

51 Okl.St. Ann. § 24A.19

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

⌘ Chapter 1. General Provisions

⌘ Oklahoma Open Records Act (Refs & Annos)

⇒ **§ 24A.19. Research records--Confidentiality**

In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential:

1. Any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity may have in the research or the results of the research including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results, or other writings about the research; and

2. The specific terms and conditions of any license or other commercialization agreement relating to state owned or controlled technology or the development, transfer, or commercialization of the technology. Any other information relating to state owned or controlled technology or the development, transfer, or commercialization of the technology which, if disclosed, will adversely affect or give other persons or entities an advantage over public bodies in negotiating terms and conditions for the development, transfer, or commercialization of the technology. However, institutions within The Oklahoma State System of Higher Education shall:

- a. report to the Oklahoma State Regents for Higher Education as requested, on forms provided by the Regents, research activities funded by external entities or the institutions, the results of which have generated new intellectual property, and
- b. report to the Oklahoma State Regents for Higher Education annually on forms provided:
 - (1) expenditures for research and development supported by the institution,
 - (2) any financial relationships between the institution and private business entities,
 - (3) any acquisition of an equity interest by the institution in a private business,
 - (4) the receipt of royalty or other income related to the sale of products, processes, or ideas by the institution or a private business entity with which the institution has established a financial arrangement,
 - (5) the gains or losses upon the sale or other disposition of equity interests in private business entities, and
 - (6) any other information regarding technology transfer required by the Oklahoma State Regents for Higher Education.

The reports required in subparagraphs a and b of this paragraph shall not be deemed confidential and shall be subject to full disclosure pursuant to the Oklahoma Open Records Act.

CREDIT(S)

Laws 1988, c. 68, § 2, eff. Nov. 1, 1988; Laws 1999, c. 287, § 1, emerg. eff. May 27, 1999.

HISTORICAL AND STATUTORY NOTES

2008 Main Volume

The 1999 amendment rewrote the section, which prior thereto read:

"In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity might have in the research or the results of the research; including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results or other unpublished writings about the research."

LIBRARY REFERENCES

2009 Electronic Update

Records ¶59.
Westlaw Topic No. 326.
C.J.S. Records §§ 99 to 100, 106.

51 Okl. St. Ann. § 24A.19, OK ST T. 51 § 24A.19

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51 Okl.St. Ann. § 24A.20

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

[Ⓜ] Chapter 1. General Provisions

[Ⓜ] Oklahoma Open Records Act (Refs & Annos)

 ⇒ **§ 24A.20. Records in litigation or investigation file--Access**

Access to records which, under the Oklahoma Open Records Act, [FN1] would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file. However, a law enforcement agency may deny access to a copy of such a record in an investigative file if the record or a true and complete copy thereof is available for public inspection and copying at another public body.

CREDIT(S)

Laws 1988, c. 187, § 7, emerg. eff. June 6, 1988.

[FN1] Title 51, § 24A.1 et seq.

LIBRARY REFERENCES

2009 Electronic Update

Records ⇐60.

 Westlaw Topic No. 326.

C.J.S. Records §§ 99 to 100, 107 to 111.

51 Okl. St. Ann. § 24A.20, OK ST T. 51 § 24A.20

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51 Okl.St. Ann. § 24A.21

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

↳ Chapter 1. General Provisions

↳ Oklahoma Open Records Act (Refs & Annos)

⇒ **§ 24A.21. Increment district reports--Exemption from copying fees**

The fees that may be charged by a public body pursuant to the provisions of paragraph 3 of Section 24A.5 of Title 51 of the Oklahoma Statutes shall not be charged when a state agency or taxing entity located within the boundaries of any district created pursuant to the provisions of the Local Development Act [FN1] request a copy of the reports required by subsections A and B of Section 18 of this act. [FN2]

CREDIT(S)

Laws 1992, c. 342, § 21.

[FN1] Title 62, § 850 et seq.

[FN2] Title 62, § 867.

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2009 Electronic Update

Records ⇐68.

Westlaw Topic No. 326.

C.J.S. Records §§ 95, 99, 112, 119 to 121, 128 to 131.

51 Okl. St. Ann. § 24A.21, OK ST T. 51 § 24A.21

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51 Okl.St. Ann. § 24A.22

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

↳ Chapter 1. General Provisions

↳ Oklahoma Open Records Act (Refs & Annos)

⇒ § 24A.22. **Public utilities--Confidential books, records and trade secrets**

A. The Corporation Commission shall keep confidential those records of a public utility, its affiliates, suppliers and customers which the Commission determines are confidential books and records or trade secrets.

B. As used in this section, "public utility" means any entity regulated by the Corporation Commission, owning or operating for compensation in this state equipment or facilities for:

1. Producing, generating, transmitting, distributing, selling or furnishing electricity;
2. The conveyance, transmission, or reception of communication over a telephone system; or
3. Transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public.

CREDIT(S)

Laws 1994, c. 315, § 12, eff. July 1, 1994.

LIBRARY REFERENCES

2009 Electronic Update

Records ⇔ 59.

Westlaw Topic No. 326.

C.J.S. Records §§ 99 to 100, 106.

51 Okl. St. Ann. § 24A.22, OK ST T. 51 § 24A.22

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51 Okl.St. Ann. § 24A.23

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

↳ Chapter 1. General Provisions

↳ Oklahoma Open Records Act (Refs & Annos)

⇒ **§ 24A.23. Department of Wildlife Conservation--Confidentiality of information relating to hunting and fishing licenses**

A. The Department of Wildlife Conservation shall keep confidential the information provided by persons, including the name and address of the person, applying for or holding any permit or license issued by the Department, to the extent the information individually identifies the person. The Department may use the information for Department purposes or allow the United States Fish and Wildlife Service to use the information for survey purposes only. The Department shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. The provisions of subsection A of this section shall not apply to information provided by persons applying for or holding a commercial hunting or fishing license.

CREDIT(S)

Laws 1996, c. 32, § 1, eff. July 1, 1996.

LIBRARY REFERENCES

2009 Electronic Update

Records ⇐54.

Westlaw Topic No. 326.

C.J.S. Records §§ 99 to 101, 103 to 104.

51 Okl. St. Ann. § 24A.23, OK ST T. 51 § 24A.23

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51 Okl.St. Ann. § 24A.24

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

↳ Chapter 1. General Provisions

↳ Oklahoma Open Records Act (Refs & Annos)

↳ **§ 24A.24. Office of Juvenile System Oversight--Confidentiality of investigatory records and notes**

Unless otherwise provided by law, the Office of Juvenile System Oversight may keep its investigatory records and notes confidential, unless ordered by a court of competent jurisdiction to disclose the information.

CREDIT(S)

Laws 1996, c. 247, § 42, eff. July 1, 1996.

HISTORICAL AND STATUTORY NOTES

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LIBRARY REFERENCES

2009 Electronic Update

Records ⇐60.

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C.J.S. Records §§ 99 to 100, 107 to 111.

51 Okl. St. Ann. § 24A.24, OK ST T. 51 § 24A.24

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51 Okl.St. Ann. § 24A.25

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

▣ Chapter 1. General Provisions

▣ Oklahoma Open Records Act (Refs & Annos)

⇒ **§ 24A.25. Order of court for removal of materials from public record**

Any order of the court for removal of materials from the public record shall require compliance with the provisions of paragraphs 2 through 7 of subsection C of Section 3226 of Title 12 of the Oklahoma Statutes.

CREDIT(S)

Laws 2000, c. 172, § 4, eff. Nov. 1, 2000.

LIBRARY REFERENCES

2009 Electronic Update

Records ⇐ 21.

Westlaw Topic No. 326.

C.J.S. Records §§ 57 to 59.

NOTES OF DECISIONS

Construction and application 1

1. Construction and application

There is no provision in the Open Records Act which allows a court to balance an individual's interest in having records remain private and the public's interest in having access to the records. Nichols v. Jackson, Okla.Crim.App., 38 P.3d 228 (2001), opinion after certified question answered 55 P.3d 1044. Records ⇐ 64

The legislature has determined by statute that the public's interest in having access is greater than an individual's interest in having records remain private, except where specific statutory exemption is given, however, such statutory provisions are always subject to interpretation to ensure compliance with constitutionally guaranteed rights. Nichols v. Jackson, Okla.Crim.App., 38 P.3d 228 (2001), opinion after certified question answered 55 P.3d 1044. Records ⇐ 54

51 Okl. St. Ann. § 24A.25, OK ST T. 51 § 24A.25

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51 Okl.St. Ann. § 24A.26

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

↳ Chapter 1. General Provisions

↳ Oklahoma Open Records Act (Refs & Annos)

⇒ **§ 24A.26. Intergovernmental self-insurance pools**

An intergovernmental self-insurance pool may keep confidential proprietary information, such as actuarial reports, underwriting calculations, rating information and records that are created based on conclusions of such information that are developed through the operation of the intergovernmental self-insurance pool.

CREDIT(S)

Laws 2000, c. 226, § 2, eff. Nov. 1, 2000.

HISTORICAL AND STATUTORY NOTES

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LIBRARY REFERENCES

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Records ⇐ 53.

Westlaw Topic No. 326.

C.J.S. Records §§ 99 to 111.

51 Okl. St. Ann. § 24A.26, OK ST T. 51 § 24A.26

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51 Okl.St. Ann. § 24A.27

Oklahoma Statutes Annotated Currentness

Title 51. Officers (Refs & Annos)

⌘ Chapter 1. General Provisions

⌘ Oklahoma Open Records Act (Refs & Annos)

⇒ **§ 24A.27. Vulnerability assessments of critical assets in water and wastewater systems**

A. Any state environmental agency or public utility shall keep confidential vulnerability assessments of critical assets in both water and wastewater systems. State environmental agencies or public utilities may use the information for internal purposes or allow the information to be used for survey purposes only. The state environmental agencies or public utilities shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. For purposes of this section:

1. "State environmental agencies" 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, and
- g. Department of Environmental Quality;

2. "Public Utility" means any individual, firm, association, partnership, corporation or any combination thereof, municipal corporations or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

- a. producing, generating, transmitting, distributing, selling or furnishing electricity,
- b. the conveyance, transmission, reception or communications over a telephone system,
- c. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public, or
- d. the transportation, delivery or furnishing of water for domestic purposes or for power.

CREDIT(S)

Laws 2003, c. 166, § 1, emerg. eff. May 5, 2003.

LIBRARY REFERENCES

2009 Electronic Update

Records ⇐53.

Westlaw Topic No. 326.
C.J.S. Records §§ 99 to 111.

51 Okl. St. Ann. § 24A.27, OK ST T. 51 § 24A.27

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27A Okl.St. Ann. § 1-3-101

Oklahoma Statutes Annotated Currentness

Title 27A. Environment and Natural Resources (Refs & Annos)

Chapter 1. Oklahoma Environmental Quality Act (Refs & Annos)

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 environmental agency and state agencies with limited environmental responsibility. The jurisdictional areas of environmental responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state environmental agency; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional environmental responsibilities specified by this section is hereby superseded. 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. Technical lead agency for point source, nonpoint source and storm water pollution control programs funded under Section 106 of the federal Clean Water Act, [FN1] for areas within the Department's jurisdiction as provided in this subsection;
4. Surface water and groundwater quality and protection and water quality certifications;
5. Waterworks and wastewater works operator certification;
6. Public and private water supplies;
7. Underground injection control pursuant to the federal Safe Drinking Water Act [FN2] and 40 CFR Parts 144 through 148, except for:
 - a. Class II injection wells,
 - b. Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Corporation Commission,
 - c. those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act [FN3] regulated by the Commission, and
 - d. any aspect of any CO₂ sequestration facility, including any associated CO₂ injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act; [FN4]

8. Notwithstanding any other provision in this section or other environmental jurisdiction statute, sole and exclusive jurisdiction for air quality under the federal Clean Air Act [FN5] and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act [FN6] and by Chapter 11 of Title 40 of the Oklahoma Statutes;
9. Hazardous waste and solid waste, including industrial, commercial and municipal waste;
10. Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 [FN7] and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986; [FN8]
11. 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;
12. Water, waste, and wastewater treatment systems including, but not limited to, septic tanks or other public or private waste disposal systems;
13. Emergency response as specified by law;
14. Environmental laboratory services and laboratory certification;
15. Hazardous substances other than branding, package and labeling requirements;
16. Freshwater wellhead protection;
17. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department;
18. Utilization and enforcement of Oklahoma Water Quality Standards and implementation documents;
19. 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;
20. Development and maintenance of a computerized information system relating to water quality pursuant to Section 1-4-107 of this title; and
21. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility.

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 Act [FN9] or other applicable sections of the federal Clean Water Act [FN10] 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;

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

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

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

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

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

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

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

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

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

- a. point source discharges and nonpoint source runoff 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,
- 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:

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 these facilities, and

(3) aquaculture 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 these 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.

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 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,

(3) those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act, and

(4) any aspect of any CO₂ sequestration facility, including any associated CO₂ injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act.

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,
- 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.

4. For purposes of the federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the 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 Commission for such discharge.

5. The Commission shall have jurisdiction over:

- a. underground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality,
- b. aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality, and
- c. the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund, the Oklahoma Petroleum Storage Tank Release Indemnity Program, and the Oklahoma Leaking Underground Storage Tank Trust Fund.

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. The Department of Environmental Quality shall not have any jurisdiction with respect to pipeline transportation of carbon dioxide.

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 equipment and products related to oil and gas,
- c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection, and
- d. other facilities, activities and sources not subject to the jurisdiction of the Commission or the Oklahoma Department of Agriculture, Food, and Forestry 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 [FN11] as amended.

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

1. Soil conservation, erosion control and nonpoint source management except as otherwise provided by law;
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 Oklahoma Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the federal Clean Water Act [FN12] or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal storm water 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. Coordination of environmental and natural resources education;
9. Federal upstream flood control program;
10. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission;
11. 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;
12. Utilization of Oklahoma Water Quality Standards and Implementation documents; and
13. Verification and certification of carbon sequestration pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This responsibility shall not be superseded by the Oklahoma Carbon Capture and Geologic Sequestration Act.

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

1. Mining regulation;
2. Mining reclamation of active mines;
3. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission; and
4. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of responsibility.

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

1. Investigating wildlife kills;
2. Wildlife protection and seeking wildlife damage claims; and
3. 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.

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

1. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act; and
2. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Hazardous Materials Transportation Act. [FN13]

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. Oklahoma Department of Emergency Management. The Oklahoma Department of 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 Emergency Resources Management Act of 1967; [FN14]
2. Administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 [FN15] 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; [FN16]
3. Administer and conduct periodic exercises of emergency operations plans provided for in this subsection pursuant to the Oklahoma Emergency Resources Management Act of 1967;
4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders pursuant to the Oklahoma Emergency Resources Management Act of 1967; and
5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

CREDIT(S)

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. 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; Laws 1999, c. 413, § 4, eff. Nov. 1, 1999; Laws 2000, c. 364, § 1, emerg. eff. June 6, 2000; Laws 2002, c. 397, § 1, eff. Nov. 1, 2002; Laws 2004, c. 100, § 2, eff. July 1, 2004; Laws 2004, c. 430, § 11, emerg. eff. June 4, 2004; Laws 2009, c. 429, § 8, emerg. eff. June 1, 2009.

[FN1] 33 U.S.C.A. § 1256.

[FN2] 42 U.S.C.A. § 300F et seq.

[FN3] Title 17, § 500 et seq.

[FN4] Title 27A, § 3-5-101 et seq.

[FN5] 42 U.S.C.A. § 7401 et seq.

[FN6] 29 U.S.C.A. § 651 et seq.

[FN7] 42 U.S.C.A. § 9601 et seq.

[FN8] 42 U.S.C.A. § 11001 et seq.

[FN9] 33 U.S.C.A. § 1324.

[FN10] 33 U.S.C.A. § 1251 et seq.

[FN11] 42 U.S.C.A. § 7661 et seq.

[FN12] 33 U.S.C.A. § 1329 et seq.

[FN13] 49 U.S.C.A. § 5103 et seq.

[FN14] Title 63, § 683.1 et seq.

[FN15] 42 U.S.C.A. § 11001 et seq.

[FN16] Title 27A, § 4-2-101 et seq.

HISTORICAL AND STATUTORY NOTES

1997 Main Volume

Laws 1993, c. 145, § 11 rewrote the section, which prior thereto read:

"A. Effective July 1, 1993, the following state environmental agencies shall have the specified jurisdictional areas of environmental responsibilities:

"SECRETARY OF ENVIRONMENT

"The Secretary of Environment or successor cabinet position 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 and

the Federal Environmental Protection Act. Such funds 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 without any assessment of administrative fees or costs. Disbursement of other federal environmental funds shall not be subject to the Oklahoma Environmental Quality Act; and

"3. Chairperson of the executive environmental subcommittee.

"DEPARTMENT OF ENVIRONMENTAL QUALITY

"The Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility, except as otherwise provided in this section:

"1. All point source discharges except as otherwise provided in this section;

"2. Non-point-source discharges for industrial and municipal facilities;

"3. Groundwater quality and protection;

"4. Operator certification (water and waste/wastewater treatment plants);

"5. Public water supplies;

"6. Underground injection control for other than brine recovery, saltwater disposal or secondary or tertiary oil recovery;

"7. Air quality under the Federal Clean Air Act and applicable state law, except for indoor air quality and asbestos;

"8. Controlled industrial (hazardous) waste and solid waste;

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

"10. Radioactive waste;

"11. Sewage treatment and municipal waste facilities;

"12. Emergency response except for present authority granted to the Department of Civil Emergency Management;

"13. Public environmental information dissemination;

"14. Environmental laboratory services and certification;

"15. Hazardous substances; and

"16. Freshwater wellhead protection.

"OKLAHOMA WATER RESOURCES BOARD

"A. 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;
- "6. Wastewater project prioritization for funding from the state revolving fund;
- "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 Act;
- "9. Statewide water quality standards; and
- "10. Environmental and natural resources education within its jurisdictional areas.

"B. Except as otherwise provided by this section, any existing jurisdiction of the Oklahoma Water Resources Board over water quality including but not limited to point source and non-point-source pollution, and groundwater quality including, but not limited to, freshwater wellhead protection programs shall be transferred to the Department of Environmental Quality.

"C. Any existing jurisdiction of the Oklahoma Water Resources Board over underground storage tanks shall be transferred to the Corporation Commission.

"STATE DEPARTMENT OF AGRICULTURE

"A. The State Department of Agriculture shall have the following jurisdictional areas of environmental responsibility:

- "1. Non-point-source jurisdiction for agriculture, agribusiness, silviculture, feed yards, livestock markets and animal waste;
- "2. Pesticide control;
- "3. Forestry and nurseries; and
- "4. Fertilizer.

"B. Any existing jurisdiction of the Department of Agriculture over point source and non-point-source discharges requiring a federal National Pollutant Discharge Elimination Systems permit shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit, except for commercial manufacturers of fertilizers, grain, feed and agriculture chemicals, which shall be regulated by the Department of Environmental Quality.

"C. Except as provided in paragraph B of this subheading, the division of jurisdictional areas by this section shall not limit the existing jurisdiction of the State Department of Agriculture, nor extend the jurisdiction of the other state environmental agencies over agricultural activities.

"CORPORATION COMMISSION

"A. The Corporation Commission shall have the following jurisdictional areas of environmental responsibility:

- "1. Oil and gas drilling, development, production, and processing;

- "2. Transportation (motor, pipeline and railroads);
- "3. Saltwater injection;
- "4. Brine production;
- "5. Underground storage tanks (L.U.S.T. Trust Fund, Indemnity Program, and Regulation);
- "6. Aboveground storage tanks (commercial); and
- "7. Oil and gas regulation except as otherwise provided by paragraph B of this subheading.

"B. Any existing jurisdiction of the Corporation Commission over pollutant discharges from refineries, petrochemical manufacturing plants and natural gas liquid extraction plants shall be transferred to the Department of Environmental Quality, provided that any oil and gas drilling, development or production site requiring a federal N.P.D.E.S. permit shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit.

"C. Except as otherwise provided in paragraph B of this subheading, the division of jurisdictional areas by this section shall not limit the existing exclusive jurisdiction of the Corporation Commission, nor extend the existing jurisdiction of the other state environmental agencies, over oil and gas exploration and production activities.

"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 extent of non-point-source pollution and the development of conservation plans. Serve as the technical lead agency for Section 319 of the Federal Clean Water Act, except for activities related to industrial and municipal stormwater;
- "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, which may include, but not be limited to, funding for such purposes under Section 314 of the Federal Clean Water Act;
- "7. Complaint data management;
- "8. Coordinate environmental and natural resources education; and
- "9. Federal upstream flood control program.

"DEPARTMENT OF MINES

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

"1. Mining regulation; and

"2. Mining reclamation of active mines.

"B. Any existing jurisdiction of the Department of Mines over point source discharges requiring a federal National Pollutant Discharge Elimination Systems permit shall be transferred to the Department of Environmental Quality.

"DEPARTMENT OF WILDLIFE CONSERVATION

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

"1. Investigating wildlife kills;

"2. Wildlife protection and seeking wildlife damage claims; and

"3. Environmental and natural resources education within its area of jurisdiction.

"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; and

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

"DEPARTMENT OF LABOR

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

"1. Regulation of asbestos;

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

"3. Indoor air quality.

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

"DEPARTMENT OF CIVIL EMERGENCY MANAGEMENT

"The Department of Civil Emergency Management shall, insofar as authorized by statute on July 1, 1992, have the following jurisdictional areas of environmental responsibilities:

"1. Coordination of all emergency resources and activities relating to threats to citizens' life and property;

"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;

"3. Administer and conduct periodic exercises of emergency operations plans provided for in

subparagraph 2 of this subheading;

"4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders; and

"5. Continue existing program to develop and maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

"B. 1. Effective July 1, 1993, any existing jurisdiction of the Oklahoma State Department of Health over point source and non-point-source discharges of municipal facilities; underground injection for other than brine recovery, saltwater disposal or secondary or tertiary oil recovery; air quality under the Federal Clean Air Act and applicable state law, except for indoor air quality and asbestos; sewage and municipal waste facilities; hazardous substances; emergency response except for present authority granted to the Department of Civil Emergency Management; solid waste; controlled industrial (hazardous) waste; operator certification of water and waste/wastewater treatment; environmental laboratory services and certification; Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986; public water supplies; groundwater quality and protection; freshwater wellhead protection; radioactive waste; public environmental information dissemination; and any other environmental responsibility except as otherwise specified by this subsection shall be transferred to the Department of Environmental Quality.

"2. Any existing jurisdiction of the Oklahoma State Department of Health over wastewater project prioritization for funding from the state revolving fund shall be transferred to the Oklahoma Water Resources Board.

"3. Any existing jurisdiction of the Oklahoma State Department of Health over indoor air quality and asbestos, except for asbestos analysis which shall be performed under the supervision of the Department of Environmental Quality, shall be transferred to the Department of Labor as a function of its occupational safety and health jurisdiction.

"4. Except as otherwise provided by this paragraph, the Oklahoma State Department of Health shall retain the following jurisdictional areas of responsibility, currently within the Oklahoma State Department of Health's Environmental Health Services Division: occupational licensing services functions, food protection services, radiation and special hazards services, Cancer & Tumor Registry, milk program, day care center program, medical devices, barber shops, over-the-counter drugs, hotel and motel inspections, consumer product safety, bedding, public bathing place program, rabies control, vector control, noise control, and camp inspections.

"The Department of Environmental Quality shall assume any environmental jurisdiction from the Oklahoma State Department of Health in regard to the responsibilities outlined in this paragraph if such responsibilities include but are not limited to jurisdiction over air quality, sewage, solid waste, controlled industrial (hazardous) waste, and public water supplies.

"5. The Oklahoma State Department of Health and the Department of Environmental Quality may enter into interagency agreement contracts as necessary for the performance of local services."

Laws 1993, c. 324, § 6, in subsection B, in the introductory clause, deleted ", except as otherwise provided in this section" from the end; in subsection B.1, inserted "of pollutants and storm water to waters of the state which originate" and "and utilities, construction, trade, real estate and finance, services, public administration"; in subsection B.2, substituted a comma for "and" and inserted "and F"; deleted former subsection B.13, which read:

"Public environmental information dissemination;"

; redesignated former subsections B.14 to B.17 as subsections B.13 to B.16; in subsection D.1, in the

introductory clause, inserted "subsection B of this section and" and, in paragraph a, substituted "agricultural crop production" for "agriculture" and "agricultural services, livestock production" for "agribusiness"; rewrote subsection D.2.a, which prior thereto read:

"commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over dairy waste and wastewater including, but not limited to, discharges of pollutants and storm water and other pollution originating at such facilities,"

; deleted subsection D.2.c, which read:

"point source discharges from slaughterhouses"

; in subsection D.3, substituted "from sources specified in paragraph 1 of this subsection which require" for "and requiring" and added "and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture"; in subsection E.1, rewrote paragraphs g and i, which prior thereto read:

"g. tank farms outside the boundaries of refineries,

"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,"

, inserted paragraph j, and redesignated former paragraph j as paragraph k; inserted subsection E.3; redesignated former subsections E.3 and E.4 as subsections E.4 and E.5; in subsection E.4, substituted "For" for "Except as otherwise provided by this subsection, for", inserted "facility or", substituted "paragraph 1 of this subsection and any other oil and gas extraction facility or activity" for "this section and", inserted "or storm water", and substituted "federal" for "United States"; deleted former subsection E.5, which read:

"Any facility engaging in activities, when such activities are separately within the jurisdiction of the Department of Environmental Quality or the Corporation Commission, shall have said activities regulated separately by the Department of Environmental Quality and the Corporation Commission based upon each agency's jurisdictional responsibilities."

; in subsection E.6, inserted "have sole jurisdiction to"; rewrote subsection E.7, which prior thereto read:

"The Department of Environmental Quality shall have sole environmental jurisdiction for discharges of pollutants from refineries, petrochemical manufacturing plants and natural gas liquid extraction plants."

; inserted subsection E.8; rewrote subsection J.3, which prior thereto read:

"Indoor air quality as regulated by the federal Occupational and Health Act."

; and deleted subsection L, which read:

"Each state environmental agency shall have the authority to engage in environmental and natural resource education activities within their respective areas of environmental jurisdiction."

The 1994 amendment inserted subsection D.1.f; deleted subsection D.2.a.(2), which read:

"dairy waste and wastewater associated with milk production facilities, but not including discharges to waters of the United States from concentrated animal feeding operations at such facilities,"

; and redesignated former subsections D.2.a.(3) and D.2.a.(4) as subsections D.2.a.(2) and D.2.a.(3).

Laws 1994, H.B. No. 1916 (c. 140) was vetoed by the Governor on April 30, 1994. Veto was overridden by the Oklahoma House of Representatives May 2, 1994 and by the Senate May 3, 1994 and filed with the Secretary of State on May 3, 1994.

CROSS REFERENCES

Pollutant discharge elimination system, agricultural, oil and gas activities not regulated except as specifically provided in this section, see Title 27A, § 2-6-201.

LAW REVIEW AND JOURNAL COMMENTARIES

Scaring the states into submission? Divergent approaches to environmental compliance. 35 Tulsa L.J. 193 (1999).

UNITED STATES CODE ANNOTATED

Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, see 49 U.S.C.A. § 5101 et seq.

UNITED STATES SUPREME COURT

Environmental regulation, solid waste, county flow control ordinances favoring public benefit corporation, Commerce Clause, see United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Management Authority, 2007, 127 S.Ct. 1786, 550 U.S. 330, 167 L.Ed.2d 655.

NOTES OF DECISIONS

Corporation Commission 1
Court jurisdiction 2

1. Corporation Commission

As between the Corporation Commission and any other state agency with responsibility for maintaining environmental quality, it is clear that only the Corporation Commission is given exclusive environmental jurisdiction in the area of oil and gas, including the exclusive jurisdiction, power and authority governing the disposition of deleterious substances incidental to petroleum production and to promulgate rules and regulations to prevent pollution of the surface and subsurface waters in the state. Meinders v. Johnson, Okla.Civ.App. Div. 3, 134 P.3d 858 (2005), certiorari denied. Environmental Law ¶ 162; Environmental Law ¶ 402

2. Court jurisdiction

Only the district courts possess jurisdiction to award nuisance or negligence damages for pollution and cleanup, in connection with private rights disputes arising from mineral production. Meinders v. Johnson, Okla.Civ.App. Div. 3, 134 P.3d 858 (2005), certiorari denied. Mines And Minerals ¶ 125

District courts of Oklahoma possess jurisdiction in public nuisance actions to order cleanup of sites polluted as a result of mineral exploration when the Corporation Commission has not yet exercised its jurisdiction; district courts possess jurisdiction and authority to direct abatement of public nuisances, oil and gas law specifically recognizes the cumulative nature of the various statutes intended to prevent pollution of surface and subsurface waters and establishing mineral operators' civil responsibility for the creation or maintenance of a public nuisance, and statutes assigning jurisdictional areas of responsibility to the state's environmental agencies do not deprive district courts of their unlimited original jurisdiction of all justiciable matters in the absence of a clear expression of legislative intent to divest the district courts of their general jurisdiction. Meinders v. Johnson, Okla.Civ.App. Div. 3, 134 P.3d 858 (2005), certiorari denied. Mines And Minerals ¶ 125;

Waters And Water Courses (c) 107(3)

27A Okl. St. Ann. § 1-3-101, OK ST T. 27A § 1-3-101

Current with chapters of the First Regular Session of the 52nd Legislature (2009) effective August 26, 2009.

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27A Okl.St. Ann. § 2-3-101

Oklahoma Statutes Annotated Currentness

Title 27A. Environment and Natural Resources (Refs & Annos)

Chapter 2. Oklahoma Environmental Quality Code (Refs & Annos)

Article III. Department of Environmental Quality and Executive Director

Part 1. Department of Environmental Quality

⇒§ 2-3-101. Creation--Powers and duties--Disclosure of interests--Employee classification--Programs--Departmental offices and divisions--Annual report--Environmental Quality Report--Environmental services contracts

- A. There is hereby created the Department of Environmental Quality.
- B. Within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, through its duly designated employees or representatives, shall have the power and duty to:
1. Perform such duties as required by law; and
 2. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials, pollution, Superfund, water quality, hazardous waste, radioactive waste, air quality, drinking water supplies, wastewater treatment and any other program authorized by law or executive order.
- C. Any employee of the Department in a technical, supervisory or administrative position relating to the review, issuance or enforcement of permits pursuant to this Code [FN1] who is an owner, stockholder, employee or officer of, or who receives compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department of Environmental Quality shall disclose such interest to the Executive Director. Such disclosure shall be submitted for Board review and shall be made a part of the Board minutes available to the public. This subsection shall not apply to financial interests occurring by reason of an employee's participation in the Oklahoma State Employees Deferred Compensation Plan or publicly traded mutual funds.
- D. The Executive Director, Deputy Director, and all other positions and employees of the Department at the Division Director level or higher shall be in the unclassified service.
- E. The following programs are hereby established within the Department of Environmental Quality:
1. An air quality program which shall be responsible for air quality;
 2. Water programs which shall be responsible for water quality, including, but not limited to point source and nonpoint source pollution within the jurisdiction of the Department, public and private water supplies, public and private wastewater treatment, water protection and discharges to waters of the state;
 3. Land protection programs which shall be responsible for hazardous waste, solid waste, radiation, and municipal, industrial, commercial and other waste within its jurisdictional areas of environmental responsibility pursuant to Section 1-3-101 of this title; and
 4. Special projects and services programs which shall be responsible for duties related to planning, interagency coordination, technical assistance programs, laboratory services and laboratory certification, recycling, education and dissemination of information.
- F. Within the Department there are hereby created:
1. The complaints program which shall be responsible for intake processing, investigation, mediation

and conciliation of inquiries and complaints received by the Department and which shall provide for the expedient resolution of complaints within the jurisdiction of the Department; and

2. The customer assistance program which shall be responsible for advising and providing to licensees, permittees and those persons representing businesses or those persons associated with and representing local political subdivisions desiring a license or permit, the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Code. The customer assistance program shall coordinate with other programs of the Department to assist businesses and municipalities in complying with state statutes and rules governing environmental areas. The customer assistance program shall also be responsible for advising and providing assistance to persons desiring information concerning the Department's rules, laws, procedures, licenses or permits, and forms used to comply with the Oklahoma Environmental Quality Code.

G. The Department shall be responsible for holding administrative hearings as defined in Section 2-1-102 of this title and shall provide support services related to them, including, but not limited to, giving required notices, maintaining the docket, scheduling hearings, and maintaining legal records.

H. 1. The Department shall prepare and submit an annual report assessing the status of the Department's programs to the Board, the Governor, the President Pro Tempore of the State Senate, and the Speaker of the Oklahoma House of Representatives by January 1 of each year. The annual status report shall include: the number of environmental inspections made within the various regulatory areas under the Department's jurisdiction; the number of permit applications submitted within the various regulatory areas under the Department's jurisdiction; the number of permits issued within the various regulatory areas under the Department's jurisdiction; the number and type of complaints filed with the Department; the number of resolved and unresolved Department complaints; a list of any permits and complaints which failed to be either completed or resolved within the Department's established time frames and an explanation of why the Department was unable to meet said time frames; the number and kinds of services provided corporations, businesses, cities, towns, schools, citizen groups and individuals by the customer assistance programs; a summary of the Department's environmental education efforts; the number and type of administrative hearings held and their outcomes; a detailed description of any promulgated and pending emergency or permanent rules requested by the Department and the current status of pending rules within the rulemaking process; the number of notices of violations issued by the Department within the various regulatory areas under its jurisdiction; the amount of penalties collected by the Department within the various regulatory areas under its jurisdiction; and any other information which the Department believes is pertinent.

2. Beginning January 1, 1995, and on or before January 1 of every year thereafter, the Department shall prepare an Oklahoma Environmental Quality Report which outlines the Department's annual needs for providing environmental services within its jurisdictional areas. The report shall reflect any new federal mandates and any state statutory or constitutional changes recommended by the Department within its jurisdictional areas. The Oklahoma Environmental Quality Report shall be reviewed, amended, and approved by the Board. The Department shall transmit an approved copy of the Oklahoma Environmental Quality Report to the Governor, President Pro Tempore of the State Senate, and Speaker of the House of Representatives.

3. The Executive Director shall establish such divisions and such other programs and offices as the Executive Director may determine necessary to implement and administer programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Code.

I. 1. The Department may contract with other governmental entities to provide environmental services. Such contracts may include duties related to providing information to the public regarding state environmental services, resources, permitting requirements and procedures based upon the ability, education and training of state environmental agency employees.

2. The Department, in conjunction with the state environmental agencies, may develop a program for the purpose of training government employees to provide any needed environmental services; provided, that the investigation of complaints regarding, or inspections of, permitted sites or facilities

shall not be performed by employees of other agencies, unless otherwise authorized by law.

CREDIT(S)

Laws 1992, c. 398, § 9, eff. Jan. 1, 1993. Renumbered from Title 27A, § 9 and amended by Laws 1993, c. 145, §§ 16, 359, eff. July 1, 1993. Laws 1993, c. 324, § 5, eff. July 1, 1993; Laws 1995, c. 246, § 1, eff. Nov. 1, 1995; Laws 2002, c. 139, § 1, emerg. eff. April 29, 2002.

[FN1] Title 27A, § 2-1-101 et seq.

HISTORICAL AND STATUTORY NOTES

1997 Main Volume

Laws 1993, c. 145, § 16 rewrote the section, which prior thereto read:

"A. 1. Effective January 1, 1993, there is hereby created the Department of Environmental Quality. Except as otherwise specifically provided by the Legislature, and until July 1, 1993, the Department of Environmental Quality shall:

"a. assist the transition coordinator in the performance of his duties pursuant to the provisions of Section 4 of this act relating to transitional authority,

"b. assist the Environmental Quality Board, as necessary, in the promulgation of rules necessary to implement the programs and functions within the jurisdiction of the Department of Environmental Quality,

"c. be responsible for the operation of the twenty-four-hour statewide toll-free telephone communication service whereby any person may report alleged violations of or information concerning the pollution laws of this state,

"d. initiate a search for appropriate and adequate office space needed for purposes of implementing the Oklahoma Environmental Quality Act to be leased at such time as provided by the Legislature. Until such time as specified by the Legislature, space shall be provided to the Department of Environmental Quality to the extent necessary to implement the provisions of the Oklahoma Environmental Quality Act in the state building in which the Oklahoma State Department of Health is located, 1000 N.E. 10th Street, Oklahoma City, Oklahoma, and

"e. perform such other duties designated to it by the Governor.

"2. For the purposes of this section, the transition coordinator shall serve as the Executive Director of the Department until July 1, 1993, or until an Executive Director has been appointed by the Board.

"B. Effective July 1, 1993, within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality shall have the power and duty to:

"1. Issue, renew, deny or suspend, revoke or refuse to renew licenses or permits pursuant to the provisions of the Oklahoma Environmental Quality Act;

"2. Assess those administrative penalties as otherwise specifically authorized by law against any person or entity who violates any of the provisions of the Oklahoma Environmental Quality Act or any rule promulgated thereunder;

"3. Employ, direct, discharge and define the duties and set the salaries of such office personnel as deemed necessary by the Executive Director;

"4. Request criminal prosecution proceedings as authorized by law against any person or entity who

has violated any of the provisions of the Oklahoma Environmental Quality Act or any rule promulgated pursuant thereto;

"5. Investigate alleged violations of the Oklahoma Environmental Quality Act or of the rules or orders of the Executive Director;

"6. Advise, consult and cooperate with other agencies of the state, towns, cities and counties, industries, other states and the federal government, and with affected groups;

"7. Encourage and conduct studies, investigations and research relating to pollution and its causes, effects, prevention, control and abatement;

"8. Collect and disseminate information relating to pollution, its prevention and control;

"9. Enter into agreements for, accept, use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program relating to environmental services and pollution control;

"10. Determine, charge and receive fees to be collected for services and permits, to file other papers, to make copies of documents, to make prints of maps and drawings, and to certify copies of documents, maps and drawings as authorized by law;

"11. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials and wastes, pollution, Superfund, water quality, controlled industrial (hazardous) waste, radioactive waste, air quality and sewage and any other program authorized by law;

"12. Provide a toll-free hot line for environmental complaints;

"13. Cause investigations, inquiries and inspections to be made, and hold hearings and issue orders according to the Administrative Procedures Act. The Executive Director or his representative shall have the right of access to any premises for such purpose at any reasonable time, upon presentation of identification;

"14. Authorize persons in the Department of Environmental Quality to conduct investigations, inquiries and hearings, and to perform other acts that the Executive Director is authorized or required to conduct or perform personally;

"15. Issue subpoenas for the attendance of witnesses and the production of books and records at any hearing to be conducted by the Department;

"16. Enforce the provisions of the Oklahoma Environmental Quality Act within the jurisdictional areas of the Department of Environmental Quality; and

"17. Exercise all incidental powers which are necessary and proper to implement the purposes of the Oklahoma Environmental Quality Act.

"C. Effective July 1, 1993, there is hereby created within the Department of Environmental Quality:

"1. the air quality division which shall be responsible for air quality and such other areas designated to it by the Executive Director;

"2. The water quality division which shall be responsible for water quality, including, but not limited to point source and non-point-source pollution within the jurisdiction of the Department, permitting, water protection, industrial and municipal discharges and such other areas designated to it by the Executive Director;

"3. The waste management division which shall be responsible for controlled industrial (hazardous) waste, solid waste and such other areas within the jurisdiction of the Department designated to it by the Executive Director;

"4. Special project division which shall be responsible for duties related to recycling, education, citizen dissemination of information and other duties deemed appropriate by the Executive Director;

"5. An administration and planning division which shall be responsible for interagency coordination and such other responsibilities within the jurisdiction of the Department designated to it by the Executive Director. Within the division there is hereby created:

"a. the Office of Complaints, Investigation and Mediation which shall be responsible for intake processing, investigation, mediation and conciliation of inquiries and complaints received by the Department. The Office of Complaints, Investigation and Mediation shall provide for the expedient resolution of complaints within the jurisdiction of the Department and shall provide a written response to each complainant,

"b. the Office of Business Advocate which will be responsible for advising and providing licensees, or permittees or those persons desiring to obtain a license or permit the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Act. The Office of Business Advocate shall intercede with other divisions or offices of the Department to assist businesses and other state agencies in complying with state statutes and rules governing environmental areas,

"c. The Office of Local Government Advocate which will be responsible for advising and providing licensees or permittees, or those persons associated with and representing local political subdivisions desiring a license or permit, the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Act. The Office of Local Government Advocate shall intercede with other divisions or offices of the Department to assist municipalities in complying with state statutes and rules governing environmental areas, and

"d. the Office of Hearing Examiners, whose sole responsibility will be the hearing of individual proceedings; and

"6. Such other divisions and offices as the Executive Director may determine necessary to implement programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Act.

"D. The provisions of this section shall not limit the existing exclusive jurisdiction of the Corporation Commission, except as to refineries, petrochemical manufacturing plants and natural gas liquid extraction plants, nor extend the existing jurisdiction of any other state environmental agency, over oil and gas exploration and production activities."

Laws 1993, c. 324, § 5 deleted subsection B.3, which read:

"Act as natural resource trustee to implement the federal Oil Pollution Act of 1990 (P.L. No. 101-380), as it exists or may be amended, and to establish and manage a revolving fund in relation to such duties."

; and in subsection H.4, added the second sentence.

The 1995 amendment deleted the second sentence of subsection G.3, which read: "In establishing such divisions and offices the Executive Director shall consult with and advise the Environmental Management Oversight Task Force as created by Section 349 of this act."

27A Okl. St. Ann. § 2-3-101, OK ST T. 27A § 2-3-101

Current with chapters of the First Regular Session of the 52nd Legislature (2009) effective August 26, 2009.

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27A Okl.St. Ann. § 2-2-104

Oklahoma Statutes Annotated Currentness

Title 27A. Environment and Natural Resources (Refs & Annos)

Chapter 2. Oklahoma Environmental Quality Code (Refs & Annos)

^Article II. Environmental Quality Board and Councils

^Part 1. Environmental Quality Board

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

Insofar as permitted by law and upon recommendation from the appropriate Council, rules promulgated by the Environmental Quality Board may incorporate a federal statute or regulation by reference. Any Board rule which incorporates a federal provision by reference incorporates the language of the federal provision as it existed at the time of the incorporation by reference. Any subsequent modification, repeal or invalidation of the federal provision shall not be deemed to affect the incorporating Board rule.

CREDIT(S)

Laws 1994, c. 353, § 3, eff. July 1, 1994.

27A Okl. St. Ann. § 2-2-104, OK ST T. 27A § 2-2-104

Current with chapters of the First Regular Session of the 52nd Legislature (2009) effective August 26, 2009.

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