

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

2 SECTION 1. AMENDATORY 17 O.S. 2011, Section 502, is
3 amended to read as follows:

4 Section 502. As used in this act:

5 1. "Commission" ~~shall mean~~ means the Corporation Commission of
6 Oklahoma;

7 2. "Person" ~~shall include~~ means any individual, partnership,
8 corporation or association of whatever character;

9 3. "Common source of supply" ~~shall include that~~ includes the
10 following: the area which that is underlain, or which, from
11 geological or other scientific data, or from drilling operations, or
12 other evidence, appears to be underlain by a common accumulation of
13 brine; ~~provided, that, if.~~ If any such area is underlain or appears
14 from geologic or other scientific data, or from drilling operations,
15 or from other evidence to be underlain by more than one common
16 accumulation of brine separated from each other by a strata of earth
17 and not connected with each other, then ~~such~~ the area, as to each
18 said common accumulation of brine, shall be deemed a separate common
19 source of supply. When brine is produced as an incident to the
20 production of oil or gas and is saved or sold for the purpose of
21 removing chemical substances from the brine, the common source of
22 supply shall be considered the same as that of the associated oil or
23 gas;

1 4. "Brine" ~~shall mean~~ means subterranean saltwater and all of
2 its constituent parts and chemical substances therein contained,
3 including, but not limited to bromine, magnesium, potassium,
4 lithium, boron, chlorine, iodine, calcium, strontium, sodium,
5 sulphur, barium or other chemical substances produced with or
6 separated from ~~such~~ the saltwater. Brine produced as an incident to
7 the production of oil or gas, unless ~~such~~ the brine is saved or sold
8 for the purposes of removing chemical substances therefrom, shall
9 not be considered brine for the purposes of ~~this act~~ the Oklahoma
10 Brine Development Act. Gas, whether found in solution or otherwise,
11 shall not be included within the meaning of the term "brine";

12 5. "Brine owner" ~~shall mean~~ means any person entitled to share
13 in the proceeds from the sale of brine production;

14 6. "Solution gas" ~~shall mean~~ means all gas produced from brine
15 wells from the brine common source of supply within the unit area;

16 7. "Solution gas owner" ~~shall mean~~ means any person entitled to
17 share in the proceeds from the sale of solution gas;

18 8. "Owner" or "owners" means, unless a more specific term is
19 used, ~~shall mean~~ any person or entity who qualifies as either a
20 brine owner or a solution gas owner;

21 9. "Operator" ~~shall mean~~ means a person who:

22 a. has the right to drill into and produce from any brine
23 common source of supply and to appropriate that

24

1 production, either for ~~himself~~, the operator or for
2 ~~himself~~ the operator and others, and is authorized by
3 the Commission to drill, or

4 b. is an operator of an oil or gas well that produces
5 brine which is saved or sold for the purpose of
6 removing chemical substances from the brine;

7 10. "Effluent" ~~shall mean~~ means the liquid remaining after
8 extraction of the chemical substances from brine;

9 11. "Brine production unit" or "unit" ~~shall mean~~ means each
10 separate specific area of land so designated by order of the
11 Commission for production of brine and associated solution gas and
12 the injection of effluent;

13 12. "Injection well" ~~shall mean~~ means a well authorized by the
14 Commission for the injection of effluent or other solutions; ~~and~~

15 13. "Manufacture" ~~shall mean~~ means the complete process of
16 drilling, completing, equipping and operating production and
17 injection wells and of extracting and packaging brine; and

18 14. "Associated oil or gas production" means the oil or gas
19 produced from an oil and gas well from which brine is produced as an
20 incident to the production of the oil or gas and the brine is saved
21 or sold for the purpose of removing chemicals from the brine.

22 SECTION 2. AMENDATORY 17 O.S. 2011, Section 503, is
23 amended to read as follows:

1 Section 503. A. The Corporation Commission is hereby vested
2 with jurisdiction over the following:

3 1. The drilling for ~~and~~ and/or production of brine for
4 commercial purposes;

5 2. Class V injection wells used for the injection or disposal
6 of mineral brines as defined in the federal Safe Drinking Water Act
7 and 40 CFR Part 146; and

8 3. Class V wells used to inject spent brine, after extraction
9 of halogens or their salts, into the same formation from which it
10 was withdrawn after extraction of halogens or their salts as defined
11 in 40 CFR Part 146.

12 B. The Commission may promulgate ~~such~~ rules that:

13 1. ~~As are reasonably necessary to effectuate the purposes of~~
14 ~~this act, including rules governing~~ Govern the drilling of
15 production, injection or disposal wells and the injection of
16 effluent into underground formations; and

17 2. ~~To ensure~~ Ensure that the drilling, casing and plugging of
18 wells is done in ~~such~~ a manner as to prevent the escape of brine and
19 effluent from one formation to another and to prevent the pollution
20 of fresh water supplies throughout the state.

21 C. The enforcement and adherence to the Oklahoma Brine
22 Development Act shall not apply to nor shall the Corporation
23 Commission have jurisdiction over Class I, III, IV or V wells

1 regulated by the Department of Environmental Quality pursuant to the
2 federal Safe Drinking Water Act and 40 CFR Parts 144 through 148,
3 inclusive, and the Oklahoma Environmental Quality Act.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 503.1 of Title 17, unless there
6 is created a duplication in numbering, reads as follows:

7 In the event the operator of an existing oil or gas well that is
8 spaced or pooled pursuant to the provisions of Section 87.1 of Title
9 52 of the Oklahoma Statutes seeks to save or sell chemicals that can
10 be removed from brine produced as an incident to the oil or gas
11 production, then the Commission may space or pool the brine
12 production that is associated with the production of oil or gas from
13 the existing oil or gas well. The spacing or pooling shall be by
14 application and shall be conducted pursuant to the terms of Section
15 87.1 of Title 52 of the Oklahoma Statutes, as though the brine
16 spacing or pooling application was an application to space or pool
17 common sources of supply for oil or gas. Any spacing unit formed as
18 provided for in this section shall conform to the spacing of the
19 associated oil and gas spacing unit. The requirements of Sections
20 551 through 558 of Title 52 of the Oklahoma Statutes shall apply to
21 any pooling of brine rights pursuant to the Oklahoma Brine
22 Development Act.

23

24

1 SECTION 4. AMENDATORY 52 O.S. 2011, Section 87.1, is
2 amended to read as follows:

3 Section 87.1 Whenever the production from any common source of
4 supply of oil or natural gas in this state can be obtained only
5 under conditions constituting waste or drainage not compensated by
6 counterdrainage, then any person having the right to drill into and
7 produce from such common source of supply may, except as otherwise
8 authorized or in this section provided, take therefrom only such
9 proportion of the oil or natural gas that may be produced therefrom
10 without waste or without such drainage as the productive capacity of
11 the well or wells of any such person considered with the acreage
12 properly assignable to each such well bears to the total productive
13 capacities of the wells in such common source of supply considered
14 with the acreage properly assignable to each well therein.

15 (a) To prevent or to assist in preventing the various types of
16 waste of oil or gas prohibited by statute, or any wastes, or to
17 protect or assist in protecting the correlative rights of interested
18 parties, the Corporation Commission, upon a proper application and
19 notice given as hereinafter provided, and after a hearing as
20 provided in the notice, shall have the power to establish well
21 spacing and drilling units of specified and approximately uniform
22 size and shape covering any common source of supply, or prospective
23 common source of supply, of oil or gas within the State of Oklahoma;

1 provided, that the Commission may authorize the drilling of an
2 additional well or wells on any spacing and drilling unit or units
3 or any portion or portions thereof or when the Commission determines
4 that a common source of supply contains predominantly oil underlying
5 an area or areas and contains predominantly gas underlying a
6 different area or areas, the Commission may establish, reestablish,
7 or reform well spacing and drilling units of different sizes and
8 shapes ~~when the Commission determines that a common source of supply~~
9 ~~contains predominantly oil underlying an area or areas and contains~~
10 ~~predominantly gas underlying a different area or areas; and~~ provided
11 further, that the units in the predominantly oil area or areas shall
12 be of approximately uniform size and shape, and the units in the
13 predominantly gas area or areas shall be of approximately uniform
14 size and shape, except that the units in the gas area or areas may
15 be of nonuniform size and shape when they adjoin the units in the
16 oil area or areas; ~~provided further that~~ and the drilling pattern
17 for such nonuniform units need not be uniform, ~~and provided further~~
18 ~~that the~~. The Commission shall adjust the allowable production
19 within the common source of supply, or any part thereof, and take
20 such other action as may be necessary to protect the rights of
21 interested parties. Any order issued pursuant to the provisions
22 hereof may be entered after a hearing upon the petition of any
23 person owning an interest in the minerals in lands embraced within

24

1 such common source of supply, or the right to drill a well for oil
2 or gas on the lands embraced within such common source of supply, or
3 on the petition of the Conservation Officer of the State of
4 Oklahoma. When such a petition is filed with the Commission, the
5 Commission shall give at least fifteen (15) days' notice of the
6 hearing to be held upon such petition by one publication, at least
7 fifteen (15) days prior to the hearing, in some newspaper of general
8 circulation published in Oklahoma County, and by one publication, at
9 least fifteen (15) days prior to the date of the hearing, in some
10 newspaper published in the county, or in each county, if there be
11 more than one, in which the lands embraced within the application
12 are situated. Except as to the notice of hearing on such a
13 petition, the procedural requirements of Section 86.1 et seq. of
14 this title shall govern all proceedings and hearings provided for by
15 this section.

16 (b) In case of a spacing unit of one hundred sixty (160) acres
17 or more, no oil and/or gas leasehold interest outside the spacing
18 unit involved may be held by production from the spacing unit more
19 than ninety (90) days beyond expiration of the primary term of the
20 lease.

21 (c) In establishing a well spacing or drilling unit for a
22 common source of supply thereunder, the acreage to be embraced
23 within each unit may include acreage from more than one governmental
24

1 section, but shall not exceed six hundred forty (640) acres for a
2 gas well plus ten percent (10%) tolerance, unless the unit is a
3 governmental section and the governmental section contains more than
4 six hundred forty (640) acres in which case the unit may comprise
5 the entire section. Provided, however, ~~fractional sections~~ along
6 the state boundary line and within the townships along the boundary
7 where the survey west of the Indian Meridian meets the survey east
8 of the Cimarron Meridian fractional sections may be spaced with an
9 adjoining section unit, and the shape thereof shall be determined by
10 the Commission from the evidence introduced at the hearing, ~~and the~~.
11 The following facts, among other things, shall be material: (1)
12 The lands embraced in the actual or prospective common source of
13 supply; (2) the plan of well spacing then being employed or
14 contemplated in the source of supply; (3) the depth at which
15 production from the common source of supply has been or is expected
16 to be found; (4) the nature and character of the producing or
17 prospective producing formation or formations; and (5) any other
18 available geological or scientific data pertaining to the actual or
19 prospective source of supply which may be of probative value to the
20 Commission in determining the proper spacing and well drilling unit
21 therefor, with due and relative allowance for the correlative rights
22 and obligations of the producers and royalty owners interested
23 therein.

24

1 The order establishing such spacing or drilling units shall set
2 forth: (1) the outside boundaries of the surface area included in
3 such order; (2) the size, form, and shape of the spacing or drilling
4 units so established; (3) the drilling pattern for the area, which
5 shall be uniform except as hereinbefore provided; and (4) the
6 location of the permitted well on each such spacing or drilling
7 unit. To such order shall be attached a plat upon which shall be
8 indicated the foregoing information. Subject to other provisions of
9 Section 86.1 et seq. of this title, Sections 502 and 503 of this
10 title, and Section 3 of this act, the order establishing such
11 spacing or drilling units shall direct that no more than one well
12 shall thereafter be produced from the common source of supply on any
13 unit so established, and that the well permitted on that unit shall
14 be drilled at the location thereon as prescribed by the Commission,
15 with such exception as may be reasonably necessary where it is
16 shown, upon application, notice and hearing in conformity with the
17 procedural requirements of Section 86.1 et seq. of this title, and
18 the Commission finds that any such spacing unit is located on the
19 edge of a pool and adjacent to a producing unit, or for some other
20 reason that to require the drilling of a well at the prescribed
21 location on such spacing unit would be inequitable or unreasonable.
22 Whenever such an exception is granted, the Commission shall adjust
23 the allowable production for the spacing unit and take such other

24

1 action as may be necessary to protect the rights of interested
2 parties.

3 Any well spacing or drilling unit for a common source of supply
4 thereunder ~~which~~ that exceeds six hundred forty (640) acres for a
5 gas well plus ten percent (10%) tolerance or exceeds the total
6 amount of acreage contained in a governmental section, and is not in
7 production or in the process of drilling development on the
8 effective date of this act shall be de-spaced. However, fractional
9 sections along the state boundary line and within the townships
10 along the boundary where the survey west of the Indian Meridian
11 meets the survey east of the Cimarron Meridian may be spaced with an
12 adjoining section unit, and the shape thereof shall be determined by
13 the Commission.

14 (d) The Commission shall have jurisdiction upon the filing of a
15 proper application therefor, and upon notice given as provided in
16 subsection (a) of this section, to decrease the size of the well
17 spacing units or to permit additional wells to be drilled within the
18 established units, or to increase the size or modify the shape of
19 the well spacing units, upon proper proof at such hearing that such
20 modification or extension of the order establishing drilling or
21 spacing units will prevent or assist in preventing the various types
22 of wastes prohibited by statute, or any of the wastes, or will
23 protect or assist in protecting the correlative rights of persons

1 interested in the common source of supply, or upon the filing of a
2 proper application therefor to enlarge the area covered by the
3 spacing order, if such proof discloses that the development or the
4 trend of development indicates that such common source of supply
5 underlies an area not covered by the spacing order and such proof
6 discloses that the applicant is an owner within the area or within a
7 drilling and spacing unit contiguous to the area covered by the
8 application. Except in the instance of reservoir dewatering as
9 described herein, the Commission shall not establish well spacing
10 units of more than forty (40) acres in size covering common sources
11 of supply of oil, the top of which lies less than four thousand
12 (4,000) feet below the surface as determined by the original or
13 discovery well in the common source of supply, and the Commission
14 shall not establish well spacing units of more than eighty (80)
15 acres in size covering common sources of supply of oil, the top of
16 which lies less than nine thousand nine hundred ninety (9,990) feet
17 and more than four thousand (4,000) feet below the surface as
18 determined by the original or discovery well in the common source of
19 supply. In the instance of reservoir dewatering to extract oil from
20 reservoirs having initial water saturations at or above fifty
21 percent (50%), the Commission may establish drilling and spacing
22 units not to exceed six hundred forty (640) acres in size.

23

24

1 (e) The drilling of any well or wells into any common source of
2 supply for the purpose of producing oil or gas therefrom, after a
3 spacing order has been entered by the Commission covering such
4 common source of supply, at a location other than that fixed by the
5 order is hereby prohibited. The drilling of any well or wells into
6 a common source of supply, covered by a pending spacing application,
7 at a location other than that approved and authorized by a special
8 order of the Commission authorizing the drilling of such well is
9 hereby prohibited. The operation of any well drilled in violation
10 of any spacing so entered is also hereby prohibited. When two or
11 more separately owned tracts of land are embraced within an
12 established spacing unit, or where there are undivided interests
13 separately owned, or both such separately owned tracts and undivided
14 interests embraced within such established spacing unit, the owners
15 thereof may validly pool their interests and develop their lands as
16 a unit. Where, however, such owners have not agreed to pool their
17 interests and where one such separate owner has drilled or proposes
18 to drill a well on the unit to the common source of supply, the
19 Commission, to avoid the drilling of unnecessary wells, or to
20 protect correlative rights, shall, upon a proper application
21 therefor and a hearing thereon, require such owners to pool and
22 develop their lands in the spacing unit as a unit. The applicant
23 shall give all the owners whose addresses are known or could be

24

1 known through the exercise of due diligence at least fifteen (15)
2 days' notice by mail, return receipt requested. The applicant shall
3 also give notice by one publication, at least fifteen (15) days
4 prior to the hearing, in some newspaper of general circulation
5 published in Oklahoma County, and by one publication, at least
6 fifteen (15) days prior to the date of the hearing, in some
7 newspaper published in the county, or in each county, if there be
8 more than one, in which the lands embraced within the spacing unit
9 are situated. The applicant shall file proof of publication and an
10 affidavit of mailing with the Commission prior to the hearing. All
11 orders requiring such pooling shall be made after notice and
12 hearing, and shall be upon such terms and conditions as are just and
13 reasonable and will afford to the owner of such tract in the unit
14 the opportunity to recover or receive without unnecessary expense
15 the owner's just and fair share of the oil and gas. The portion of
16 the production allocated to the owner of each tract or interests
17 included in a well spacing unit formed by a pooling order shall,
18 when produced, be considered as if produced by such owner from the
19 separately owned tract or interest by a well drilled thereon. Such
20 pooling order of the Commission shall make definite provisions for
21 the payment of cost of the development and operation, which shall be
22 limited to the actual expenditures required for such purpose not in
23 excess of what are reasonable, including a reasonable charge for

24

1 supervision. Provided, the operator in a reservoir that requires an
2 associated saltwater disposal system may impose a reasonable charge
3 for saltwater disposal and supervision, with the cost not to exceed
4 the cost of trucking saltwater to a saltwater disposal facility. In
5 the event of any dispute relative to such costs, the Commission
6 shall determine the proper costs after due notice to interested
7 parties and a hearing thereon. The operator of such unit, in
8 addition to any other right provided by the pooling order or orders
9 of the Commission, shall have a lien on the mineral leasehold estate
10 or rights owned by the other owners therein and upon their shares of
11 the production from such unit to the extent that costs incurred in
12 the development and operation upon the unit are a charge against
13 such interest by order of the Commission or by operation of law.
14 Such liens shall be separable as to each separate owner within such
15 unit, and shall remain liens until the owner or owners drilling or
16 operating the well have been paid the amount due under the terms of
17 the pooling order. The Commission is specifically authorized to
18 provide that the owner or owners drilling, or paying for the
19 drilling, or for the operation of a well for the benefit of all
20 shall be entitled to production from such well which would be
21 received by the owner or owners for whose benefit the well was
22 drilled or operated, after payment of royalty, until the owner or
23 owners drilling or operating the well have been paid the amount due

24

1 under the terms of the pooling order or order settling such dispute.
2 No part of the production or proceeds accruing to any owner of a
3 separate interest in such unit shall be applied toward payment of
4 any cost properly chargeable to any other interest in the unit.

5 For the purpose of this section, the owner or owners of oil and
6 gas rights in and under an unleased tract of land shall be regarded
7 as a lessee to the extent of a seven-eighths (7/8) interest in and
8 to the rights and a lessor to the extent of the remaining one-eighth
9 (1/8) interest therein. Should the owners of separate tracts or
10 interests embraced within a spacing unit fail to agree upon a
11 pooling of their interests and the drilling of a well on the unit,
12 and should it be established by final, unappealable judgment of a
13 court of competent jurisdiction that the Commission is without
14 authority to require pooling as provided for herein, then, subject
15 to all other applicable provisions of ~~this act~~ Section 86.1 et seq.
16 of this title, the owner of each tract or interest embraced within a
17 spacing unit may drill on his or her separately owned tract, and the
18 allowable production therefrom shall be that portion of the
19 allowable for the full spacing unit as the area of such separately
20 owned tract bears to the full spacing unit.

21 In the event a producing well or wells are completed upon a unit
22 where there are, or may thereafter be, two or more separately owned
23 tracts, each royalty interest owner shall share in all production

24

1 from the well or wells drilled within the unit, or in the gas well
2 rental provided for in the lease covering such separately owned
3 tract or interest in lieu of the customary fixed royalty, to the
4 extent of such royalty interest owner's interest in the unit. Each
5 royalty interest owner's interest in the unit shall be defined as
6 the percentage of royalty owned in each separate tract by the
7 royalty owner, multiplied by the proportion that the acreage in each
8 separately owned tract or interest bears to the entire acreage of
9 the unit.

10 (f) Notwithstanding any provision of this section to the
11 contrary, the Corporation Commission shall have jurisdiction upon
12 the filing of a proper application therefor, and upon notice given
13 as provided in subsection (a) of this section, to establish spacing
14 rules for horizontally drilled oil wells whereby horizontally
15 drilled oil wells may have well spacing units established of up to
16 six hundred forty (640) acres plus tolerances and variances as
17 allowed for gas wells pursuant to subsection (c) of this section.
18 For purposes of this subsection a "horizontally drilled oil well"
19 shall mean an oil well drilled, completed or recompleted in a manner
20 in which the horizontal component of the completion interval in the
21 geological formation exceeds the vertical component thereof and
22 which horizontal component extends a minimum of one hundred fifty
23 (150) feet in the formation. The Corporation Commission shall

24

1 promulgate rules necessary for the proper administration of this
2 subsection.

3 SECTION 5. AMENDATORY 52 O.S. 2011, Section 112, is
4 amended to read as follows:

5 Section 112. A. Any person affected by any legislative or
6 administrative order of the Corporation Commission shall have the
7 right at any time to apply to the Commission to repeal, amend,
8 modify, or supplement the same. ~~Such~~ The application shall be in
9 writing and shall be heard as expeditiously as possible ~~after notice~~
10 ~~of the hearing thereon shall have been given~~ and in the manner
11 provided by Section ~~14~~ 97 of this ~~act~~ title. An appeal shall lie to
12 the Supreme Court from any order made by the Commission in any ~~such~~
13 proceedings or from the refusal of the Commission to make any order
14 petitioned for therein, in the same manner and within the same time
15 in which other appeals are authorized to be taken by the provisions
16 of ~~this act, and, on~~ Section 86.1 et seq. of this title. On any
17 such appeal, the Supreme Court may ~~affirm~~ take the following
18 actions:

19 1. Affirm the order of the Commission, ~~or the Commission's;~~

20 2. Affirm the action of the Commission in refusing to make the
21 order petitioned for, ~~or may itself make;~~

22 3. Make the order which the Commission should have made, ~~;~~ or
23 remand

1 4. Remand the cause to the Commission with directions to make
2 such order as the Supreme Court may determine should have been made.

3 B. A person whose rights have been affected by administrative
4 order of the Commission without service other than by publication in
5 a newspaper may, within three (3) years after the filing of the
6 administrative order, apply to the Commission to repeal, amend,
7 modify or supplement the order.

8 SECTION 6. This act shall become effective

9
10 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND UTILITY REGULATION,
11 dated 02/21/2012 - DO PASS, As Coauthored.

12
13
14
15
16
17
18
19
20
21
22
23
24