying below three hundred (300) feet in depth from the surface.

- 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. injection wells known as Class II wells under the federal Underground Injection Control Program. Any substance that the United States Environmental Protection Agency allows to be injected into a Class II well may continue to be so injected,
- g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,
- h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:
 - (1) natural gas liquids extraction plant,
 - (2) refinery,
 - (3) reclaiming facility other than for those specified within subparagraph e of this subsection,
 - (4) mineral brine processing plant, and
 - (5) petrochemical manufacturing plant,
- i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells. at:
 - (1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
 - (2) other oil and gas extraction facilities and activities,
- j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities, and

- k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata.

2. The exclusive jurisdiction, power and authority of the Corporation 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.

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

5. The Corporation Commission shall have jurisdiction over:

- a. underground storage tank regulation assigned to the Commission pursuant to other Oklahoma statutes, including, but not limited to, the Leaking Underground Storage Tank Trust Fund and Indemnity Fund programs, provided that any point source discharge of a pollutant to waters of the United States during site remediation shall be regulated by the Department of Environmental Quality, and
- b. aboveground storage tanks used in connection with the retail sale of flammable liquids into fuel tanks, provided that any point source discharge of a pollutant to waters of the United States during site remediation shall be regulated by the Department of Environmental Quality.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities.

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

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

- b. manufacturing of oil and gas related equipment and products,
- c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection,
- d. other facilities, activities and sources not subject to the jurisdiction of the Corporation Commission or the Department of Agriculture as specified by this section.

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

F. Conservation Commission. The Conservation Commission shall have the following jurisdictional areas of environmental responsibility:

- 1. Soil conservation and erosion control;
- 2. Monitoring, evaluation and assessment of waters to determine the condition of streams and rivers being impacted by nonpoint source pollution. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the Federal Clean Water Act⁹ or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal stormwater or as otherwise provided by state law;
- 3. Wetlands strategy;
- 4. Abandoned mine reclamation;
- 5. Cost share program for land use activities;
- 6. Assessment and conservation plan development and implementation in watersheds of clean lakes, as specified by law;
- 7. Complaint data management;
- 8. Coordinate environmental and natural resources education; and
- 9. Federal upstream flood control program.

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

- 1. Mining regulation; and
- 2. Mining reclamation of active mines.

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

- 1. Investigating wildlife kills; and
- 2. Wildlife protection and seeking wildlife damage claims.

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

- 1. Vehicle inspection for air quality;

2. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act;¹⁰ and

3. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Hazardous Materials Transportation Act.¹¹

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

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

2. Asbestos monitoring in public and private buildings; and

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

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

K. Department of Civil Emergency Management. The Department of Civil Emergency Management shall have the following jurisdictional areas of environmental responsibilities:

1. Coordination of all emergency resources and activities relating to threats to citizens' lives and property pursuant to the Oklahoma Civil Defense and Emergency Resources Management Act;¹²

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

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

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

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

Added by Laws 1992, c. 398, § 6, eff. July 1, 1993. Renumbered from Title 27A, § 6 and amended by Laws 1993, c. 145, §§ 11, 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 6, eff. July 1, 1993; Laws 1994, c. 140, § 24, eff. Sept. 1, 1994; Laws 1997, c. 217, § 1, eff. July 1, 1997.

¹⁰ 42 U.S.C.A. § 7401 et seq.

¹¹ 29 U.S.C.A. § 651 et seq.

¹³ Title 40, § 450 et seq.

⁴ 42 U.S.C.A. § 9601 et seq.

⁵ 42 U.S.C.A. § 11001 et seq.

⁶ 33 U.S.C.A. § 1324.

⁷ 33 U.S.C.A. § 1251 et seq.

⁸ 42 U.S.C.A. § 7661 et seq.

⁹ 33 U.S.C.A. § 1329.

¹⁰ 49 App. U.S.C.A. § 1801 et seq. (repealed: see, now, 49 U.S.C.A. § 5101 et seq.).

¹¹ Title 40, § 401 et seq.

¹² Title 63, § 683.1 et seq.

¹³ Title 27A, § 4-2-101 et seq.

§ 1-3-102. Repealed by Laws 1994, c. 192, § 3, eff. July 1, 1996

From:

Laws 1994, c. 192, § 1.

§ 1-3-103. Department of Agriculture—Official environmental regulatory agency

The Department of Agriculture is hereby designated as an official environmental regulatory agency for agricultural point source and non-point source pollution within its jurisdiction as specified in subsection D of Section 1-3-101 of Title 27A of the Oklahoma Statutes. The Department is hereby authorized and directed to seek delegation from the Environmental Protection Agency (EPA) to administer any and all of the National Pollution Discharge Elimination System (NPDES) programs for agricultural point and non-point source discharges within its specified jurisdiction.

Added by Laws 1994, c. 289, § 2, emerg. eff. June 6, 1994.

CHAPTER 2.—OKLAHOMA ENVIRONMENTAL QUALITY CODE

ARTICLE I. SHORT TITLE AND GENERAL DEFINITIONS

Section

2-1-101. Short title—Subsequent enactments.

2-1-102. Definitions.

ARTICLE II. ENVIRONMENTAL QUALITY BOARD AND COUNCILS

PART 1. ENVIRONMENTAL QUALITY BOARD

2-2-101. Environmental Quality Board—Creation—Eligibility—Composition—Terms—Appointments—Meetings—Travel expenses—Powers and duties—Promulgation of rules.

2-2-102. Renumbered.

2-2-103. Attorney General as legal counsel.

2-2-104. Board rules incorporating by reference federal provisions—No effect on rules from subsequent changes in federal provisions.

PART 2. COUNCILS

2-2-201. Advisory councils.