

1 **SENATE FLOOR VERSION**

2 February 11, 2021

3 SENATE BILL NO. 502

By: Taylor

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5  
6 An Act relating to environment and natural resources;  
7 amending 27A O.S. 2011, Section 2-7-403, which  
8 relates to highway remediation and cleanup; providing  
9 exception for authority over highway remediation and  
10 cleanup services; amending 17 O.S. 2011, Section 52,  
11 as amended by Section 1, Chapter 77, O.S.L. 2016 (17  
12 O.S. Supp. 2020, Section 52), which relates to the  
13 authorities of the Corporation Commission; providing  
14 definitions; providing authority to Corporation  
15 Commission for certain highway remediation and  
16 cleanup services; and providing an effective date.

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

18 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-7-403, is  
19 amended to read as follows:

20 A. The Department of Environmental Quality shall have the power  
21 and authority to license, supervise, govern and regulate highway  
22 remediation and cleanup services and highway remediation and cleanup  
23 service operators in this state except as provided in Section 2 of  
24 this act.

B. The Environmental Quality Board is authorized to adopt rules  
as necessary to implement the provisions of this act. The rules  
shall state the requirements for facilities, for storage of

1 vehicles, the records to be kept by operators and liability  
2 insurance and other insurance or bonding requirements in such sums  
3 and with such provisions as the Department deems necessary to  
4 adequately protect the interests of the public. The rules may  
5 address such other matters as the Board deems necessary for the  
6 protection of the public.

7 SECTION 2. AMENDATORY 17 O.S. 2011, Section 52, as  
8 amended by Section 1, Chapter 77, O.S.L. 2016 (17 O.S. Supp. 2020,  
9 Section 52), is amended to read as follows:

10 Section 52. A. 1. Except as otherwise provided by this  
11 section, the Corporation Commission is hereby vested with exclusive  
12 jurisdiction, power and authority with reference to:

- 13 a. the conservation of oil and gas,
- 14 b. field operations for geologic and geophysical  
15 exploration for oil, gas and brine, including seismic  
16 survey wells, stratigraphic test wells and core test  
17 wells,
- 18 c. the exploration, drilling, development, producing or  
19 processing for oil and gas on the lease site,
- 20 d. the exploration, drilling, development, production and  
21 operation of wells used in connection with the  
22 recovery, injection or disposal of mineral brines,
- 23 e. reclaiming facilities only for the processing of salt  
24 water, crude oil, natural gas condensate and tank

1 bottoms or basic sediment from crude oil tanks,  
2 pipelines, pits and equipment associated with the  
3 exploration, drilling, development, producing or  
4 transportation of oil or gas,

5 f. injection wells known as Class II wells under the  
6 federal Underground Injection Control Program, and any  
7 aspect of any CO2 sequestration facility, including  
8 any associated CO2 injection well, over which the  
9 Commission is given jurisdiction pursuant to the  
10 Oklahoma Carbon Capture and Geologic Sequestration  
11 Act. Any substance that the United States  
12 Environmental Protection Agency allows to be injected  
13 into a Class II well may continue to be so injected,

14 g. tank farms for storage of crude oil and petroleum  
15 products which are located outside the boundaries of  
16 refineries, petrochemical manufacturing plants,  
17 natural gas liquid extraction plants, or other  
18 facilities which are subject to the jurisdiction of  
19 the Department of Environmental Quality with regard to  
20 point source discharges,

21 h. the construction and operation of pipelines and  
22 associated rights-of-way, equipment, facilities or  
23 buildings used in the transportation of oil, gas,  
24 petroleum, petroleum products, anhydrous ammonia or

1 mineral brine, or in the treatment of oil, gas or  
2 mineral brine during the course of transportation but  
3 not including line pipes in any:

4 (1) natural gas liquids extraction plant,

5 (2) refinery,

6 (3) reclaiming facility other than for those  
7 specified within subparagraph e of this  
8 subsection,

9 (4) mineral brine processing plant, and

10 (5) petrochemical manufacturing plant,

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

16 (1) any facility or activity specifically listed in  
17 paragraphs 1 and 2 of this subsection as being  
18 subject to the jurisdiction of the Commission,  
19 and

20 (2) other oil and gas extraction facilities and  
21 activities,

22 j. spills of deleterious substances associated with  
23 facilities and activities specified in paragraph 1 of  
24

1 this subsection or associated with other oil and gas  
2 extraction facilities and activities, ~~and~~

3 k. subsurface storage of oil, natural gas and liquefied  
4 petroleum gas in geologic strata, and

5 l. the licensing, supervising, governing and regulating  
6 of highway remediation and cleanup services and  
7 highway remediation and cleanup service operators in  
8 this state for the remediation of brine and oil, as  
9 defined in this section.

10 2. As used in this section:

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

1            b. "oil" means crude petroleum oil and all other  
2            hydrocarbons, regardless of gravity, which are  
3            produced in liquid form, but does not include liquid  
4            hydrocarbons which were originally in a gaseous phase  
5            in the reservoir.

6            ~~2.~~ 3. The exclusive jurisdiction, power and authority of the  
7 Corporation Commission shall also extend to the construction,  
8 operation, maintenance, site remediation, closure and abandonment of  
9 the facilities and activities described in paragraph 1 of this  
10 subsection.

11           ~~3.~~ 4. When a deleterious substance from a Commission-regulated  
12 facility or activity enters a point source discharge of pollutants  
13 or storm water from a facility or activity regulated by the  
14 Department of Environmental Quality, the Department shall have sole  
15 jurisdiction over the point source discharge of the commingled  
16 pollutants and storm water from the two facilities or activities  
17 insofar as Department-regulated facilities and activities are  
18 concerned.

19           ~~4.~~ 5. For purposes of the Federal Clean Water Act, any facility  
20 or activity which is subject to the jurisdiction of the Corporation  
21 Commission pursuant to paragraph 1 of this subsection and any other  
22 oil and gas extraction facility or activity which requires a permit  
23 for the discharge of a pollutant or storm water to waters of the  
24 United States shall be subject to the direct jurisdiction of the

1 United States Environmental Protection Agency and shall not be  
2 required to be permitted by the Department of Environmental Quality  
3 or the Corporation Commission for such discharge.

4 ~~5.~~ 6. The Corporation Commission shall have jurisdiction over:

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

20 b. aboveground storage tanks that contain antifreeze,  
21 motor oil, motor fuel, gasoline, kerosene, diesel, or  
22 aviation fuel and that are not located at refineries  
23 or at upstream or intermediate shipment points of  
24 pipeline operations, including, but not limited to,

1 tanks from which these materials are dispensed into  
2 vehicles, or tanks used in wholesale or bulk  
3 distribution activities, as well as leaks from pumps,  
4 hoses, dispensers, and other ancillary equipment  
5 associated with the tanks, whether above the ground or  
6 below; provided that any point source discharge of a  
7 pollutant to waters of the United States during site  
8 remediation or the off-site disposal of contaminated  
9 soil, media, or debris shall be regulated by the  
10 Department of Environmental Quality, and

11 c. the Petroleum Storage Tank Release Environmental  
12 Cleanup Indemnity Fund and Program and the Leaking  
13 Underground Storage Tank Trust Fund.

14 ~~6.~~ 7. The Department of Environmental Quality shall have sole  
15 jurisdiction to regulate the transportation, discharge or release of  
16 deleterious substances or hazardous or solid waste or other  
17 pollutants from rolling stock and rail facilities. The Department  
18 of Environmental Quality shall not have any jurisdiction with  
19 respect to pipeline transportation of carbon dioxide.

20 ~~7.~~ 8. The Department of Environmental Quality shall have sole  
21 environmental jurisdiction for point and nonpoint source discharges  
22 of pollutants and storm water to waters of the state from:

23 a. refineries, petrochemical manufacturing plants and  
24 natural gas liquid extraction plants,



- 1           b.    manufacturing of oil and gas related equipment and  
2                    products,  
3           c.    bulk terminals, aboveground and underground storage  
4                    tanks not subject to the jurisdiction of the  
5                    Commission pursuant to this subsection, and  
6           d.    other facilities, activities and sources not subject  
7                    to the jurisdiction of the Corporation Commission or  
8                    Department of Agriculture as specified by this  
9                    section.

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

14       B.    The Corporation Commission and incorporated cities and towns  
15   shall have exclusive jurisdiction over permit fees for the drilling  
16   and operation of oil and gas wells.

17       C.    The Corporation Commission shall comply with and enforce the  
18   Oklahoma Water Quality Standards.

19       D.    For purposes of immediately responding to emergency  
20   situations having potentially critical environmental or public  
21   safety impact and resulting from activities within its jurisdiction,  
22   the Corporation Commission may take whatever action is necessary,  
23   without notice and hearing, including without limitation the  
24   issuance or execution of administrative agreements by the Oil and

1 Gas Conservation Division of the Corporation Commission, to promptly  
2 respond to the emergency.

3 SECTION 3. This act shall become effective November 1, 2021.

4 COMMITTEE REPORT BY: COMMITTEE ON ENERGY  
5 February 11, 2021 - DO PASS  
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