

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3386

By: Moore

AS INTRODUCED

An Act relating to waters and water rights; amending 82 O.S. 2021, Sections 1085.30 and 1085.30a, which relate to Oklahoma Water Quality Standards; modifying agency responsibility for Oklahoma Water Quality Standards; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 2021, Section 1085.30, is amended to read as follows:

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

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

4 3. Wherever the Environmental Quality Board finds it is
5 practical and in the public interest to do so, the rules may be
6 amended to upgrade and improve progressively the quality of waters
7 of the state.

8 4. a. The Board may also amend Oklahoma Water Quality
9 Standards to downgrade a designated use of any waters
10 of this state which is not an existing use, may
11 establish subcategories of a use or may provide for
12 less stringent criteria or other provisions thereof
13 only in those limited circumstances permissible under
14 the Federal Water Pollution Control Act as amended or
15 federal rules which implement the act.

16 b. The Board may amend the Oklahoma Water Quality
17 Standards to downgrade a designated use, establish
18 subcategories of a use or may provide for less
19 stringent criteria or other provisions thereof only to
20 the extent as will maintain or improve the existing
21 uses and the water quality of the water affected;
22 provided, however, the Board shall not modify the
23 Oklahoma Water Quality Standards applicable to scenic
24 river areas as such areas are described by Section

1 896.5 of this title, to downgrade a designated use,
2 establish a subcategory of a use or provide for less
3 stringent criteria or other provisions thereof.

4 5. The Board shall propose any necessary rules to allow for the
5 development of nutrient trading programs by state environmental
6 agencies no later than November 1, 2026.

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

16 2. If adoption or amendment of a classification to a lower or
17 downgraded classification is proposed because treatment controls
18 required of the current or a higher or upgraded classification would
19 result in substantial and widespread social and economic impact, the
20 Board shall, in addition to any hearing required by subsection B of
21 this section, conduct a public meeting within a central location
22 within the area to be affected. The Board shall cause notice of
23 such additional public meeting to be published for at least two (2)
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1 consecutive weeks in a newspaper of general circulation published in
2 the county or counties in the area affected.

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

16 2. In promulgating Oklahoma Water Quality Standards or making
17 any modification or change thereof, the Board shall announce a
18 reasonable time for persons discharging waste into the waters of the
19 state to comply with such new or modified standards unless such
20 discharges create an actual or potential hazard to public health.

21 3. Any discharge in accord with such standards of the Board and
22 in compliance with rules, requirements and wasteload allocations
23 established by the Department of ~~Environmental Quality~~ and with
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1 rules promulgated by other state environmental agencies shall not be
2 deemed to be pollution.

3 4. Notwithstanding the implementation jurisdiction provided to
4 the Board in paragraph 1 of subsection C of this section, the
5 Department of ~~Environmental Quality~~ shall have jurisdiction to
6 develop and utilize policies and requirements, as provided in
7 paragraph 22 of subsection B of Section 1-3-101 of Title 27A of the
8 Oklahoma Statutes.

9 SECTION 2. AMENDATORY 82 O.S. 2021, Section 1085.30a, is
10 amended to read as follows:

11 Section 1085.30a. Oklahoma Water Quality Standards, promulgated
12 by the Oklahoma ~~Water Resources Board~~ Department of Environmental
13 Quality, shall designate:

- 14 1. Watersheds that are nutrient-limited; and
15 2. Groundwaters that are nutrient-vulnerable.

16 SECTION 3. This act shall become effective November 1, 2022.

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