

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 HOUSE BILL 4455

By: Newton

7 AS INTRODUCED

8 An Act relating to oil and gas; amending 52 O.S.
9 2021, Section 86.7, as last amended by Section 1,
10 Chapter 249, O.S.L. 2024 (52 O.S. Supp. 2025, Section
11 86.7), which relates to definitions; modifying
12 definition; amending 52 O.S. 2021, Section 86.8,
13 which relates to the Oklahoma Brine Production Act;
14 making certain exception for the extraction of
15 iodine; and providing an effective date.

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

17 SECTION 1. AMENDATORY 52 O.S. 2021, Section 86.7, as
18 last amended by Section 1, Chapter 249, O.S.L. 2024 (52 O.S. Supp.
19 2025, Section 86.7), is amended to read as follows:

20 Section 86.7. A. As used in the Oil and Gas Produced Water and
21 Waste Recycling and Reuse Act:

22 1. "Commission" means the Oklahoma Corporation Commission;

23 2. "Constituent elements" means salts, metals, elements and
24 other mineralized substances that are naturally occurring and
dissolved, entrained or suspended in subterranean water in situ and

1 after extraction from the ground, suspended in the oil and gas
2 produced water and waste or as part of the brine, as defined in
3 paragraph 4 of Section 502 of Title 17 of the Oklahoma Statutes.
4 However, for the purposes of this act the term shall not mean

5 iodine;

6 3. "Nonoperator" means persons, other than the operator,
7 contributing to the cost and expense of drilling and completing or
8 operating a well for the intended development and production of oil,
9 gas or other hydrocarbons, regardless of whether the well is
10 completed or produces any oil or gas;

11 4. "Oil and gas produced water and waste" means the fluid
12 containing salt or other mineralized substances, hydraulic
13 fracturing fluid, flowback water, formation water, injection water
14 and any chemicals added downhole, associated with the drilling
15 completion or production of an oil or gas well, incidental to or
16 extracted from hydrocarbon-bearing strata during the drilling. Oil
17 and gas produced water and waste shall also include hydrogen sulfide
18 and carbon oxides emissions produced as a byproduct of natural gas
19 production. Except as provided in Section 86.8 of this title, oil
20 and gas produced water and waste, including its constituent
21 elements, shall not be considered brine for purposes of the Oklahoma
22 Brine Development Act;

23 5. "Operator" means the person authorized by the Corporation
24 Commission to drill, complete and operate a well for the intended

1 development and production of oil, gas or other hydrocarbons,
2 regardless of whether the well is completed or produces any;

3 6. "Person" means any individual, partnership, corporation,
4 limited liability company or any type of association;

5 7. "Recycled water" means oil and gas produced water and waste
6 that has been reconditioned or treated by mechanical, chemical,
7 thermal, or any other commercially viable technological processes
8 available into a reusable form; and

9 8. "Treated constituents" means any chemical, compound or other
10 byproduct naturally occurring in the subterranean water that is
11 removed from oil and gas produced water and waste through
12 reconditioning or treating of the fluid by mechanical, chemical,
13 thermal, or any other commercially viable technological processes
14 available.

15 B. The Legislature finds that oil and gas produced water and
16 waste has minimal or no intrinsic value without substantial
17 expenditures to process, treat or recycle the oil and gas produced
18 water and waste and declares it desirable, necessary and in the
19 public interest to designate the parties who shall own and be
20 responsible for the handling, transfer and disposition of the oil
21 and gas produced water and waste. The Legislature recognizes that
22 it has imposed upon the operator of an oil and gas lease a duty to
23 safely dispose of oil and gas produced water and waste, as defined
24 in the Oil and Gas Produced Water and Waste Recycling and Reuse Act.

1 It is further found to be in the public interest to foster,
2 encourage and promote the development of methods and means to
3 economically process, treat and recycle oil and gas produced water
4 and waste for beneficial uses, including the commercial extraction
5 of constituent elements from the oil and gas produced water and
6 waste and to ensure appropriate disposal in accordance with
7 Corporation Commission rules.

8 C. Prior to its extraction from the ground, subterranean water,
9 including its constituent elements, is the property of the owner of
10 the surface estate, as defined in paragraph 9 of Section 802 of this
11 title and shall be subject to the right of the mineral owner or the
12 oil and gas lessee of the mineral owner, or both, to extract the
13 subterranean water as part of the oil and gas produced water and
14 waste as is reasonably necessary for, or incident to, the
15 exploration, exploitation or extraction of hydrocarbons. Nothing
16 contained in the Oil and Gas Produced Water and Waste Recycling and
17 Reuse Act shall be construed to:

18 1. Prevent the owner of the surface estate from being
19 considered the brine owner, as defined by paragraph 5 of Section 502
20 of Title 17 of the Oklahoma Statutes, for purposes of Section 86.8
21 of this title or the Oklahoma Brine Development Act; or

22 2. Limit the ability of the owner or owners of the surface
23 estate to enter into any legally binding contract with persons for
24 the payment of money or other valuable consideration for the

1 extraction of subterranean water, including the constituent elements
2 contained therein, or brine, as defined in paragraph 4 of Section
3 502 of Title 17 of the Oklahoma Statutes, from the property of the
4 owner or owners. However, if said extraction of subterranean water
5 or brine is to be done as part of oil and gas operations, the
6 contract shall be entered into prior to the filing of the drilling
7 permit of the oil and/or gas well. If the contract is entered into
8 after the filing of the drilling permit of the oil and/or gas well,
9 the contract shall be with the operator, or with the consent of the
10 operator, any other person or persons. The operator shall not
11 withhold consent unreasonably. Any such contract and the use or
12 disposal of oil and gas produced water and waste, shall be subject
13 to the requirements and limitations set forth in Section 86.8 of
14 this title and subject to any and all applicable governmental laws,
15 rules and regulations and subordinate to any preexisting, legally
16 binding, arms-length contracts relating to the use or disposal of
17 oil and gas produced water and waste. Provided, however, that the
18 contracts shall not result in additional costs or delays to the
19 rights of the operator to extract subterranean water reasonably
20 necessary for, or incident to, the exploration, exploitation or
21 extraction of hydrocarbons. Evidence, in the form of an affidavit,
22 of any contract entered into under the terms of the Oil and Gas
23 Produced Water and Waste Recycling and Reuse Act may be filed in the
24 office of the county clerk for the county in which the lands

1 described in the contract are located. The affidavit shall set out
2 the names and address of each party to the contract, the legal
3 description of the lands covered by the contract and the effective
4 date of the contract. Once filed, the affidavit shall serve as
5 constructive notice of the contract under the Oil and Gas Produced
6 Water and Waste Recycling and Reuse Act.

7 D. 1. Subject to the requirements and limitations set forth in
8 subsection C of this section and Section 86.8 of this title and
9 unless otherwise provided by Corporation Commission order, an oil or
10 gas lease, brine lease, recycling agreement, surface use agreement,
11 contract, bill of sale or another legally binding document:

12 a. the operator or operators, and the nonoperator or
13 nonoperators, of an oil and/or gas well shall be the
14 owner or owners of the oil and gas produced water and
15 waste extracted from the ground through the borehole
16 of the oil or gas well, and

17 b. the operator or operators, and the nonoperator or
18 nonoperators, shall have the right to use, possess,
19 handle, dispose of, transfer, sell, convey, transport,
20 process, recycle, reuse or treat the produced water
21 and waste and shall also have the exclusive right to
22 obtain proceeds for any of the uses of the oil and gas
23 produced water and waste or some portion thereof,
24 including recycled water and treated constituents.

1 2. Subject to the requirements and limitations set forth in
2 subsection C of this section and Section 86.8 of this title and
3 unless otherwise provided by Corporation Commission order, oil or
4 gas lease, brine lease, recycling agreement, surface use agreement,
5 contract, bill of sale or another legally binding document, until
6 there is a transfer to another person, the operator or operators,
7 and the nonoperator or nonoperators, shall be responsible for the
8 use, disposition, transfer, sale, conveyance, transport, recycling,
9 reuse, treatment or disposal of the transferred oil and gas produced
10 water and waste, recycled water and treated constituents or any
11 other byproducts.

12 3. Subject to the requirements and limitations set forth in
13 subsection C of this section and Section 86.8 of this title and
14 unless otherwise provided by Corporation Commission order, an oil or
15 gas lease, brine lease, recycling agreement, surface use agreement,
16 contract, bill of sale or another legally binding document:

17 a. when oil and gas produced water and waste is
18 transferred to a person for the purpose of processing
19 or treating for subsequent beneficial use, disposal or
20 both, the transferred material, recycled water and
21 treated constituents shall be the property of that
22 person until such time that the person disposes of the
23 produced water and waste in accordance with Commission
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1 rules or there is a transfer of the material to a
2 subsequent person, and

3 b. transferred oil and gas produced water and waste shall
4 be the property of such transferee and the transferees
5 shall have control of and responsibility for the
6 substance, including the right to use, possess,
7 handle, dispose of, transfer, sell, convey, transport,
8 process, recycle, reuse or treat the produced water
9 and waste and to obtain proceeds for any uses of the
10 substance or any portion thereof, including recycled
11 water and treated constituents.

12 E. Except as provided in paragraph 1 of subsection D of this
13 section, a person is not liable in tort for consequences of
14 subsequent use of recycled water or treated constituents if that
15 person:

16 1. Processes oil and gas produced water and waste in order to
17 produce recycled water or treated constituents that are generally
18 considered in the oil and gas industry to be suitable for use in
19 connection with drilling, completion or production operations of oil
20 and gas or both;

21 2. Transfers the recycled water or treated constituents, or
22 both, to another person for use in connection with oil and gas
23 drilling, completion or production operations; or

1 3. Captures or sequesters hydrogen sulfides and carbon oxides
2 in connection with natural gas production for the purpose of
3 protecting the environment.

4 This subsection shall not be construed to affect the liability
5 of a person in possession of oil and gas produced water and waste,
6 recycled water or treated constituents, or both, in an action
7 brought by a person for damages for personal injury, death or
8 property damage arising from a release of or exposure to any of
9 these substances.

10 F. A person who acquires possession of oil and gas produced
11 water and waste for the purpose of recycling it for subsequent
12 beneficial use may dispose of the oil and gas produced water and
13 waste, including recycled water, treated constituents or other
14 byproducts of the recycling process, in his or her permitted
15 disposal well or wells, regardless of the source or prior ownership
16 of the oil and gas produced water and waste. The disposal shall not
17 require a commercial disposal well permit from the Corporation
18 Commission but shall otherwise be subject to any other permit
19 restrictions applicable to disposal wells.

20 SECTION 2. AMENDATORY 52 O.S. 2021, Section 86.8, is
21 amended to read as follows:

22 Section 86.8. Notwithstanding any other provision in this act,
23 if oil and gas produced water and waste is utilized for the purpose
24 of processing the produced water and waste by mechanical or chemical

1 processes for the extraction of constituent elements for commercial
2 purposes, the oil and gas produced water and waste shall be
3 considered brine under the Oklahoma Brine Development Act. The
4 operating activity and the ownership of the oil and gas produced
5 water, including the constituent elements contained therein,
6 including the entitlement to and sharing of proceeds from the
7 extraction and sale of the constituent elements or effluent, shall
8 be subject to the Oklahoma Brine Development Act and the operator or
9 other person extracting or utilizing the oil and gas produced water
10 and waste shall comply with the provisions of the act. The Oklahoma
11 Brine Development Act shall not apply to oil and gas produced water
12 and waste that is reused or recycled solely for the purpose of use
13 in oil and gas operations or produced water and waste that is
14 transferred to or purchased by iodine producers solely for the
15 extraction of iodine for commercial purposes.

16 SECTION 3. This act shall become effective November 1, 2026.
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