

1 solution gas may be had, waste prevented, and the correlative rights
2 of owners therein be protected. The Legislature also finds that it
3 is a desirable public policy and necessity to reduce disposal of
4 brine water, also referred to as "produced water", from oil and gas
5 operations and encourage reuse, recycling and reclaiming of the
6 water and its constituent salts, metals and other elements dissolved
7 therein. It is further found to be in the public interest to
8 foster, encourage and promote the development and production in the
9 State of Oklahoma of brine and solution gas and to authorize and
10 provide for the operation and development of unitized brine and
11 solution gas properties, and to authorize the Commission to regulate
12 brine and solution gas production.

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

15 Section 502. As used in this act:

16 1. "Commission" ~~shall mean~~ means the Corporation Commission of
17 Oklahoma;

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

20 3. "Common source of supply" ~~shall include that~~ means the area
21 ~~which~~ that is underlain, or which from geological or other
22 scientific data, or from drilling operations, or other evidence,
23 appears to be underlain by a common accumulation of brine; ~~provided,~~
24 ~~that, if.~~ If any such area is underlain or appears from geologic or

1 other scientific data, or from drilling operations, or from other
2 evidence to be underlain by more than one common accumulation of
3 brine separated from each other by a strata of earth and not
4 connected with each other, then ~~such~~ the area, as to each said
5 common accumulation of brine, shall be deemed a separate common
6 source of supply. When brine is produced as an incident to the
7 production of oil or gas and is saved or sold for the purpose of
8 removing chemical substances from the brine, the common source of
9 supply shall be considered the same as that of the associated oil or
10 gas;

11 4. "Brine" ~~shall mean~~ means subterranean saltwater and all of
12 its constituent parts and chemical substances therein contained,
13 including, but not limited to bromine, magnesium, potassium,
14 lithium, boron, chlorine, iodine, calcium, strontium, sodium,
15 sulphur, barium or other chemical substances produced with or
16 separated from ~~such~~ the saltwater. Brine produced as an incident to
17 the production of oil or gas from an oil or gas well, unless ~~such~~
18 the brine is saved or sold for the purposes of removing chemical
19 substances therefrom, shall not be considered brine for the purposes
20 of ~~this act~~ the Oklahoma Brine and Produced Water Development Act.
21 Gas or other hydrocarbons, whether found in solution or otherwise,
22 shall not be included within the meaning of the term "brine";

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1 5. "Brine well" means a well drilled or operated for the
2 primary purpose of extracting brine and shall not include a well
3 drilled or operated for the primary purpose of producing oil or gas;

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

6 ~~6.~~ 7. "Solution gas" ~~shall mean~~ means all gas produced from
7 brine wells from the brine common source of supply within the unit
8 area;

9 ~~7.~~ 8. "Solution gas owner" ~~shall mean~~ means any person entitled
10 to share in the proceeds from the sale of solution gas;

11 ~~8.~~ 9. "Owner" or "owners" means, unless a more specific term is
12 used, ~~shall mean~~ any person or entity who qualifies as either a
13 brine owner or a solution gas owner;

14 ~~9.~~ 10. "Operator" ~~shall mean~~ means a person who:

15 a. has the right to drill into and produce from any brine
16 common source of supply and to appropriate that
17 production, either for ~~himself~~ the operator, or for
18 ~~himself~~ the operator and others, and is authorized by
19 the Commission to drill, or

20 b. is an operator of an oil or gas well that produces
21 brine, which is saved or sold for the purpose of
22 recycling or reusing the water or removing chemical
23 substances from the brine;

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1 ~~10.~~ 11. "Effluent" ~~shall mean~~ means the liquid remaining,
2 including recycled or distilled water, after extraction of the
3 chemical substances from brine;

4 ~~11.~~ 12. "Brine production unit" or "unit" ~~shall mean~~ means
5 either:

6 a. each separate specific area of land so designated by
7 order of the Commission for production of brine and
8 associated solution gas ~~and the~~ from brine wells,
9 including the related injection of effluent, or

10 b. each specific area of land so designated by order of
11 the Commission for the production of brine from an oil
12 or gas well, in which case the Commission may
13 authorize the brine production unit to be of the same
14 size and shape as the unit authorized by the
15 Commission for the associated oil and gas production;

16 ~~12.~~ 13. "Injection well" ~~shall mean~~ means a well authorized by
17 the Commission for the injection of effluent or other solutions; ~~and~~

18 ~~13.~~ 14. "Manufacture" ~~shall mean~~ means the complete process of
19 drilling, completing, equipping and operating production and
20 injection wells and of extracting and packaging brine.

21 15. "Oil or gas well" means a well drilled or operated for the
22 primary purpose of extracting oil or gas as those terms are defined
23 in Title 52 of the Oklahoma Statutes; and

1 16. "Associated oil or gas production" means the oil or gas
2 produced from an oil and gas well from which brine is produced as an
3 incident to the production of the oil or gas and the brine is saved
4 or sold for the purpose of reusing or recycling the water or
5 removing chemicals from the brine.

6 SECTION 4. AMENDATORY 17 O.S. 2011, Section 503, is
7 amended to read as follows:

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

10 1. The drilling for ~~and~~ or production of brine for commercial
11 purposes;

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

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

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

19 1. ~~As are~~ Are reasonably necessary to effectuate the purposes
20 of this act, including rules governing the drilling of production,
21 injection or disposal wells and the injection of effluent into
22 underground formations; and

23 2. ~~To ensure~~ Ensure that the drilling, casing and plugging of
24 wells is done in such a manner as to prevent the escape of brine and

1 effluent from one formation to another and to prevent the pollution
2 of fresh water supplies throughout the state.

3 C. The enforcement and adherence to the Oklahoma Brine and
4 Produced Water Development Act shall not apply to nor shall the
5 Corporation Commission have jurisdiction over Class I, III, IV or V
6 wells regulated by the Department of Environmental Quality pursuant
7 to the federal Safe Drinking Water Act and 40 CFR Parts 144 through
8 148, inclusive, and the Oklahoma Environmental Quality Act.

9 SECTION 5. AMENDATORY 17 O.S. 2011, Section 504, is
10 amended to read as follows:

11 Section 504. A. A party desiring to unitize brine rights shall
12 file with the Corporation Commission an application setting forth a
13 description of the proposed unit area with a map or plat thereof
14 attached. The application shall allege the existence of the facts
15 required to be found by the Commission as provided in Section 7 506
16 of this ~~act~~ title. The application shall set forth the name and
17 address of each brine owner within the area affected by the
18 application. Each such person shall be a respondent to the
19 application. In an application to enlarge the unit area, brine
20 owners within the existing unit and brine owners in the area to be
21 added to the unit shall be respondents to the application.

22 B. In the event the brine sought to be unitized is found in
23 association with solution gas, the application shall set forth the
24 name and address of each solution gas owner within the area affected

1 by the application. Each such person shall be a respondent to the
2 application. In an application to enlarge the unit area, solution
3 gas owners within the existing unit and solution gas owners in the
4 area to be added to the unit shall be respondents to the
5 application.

6 C. Every application to establish a brine unit shall have
7 attached thereto a recommended plan of unitization applicable to the
8 proposed unit area.

9 SECTION 6. AMENDATORY 17 O.S. 2011, Section 506, is
10 amended to read as follows:

11 Section 506. A. If, after proper application and notice, the
12 Commission in its hearing shall find by substantial evidence that:

13 1. There exists a common source of supply or prospective common
14 source of supply for brine or that substantial quantities of brine
15 are being produced as an incident to the production of oil and gas
16 from oil or gas wells within the proposed brine development unit;

17 2. Unitized management, operation and further development of
18 the common source of supply for brine or the brine produced from oil
19 or gas wells is reasonably necessary in order to effectively develop
20 the brine common source of supply;

21 3. Unitized operation as applied to such common source of
22 supply is feasible and will prevent waste and, with reasonable
23 probability, will result in greater ultimate recovery of brine and
24 its constituent parts;

1 4. Such unitization is for the common good and will result in
2 the general advantage of the owners of the brine rights within the
3 proposed brine development unit and will protect the correlative
4 rights of the owners within the common source of supply; and

5 5. The creation of a unit will accomplish one or more of the
6 following:

- 7 a. avoid the drilling of unnecessary wells,
- 8 b. prevent waste,
- 9 c. protect correlative rights, or
- 10 d. increase the ultimate recovery of brine from the
11 common source of supply and unit covered by the
12 application,

13 the Commission shall make a finding to that effect and enter an
14 order creating the unit, and requiring unitized operation of the
15 prospective common source of supply or portion thereof described in
16 the order.

17 B. If the Commission in its hearing shall find by substantial
18 evidence that:

19 1. The proposed unit is not for the primary purpose of
20 producing brine together with associated oil and gas production from
21 oil or gas wells;

22 2. Solution gas exists within the common source of supply or
23 prospective common source of supply;

1 ~~2.~~ 3. The production of brine is impossible or impractical
2 without also producing the solution gas; and

3 ~~3.~~ 4. The unitization of the brine common source of supply is
4 impractical or impossible without also unitizing the associated
5 solution gas,
6 the Commission shall make a finding to that effect and shall further
7 provide in its order for the unitization of the solution gas within
8 the unit area.

9 C. Orders of the Commission entered pursuant to Section 87.1 of
10 Title 52 of the Oklahoma Statutes establishing drilling and spacing
11 units for the production of oil, gas or oil and gas shall not be
12 applicable to the drilling of brine wells and production of solution
13 gas from a unit established by an order issued pursuant to ~~this act~~
14 Section 500 et seq. of this title, but shall remain applicable to
15 oil or gas wells and associated oil and gas productions.

16 SECTION 7. AMENDATORY 17 O.S. 2011, Section 507, is
17 amended to read as follows:

18 Section 507. A. The order of the Commission shall define the
19 area of the common source of supply or portion ~~thereof~~ of the common
20 source of supply to be included within the unit area. ~~Each~~ Except
21 as otherwise provided for in this subsection, each unit and unit
22 area shall be limited to all or a portion of a single common source
23 of supply. The Commission may authorize the unit area to be of the
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1 same size and shape as the unit authorized by the Commission for the
2 associated oil and gas production.

3 B. Brine owners within the unit shall share in the production
4 of brine in the proportion that their acreage bears to total acreage
5 within the unit, unless the Commission, after notice and hearing,
6 shall provide for another method in the unit plan. Solution gas
7 owners within the unit shall share in production of solution gas in
8 the proportion that their acreage bears to total acreage in the
9 unit, unless the Commission, after notice and hearing, shall provide
10 for another method in the unit plan.

11 SECTION 8. AMENDATORY 17 O.S. 2011, Section 508, is
12 amended to read as follows:

13 Section 508. A. The plan of unitization for each such unit and
14 unit area shall be one suited to the needs and requirements of the
15 particular unit dependent upon the facts and conditions found to
16 exist with respect thereto. In addition to such other terms,
17 provisions, conditions and requirements found by the Commission to
18 be reasonably necessary or proper to effectuate or accomplish the
19 purpose of this act, and subject to the further requirements hereof,
20 each such plan of unitization shall contain fair, reasonable and
21 equitable provisions for:

22 1. The efficient unitized management or control of further
23 development and operation of the unit area. Under ~~such~~ the plan the
24 actual operations of the unit shall be carried on by one of the

1 owners of the right to drill for and produce brine within the unit
2 area as unit operator or in the case of brine produced with
3 associated oil and gas production, by the operator of the unit
4 approved by the Commission for the drilling and operation of the oil
5 or gas well. The designation of unit operator shall be by majority
6 vote of the owners of the right to drill for and produce brine in
7 the unit in accordance with their acreage ownership in the unit or
8 as designated by the Commission in the case of brine being produced
9 with associated oil and gas production;

10 2. The method and circumstances under which brine or effluent
11 from the unit, or from any other source, may be injected into the
12 common source of supply under the unit area or into other
13 formations;

14 3. The fair, just and reasonable compensation to be awarded to
15 any owner within the brine development unit who does not wish to
16 participate in development of the unit by paying such owner's share
17 of unit costs;

18 4. The fair, just and reasonable manner of participation for
19 any owner desiring to participate in the development of the brine
20 development unit by paying such owners share of unit costs;

21 5. The fair, just and reasonable allocation and distribution to
22 each owner and the value of such owner's share of the brine,
23 including the usable resources extracted from the brine, and
24 solution gas, if any, produced from the unit;

1 6. The procedure and basis upon which wells, equipment and
2 other properties of the owners within the brine development unit
3 area are to be taken over and used for unit operations, including
4 the method of arriving at the compensation therefor, or for
5 otherwise proportionately equalizing the investment of the several
6 owners in the unit;

7 7. The method of apportioning costs of development and
8 operation between owners of brine and owners of solution gas, if
9 solution gas has also been unitized;

10 8. The time when the plan of unitization shall become
11 effective; and

12 9. The time when and conditions under which the unit shall or
13 may be dissolved and all affairs concluded.

14 B. No order of the Commission creating a brine development unit
15 and prescribing the plan of unitization applicable ~~thereto~~ to the
16 unit shall become effective unless and until the plan of unitization
17 has been signed, or in an express writing other than a lease that is
18 ratified or approved by record owners of the right to drill or
19 produce brine of not less than ~~fifty-five percent (55%)~~ sixty-three
20 percent (63%) of the unit area affected thereby and by owners of
21 record of not less than ~~fifty-five percent (55%)~~ sixty-three percent
22 (63%) (exclusive of royalty interest owned by lessees or
23 subsidiaries of any lessee) of the royalty interest in and to the
24 unit area comprised of the brine owners, and if applicable,

1 separately to solution gas owners, who would be entitled to a
2 royalty interest if they elected not to participate in the
3 development of the unit by paying their share of the costs and the
4 Commission has made a finding either in the order creating the unit
5 or in a supplemental order that the plan of unitization has been so
6 signed, ratified or approved by ~~lessees and royalty~~ brine owners of
7 record owning the required percentage interest in and to the unit
8 area. Provided, however, in any instance where a ~~royalty~~ brine
9 owner has, through ~~lease or other~~ an express agreement other than a
10 lease, previously authorized pooling or unitization of a size equal
11 to or larger than the size specified in the Commission order, ~~said~~
12 ~~lease or other~~ the agreement shall be deemed to be ~~such royalty~~ the
13 brine owner's authorization to unitize, and no additional signature,
14 ratification or approval shall be necessary from such owner, unless
15 the lease or express writing provides for a different ~~production~~
16 ~~sharing~~ production-sharing formula than set out in the plan of
17 unitization. Further provided, however, in any instance where a
18 ~~royalty owner has~~ the brine owners of record have, through ~~lease or~~
19 ~~other~~ an express agreement other than a lease, previously consented
20 to have the unit boundaries and the allocation formula established
21 by the Commission, ~~said lease or other~~ the agreement shall be deemed
22 to be ~~such royalty~~ the brine owner's authorization to unitize, and
23 no additional signature, ratification or approval shall be necessary
24 from such owner. Where the plan of unitization has not been so

1 signed, ratified or approved by ~~lessees and royalty~~ the brine owners
2 of record owning the required percentage interest in and to the unit
3 area at the time the order creating the unit is made, the Commission
4 shall hold such additional and supplemental hearings as may be
5 requested or required to determine if and when the plan of
6 unitization has been so signed, ratified or approved by ~~lessees and~~
7 ~~royalty~~ the brine owners of record owning the required percentage
8 interest in and to the unit area and shall, in respect to such
9 hearings, make and enter a finding of its determination in such
10 regard. In the event ~~lessees or royalty~~ the brine owners of record,
11 ~~or either~~, owning the required percentage interest in and to the
12 unit area have not so signed, ratified or approved the plan of
13 unitization within a period of six (6) months from and after the
14 date on which the order creating the unit is made, the order
15 creating the unit shall be deemed vacated and of no force and
16 effect.

17 C. A participating brine owner shall have a one-time election
18 to sell, and any brine owner in the unit with brine refining
19 equipment shall have the obligation to buy, the brine produced from
20 the unit at the value determined by the Commission; provided
21 however, nothing herein shall require the purchasing brine owner to
22 purchase brine when it is not producing brine from the unit for its
23 own account.

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1 ~~SECTION 9. It being immediately necessary for the preservation~~
2 ~~of the public peace, health or safety, an emergency is hereby~~
3 ~~declared to exist, by reason whereof this act shall take effect and~~
4 ~~be in full force from and after its passage and approval.~~

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6 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES,
7 dated 04/13/2017 - DO PASS, As Amended.

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