

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 43

By: Justice

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6 AS INTRODUCED

7 An Act relating to commercial well disposal; amending
8 52 O.S. 2011, Section 139, as amended by Section 211,
Chapter 304, O.S.L. 2012 (52 O.S. Supp. 2012, Section
9 139), which relates to jurisdiction of the
Corporation Commission; modifying requirements for
10 consideration of applications for certain disposal
wells and facilities; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 52 O.S. 2011, Section 139, as
15 amended by Section 211, Chapter 304, O.S.L. 2012 (52 O.S. Supp.
16 2012, Section 139), is amended to read as follows:

17 Section 139. A. The Corporation Commission is vested with
18 exclusive jurisdiction, power and authority, and it shall be its
19 duty, to make and enforce such rules and orders governing and
20 regulating the handling, storage and disposition of saltwater,
21 mineral brines, waste oil and other deleterious substances produced
22 from or obtained or used in connection with the drilling,
23 development, producing, and operating of oil and gas wells and brine
24 wells within this state as are reasonable and necessary for the

1 purpose of preventing the pollution of the surface and subsurface
2 waters in the state, and to otherwise carry out the purpose of this
3 act.

4 B. 1. Except as otherwise provided by this subsection, the
5 Corporation Commission is hereby vested with exclusive jurisdiction,
6 power and authority, and it shall be its duty to promulgate and
7 enforce rules, and issue and enforce orders governing and
8 regulating:

9 a. the conservation of oil and gas,

10 b. field operations for geologic and geophysical
11 exploration for oil, gas and brine, including seismic
12 survey wells, stratigraphic test wells and core test
13 wells,

14 c. the exploration, drilling, development, producing or
15 processing for oil and gas on the lease site,

16 d. the exploration, drilling, development, production and
17 operation of wells used in connection with the
18 recovery, injection or disposal of mineral brines,

19 e. reclaiming facilities only for the processing of salt
20 water, crude oil, natural gas condensate and tank
21 bottoms or basic sediment from crude oil tanks,
22 pipelines, pits and equipment associated with the
23 exploration, drilling, development, producing or
24 transportation of oil or gas,

- 1 f. injection wells known as Class II wells under the
2 federal Underground Injection Control Program, and any
3 aspect of any CO2 sequestration facility, including
4 any associated CO2 injection well, over which the
5 Commission is given jurisdiction pursuant to the
6 Oklahoma Carbon Capture and Geologic Sequestration
7 Act. Any substance that the United States
8 Environmental Protection Agency allows to be injected
9 into a Class II well may continue to be so injected,
- 10 g. tank farms for storage of crude oil and petroleum
11 products which are located outside the boundaries of
12 the refineries, petrochemical manufacturing plants,
13 natural gas liquid extraction plants, or other
14 facilities which are subject to the jurisdiction of
15 the Department of Environmental Quality with regard to
16 point source discharges,
- 17 h. the construction and operation of pipelines and
18 associated rights-of-way, equipment, facilities or
19 buildings used in the transportation of oil, gas,
20 petroleum, petroleum products, anhydrous ammonia or
21 mineral brine, or in the treatment of oil, gas or
22 mineral brine during the course of transportation but
23 not including line pipes associated with processing at
24 or in any:

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

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

- 13 (1) any facility or activity specifically listed in
- 14 paragraphs 1 and 2 of this subsection as being
- 15 subject to the jurisdiction of the Commission,
- 16 and

- 17 (2) other oil and gas extraction facilities and
- 18 activities,

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

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

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

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

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

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

16 b. aboveground storage tanks that contain antifreeze,
17 motor oil, motor fuel, gasoline, kerosene, diesel, or
18 aviation fuel and that are not located at refineries
19 or at upstream or intermediate shipment points of
20 pipeline operations, including, but not limited to,
21 tanks from which these materials are dispensed into
22 vehicles, or tanks used in wholesale or bulk
23 distribution activities, as well as leaks from pumps,
24 hoses, dispensers, and other ancillary equipment

1 associated with the tanks, whether above the ground or
2 below; provided that any point source discharge of a
3 pollutant to waters of the United States during site
4 remediation or the off-site disposal of contaminated
5 soil, media, or debris shall be regulated by the
6 Department of Environmental Quality, and

- 7 c. the Petroleum Storage Tank Release Environmental
8 Cleanup Indemnity Fund and Program and the Leaking
9 Underground Storage Tank Trust Fund.

10 6. The Department of Environmental Quality shall have sole
11 jurisdiction to regulate the transportation, discharge or release of
12 deleterious substances or hazardous or solid waste or other
13 pollutants from rolling stock and rail facilities. The Department
14 of Environmental Quality shall not have any jurisdiction with
15 respect to pipeline transportation of carbon dioxide.

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

- 19 a. refineries, petrochemical manufacturing plants and
20 natural gas liquid extraction plants,
- 21 b. manufacturing of oil and gas related equipment and
22 products,

1 c. bulk terminals, aboveground and underground storage
2 tanks not subject to the jurisdiction of the
3 Commission pursuant to this subsection, and

4 d. other facilities, activities and sources not subject
5 to the jurisdiction of the Corporation Commission or
6 Department of Agriculture as specified by this
7 section.

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

12 C. The Corporation Commission shall comply with and enforce the
13 Oklahoma Water Quality Standards.

14 D. 1. For the purpose of immediately responding to emergency
15 situations having potentially critical environmental or public
16 safety impact and resulting from activities within its jurisdiction,
17 the Commission may take whatever necessary action, without notice
18 and hearing, including the expenditure of monies from the
19 Corporation Commission Revolving Fund, to promptly respond to the
20 emergency. Such emergency expenditure shall be made pursuant to the
21 provisions of The Oklahoma Central Purchasing Act, upon such terms
22 and conditions established by the Office of Management and
23 Enterprise Services to accomplish the purposes of this section.
24 Thereafter, the Commission shall seek reimbursement from the

1 responsible person, firm or corporation for all expenditures made
2 from the Corporation Commission Revolving Fund. Any monies received
3 as reimbursement shall be deposited to the credit of the Corporation
4 Commission Revolving Fund.

5 2. The Commission shall not expend from any fund in the State
6 Treasury, in any fiscal year, for the purposes herein provided, an
7 amount of money in excess of the total sum specifically authorized
8 annually by the Legislature for such purposes. Any monies received
9 by the Commission through execution on any required surety shall not
10 be subject to such limitation on expenditure for remedial action.

11 3. Neither the Commission nor any independent contractor of the
12 Commission authorized to conduct remedial action under this section
13 shall be held liable or responsible for any damages resulting from
14 non-negligent actions reasonably necessary for conducting remedial
15 work. Nothing in this section shall limit the authority of the
16 Commission or relieve any person or persons otherwise legally
17 responsible from any obligation to prevent or remediate pollution.

18 E. When considering whether to approve or deny an application
19 for a disposal well or any other facility set forth in subparagraphs
20 d through i of paragraph 1 of subsection B of this section, the
21 Commission shall consider the suitability of surface location of the
22 proposed well or facility, and the potential impact the operation of
23 the proposed well or facility may have on the general health, safety

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1 and welfare of the citizens living in and near the site, as well as
2 the citizens of this state.

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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