

ENROLLED SENATE  
BILL NO. 168

BY: WILLIAMS (Don) and EASLEY  
of the SENATE

and

RICE and APPLE of the HOUSE

AN ACT RELATING TO OIL AND GAS; CREATING THE  
PRODUCTION REVENUE STANDARDS ACT; DEFINING TERMS;  
PROVIDING FOR APPLICATION OF ACT; PROVIDING FOR  
SHARING OF CERTAIN PROCEEDS; PROVIDING FOR PAYMENT;  
PROVIDING FOR DUTIES AND RESPONSIBILITY OF  
OPERATOR; PROVIDING FOR DISCHARGE OF DUTIES;  
PROVIDING FOR ROYALTY DISBURSEMENT PROCEDURES AND  
RIGHTS; SPECIFYING CERTAIN LIABILITY; PROVIDING  
ALTERNATIVE PROCEDURE; PROVIDING FOR CERTAIN  
CONTINGENCIES; REQUIRING CERTAIN NOTICE;  
PROHIBITING CERTAIN PROCEDURES; PROVIDING FOR  
CERTAIN COSTS AND INFORMATION; PROVIDING PROCEDURES  
FOR DESIGNATION OF A PERSON FOR CERTAIN ROYALTY,  
ACCOUNTING AND REMITTANCE FUNCTIONS; PROVIDING  
CERTAIN SPECIFICATIONS AND CERTAIN ASSUMPTIONS;  
REQUIRING NOTICE AND APPLICATION; PROVIDING FOR  
DUTIES, RESPONSIBILITIES, RIGHTS AND STANDARDS OF  
CARE; CONSTRUING CERTAIN RIGHTS AND DUTIES;  
PROVIDING FOR SELLING CERTAIN ROYALTY GAS IN KIND;  
MAKING CERTAIN GAS TAKEN IN KIND CONSIDERED  
CONSUMPTION; PROVIDING FOR CERTAIN ACCOUNTING;  
SPECIFYING CERTAIN CONDITIONS; REQUIRING NOTICE;  
REQUIRING REMITTANCE; PROVIDING FOR CERTAIN RIGHTS  
AND REQUIRING ACCOUNTING; MAKING A ROYALTY INTEREST  
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WORKING INTEREST OWNER; PROVIDING FOR ACCOUNTING OF  
CONSUMPTION OF GAS FROM A METERED WELL; PROVIDING

FOR CALCULATIONS; PROVIDING FOR RIGHT TO ACCOUNT;  
PROVIDING FOR OUT-OF-BALANCE WELLS; AUTHORIZING  
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RESTRICTIONS; PROVIDING FOR CONSTRUCTION OF  
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AND NOTICE OF CERTAIN INFORMATION; PROVIDING  
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PROVIDING FOR RETROACTIVE ADJUSTMENT; SPECIFYING  
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SPECIFYING PROCEDURES; PROVIDING FOR PAYMENT;  
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1991, SECTION 293, WHICH PROVIDES FOR THE PAYMENT OF ROYALTY PROCEEDS TO THE COMMISSIONERS OF THE LAND OFFICE; REMOVING AND ADDING CERTAIN PROCEDURES AND LIABILITIES; AMENDING 52 O.S. 1991, SECTION 87.1, WHICH RELATES TO PRODUCTION FROM COMMON SOURCES; REMOVING CERTAIN LANGUAGE RELATING TO JOINT AND SEVERABLE LIABILITY; MODIFYING AND DELETING CERTAIN PERCENTAGES OF INTEREST; CREATING THE NATURAL GAS MARKET SHARING ACT; AMENDING 52 O.S. 1991, SECTIONS 541, 542, 543, 544, 545 AND 547, WHICH RELATE TO PROTECTION FOR CERTAIN RIGHTS AND CORRELATIVE RIGHTS; CLARIFYING LANGUAGE; MODIFYING CERTAIN PURPOSES; DEFINING TERMS; EXEMPTING CERTAIN SALES; PROHIBITING CERTAIN ELECTIONS TO MARKET EXCEPT UNDER CERTAIN CONDITIONS; DELETING CERTAIN PROCEDURES; REQUIRING NOTICE; SPECIFYING NEW PROCEDURES; PROVIDING FOR WARRANTY AND INDEMNIFICATION; SPECIFYING EFFECTIVE TIMES AND TERMINATION PERIODS; PROVIDING FOR DESIGNATED MARKETER; PROVIDING FOR ELECTION; REQUIRING SECURING OF CERTAIN PURCHASES OR CERTAIN SALES; PROVIDING FOR ACCOUNTING CALCULATIONS, COSTS AND EXPENSES; PROVIDING FOR ALLOCATIONS; REQUIRING PROPORTIONING; PROVIDING FOR ALTERNATIVE PROCEDURES; REQUIRING NOTICE IN CERTAIN CASES; REQUIRING CERTAIN AGREEMENTS; REQUIRING AND PROVIDING FOR CERTAIN CONTRACTS; REQUIRING CERTAIN CONDITIONS; PROVIDING FOR MARKET SHARING; PROVIDING FOR FAILURES FOR MARKET SHARING; PROVIDING FOR PAYMENT OF CERTAIN FEES; PROVIDING FOR CERTAIN INTERPRETATION AND CERTAIN RESULTS; PROVIDING FOR STATUTORY SPECIFICATIONS; PROVIDING CERTAIN RIGHTS

AND AUTHORITIES; REMOVING CERTAIN PROCEDURES  
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CONSTRUCTION OF ACT; AUTHORIZING PRODUCTION OF  
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RULES; ENLARGING POWERS AND DUTIES OF THE  
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PROVIDING FOR SALE JURISDICTION; REPEALING 52 O.S.  
1991, SECTION 540.1, WHICH RELATES TO CERTAIN  
REPORTS AND INFORMATION OF CERTAIN PURCHASERS AND  
CERTAIN AMOUNTS OF GAS DELIVERED; PROVIDING FOR  
RECODIFICATION; PROVIDING FOR CODIFICATION; AND  
PROVIDING EFFECTIVE DATES.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 15 of this act shall be known and may be cited as the "Production Revenue Standards Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.2 of Title 52, unless there is created a duplication in numbering, reads as follows:

As used in the Production Revenue Standards Act:

1. "Owner" means a person or governmental entity with a legal interest in the mineral acreage under a well which entitles that person or entity to oil or gas production or the proceeds or revenues therefrom;

2. "Produce", "Producing" and "Production" mean the physical act of severance of oil and gas from a well by an owner and includes but is not limited to the sale or other disposition thereof;

3. "Producing owner" means an owner entitled to produce who during a given month produces oil or gas for its own account or the account of subsequently created interests as they burden its interest;

4. "Proportionate production interest" means that interest in production which a working interest owner is entitled to produce in order to adjust for shifting of royalty burdens among working interest owners under the royalty payment provisions of this act, and is equal to the quotient of:

- a. the sum of that working interest owner's net revenue interests plus the net revenue interests of any subsequently created interests as they burden such owner's working interest,
- b. divided by the remainder of one (1) less the royalty share;

5. "Proportionate royalty share" means the percentage of the royalty share owned by a royalty interest owner calculated by dividing such owner's royalty interest in a well by the royalty share;

6. "Royalty interest" means the entirety of the percentage interest in production or proceeds therefrom:

- a. reserved or granted by a mineral interest owner exclusive of any interest defined as a working interest or a subsequently created interest, or
- b. otherwise provided or ascribed to a mineral interest owner by statute, rule, order or operation of law.

The interest of a participating mineral interest owner shall be designated in part as a royalty interest and in part as a working interest as set forth in Section 87.1 of Title 52 of the Oklahoma Statutes;

7. "Royalty interest in a well" means an owner's royalty interest multiplied by the quotient of:

- a. the gross mineral acres under the well attributable to such interest, divided by
- b. the total mineral acres under the well;

8. "Royalty proceeds" means the share of proceeds or other revenue derived from or attributable to any production of oil and gas attributable to the royalty share, but shall not include payments of bonus, delay rentals, shut-in royalties or any additional royalty payable to the Commissioners of the Land Office or other governmental entity, pursuant to and valued according to the terms of its oil and gas lease, which is calculated separately from the royalty portion of actual proceeds from the sale of oil or gas;

9. "Royalty share" means the percentage of the well equal to the sum of all royalty interests in a well;

10. "Subsequently created interest" means any interest carved from a working interest other than a royalty interest. In addition to the royalty interest contained in a lease, a nonparticipatory interest created by a working interest owner for the benefit of a mineral interest owner in excess of a one-eighth (1/8) royalty interest may, by separate agreement other than the oil and gas lease, be a subsequently created interest and thereby not be communitized under the terms of the Production Revenue Standards Act only if there is clear and unambiguous language expressing that intent in the creating document. The additional royalty payable to the Commissioners of the Land Office or other governmental entity, pursuant to and valued according to the terms of its oil and gas lease, which is calculated separately from the royalty portion of actual proceeds from the sale of oil or gas shall also be a subsequently created interest and thereby shall not be communitized under the Production Revenue Standards Act;

11. "Well" means an oil or gas well, and shall include:

- a. a well having uniform ownership as to all producing zones,
- b. a drilling and spacing unit having uniform ownership wherein multiple wells producing gas are commonly metered, and
- c. each separately metered producing zone within a single wellbore wherein ownership varies by zone; and

12. "Working interest" means the interest in a well entitling the owner thereof to drill for and produce oil and gas, including

but not limited to the interest of a participating mineral owner to the extent set forth in Section 87.1 of Title 52 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.3 of Title 52, unless there is created a duplication in numbering, reads as follows:

The Production Revenue Standards Act shall apply to all owners and shall apply to all producing wells, regardless of the date pooled, drilled or of the date of the underlying leases; provided, however, that Sections 4, 5, 6, 7 and 8 of this act shall not apply to wells in common sources of supply under unitized management pursuant to Section 287.1 of Title 52 of the Oklahoma Statutes or where royalty remittance is otherwise provided by written agreement among all owners in a well.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.4 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. In each month, each royalty interest owner shall share in all Revenue proceeds derived from the sale of gas production from a well to the extent of such owner's royalty interest in that well without regard to the identity of the producing owners during that period.

B. Each producing owner shall pay or cause to be paid to the operator the royalty share of its gas sales proceeds, valued according to such producing owner's lease terms or Corporation Commission forced pooling order, from all gas produced from the well by such owner during any month. The operator shall thereupon pay or cause to be paid such royalty proceeds to each royalty interest owner in the well in accordance with the proportionate royalty share owned by each royalty interest owner. The payment of such proceeds shall be accompanied by the information set out in Section 12 of this act.

C. The operator shall act solely in a ministerial capacity when performing functions on behalf of others pursuant to this act. The operator shall have discharged its duties to pay royalty proceeds under this act when it remits to the royalty interest owner such royalty proceeds that the operator has received from an owner pursuant to this act. In the absence of a division order signed by a royalty interest owner, an operator in distributing or causing to be distributed the royalty proceeds on gas production to that royalty interest owner shall be entitled to rely on royalty ownership and remittance information provided by the working interest owner burdened by such royalty interest. Working interest owners shall be solely liable for mispayments caused by their errors in or omissions of royalty ownership and remittance information on the royalty interests burdening them. When collecting and disbursing royalty funds and reporting pursuant to Section 12 of this act, the operator shall be entitled to rely on information provided to it by or on behalf of another producing owner.

D. As an alternative to the royalty disbursement procedure set forth in subsection B of this section, a producing owner shall have the right to pay or cause to be paid the royalty share of its gas sales from gas produced by such owner during any month directly to all royalty interest owners according to their proportionate royalty shares in such well, contingent upon the following:

1. Such producing owner shall be solely liable for all errors in and omissions of payment that it makes of royalty proceeds;

2. Such producing owner shall make written report to the operator within thirty (30) days of the date of such payment of all information relating to such payments, including the information specified by Section 12 of this act;

3. Such producing owner shall give to the operator not less than sixty (60) days' written notice prior to initiating or

terminating this alternate royalty disbursement procedure; provided, however, any owner terminating this alternate royalty disbursement procedure may not reinitiate such procedure for twelve (12) months from the effective date of such termination;

4. Such producing owner shall solely bear all additional costs incurred by the operator or itself because of its initiation, utilization or termination of this alternative royalty payment procedure; and

5. Such producing owner shall provide or cause to be provided to the royalty interest owners for each month such producing owner's proportionate production interest, and the information required under Section 12 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.5 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The owners owning a majority in interest of the working interest in a well or the Corporation Commission for cause upon proper application by any working interest owner and notice to all working interest owners in a well may designate a person other than the operator, which person is defined for purposes of this section to include, but not be limited to, a bank or a trust company, to perform the royalty accounting and remittance functions assigned to the operator pursuant to the Production Revenue Standards Act, upon consent to and assumption by that person of:

1. Any costs thereby incurred; and

2. An obligation to furnish to the operator such information necessary to the operator for the discharge of its duties.

B. Any person designated pursuant to this section shall assume all rights and duties of and shall be held to the same standards of care as the operator as set forth in this section and Sections 4, 6, 7 and 13 and subsections A and G of Section 8 and subsections C and E of Section 10 of this act. Any person designated pursuant to this section who is not a working interest owner in the well, a first purchaser of production from the well or a bank or trust company shall be bonded or post other surety in an amount equal to Fifty Thousand Dollars (\$50,000.00). Except as provided by private agreement or Corporation Commission order derived from other statutory authority, such person shall not thereby assume other rights or duties of the operator.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.6 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. A royalty interest owner who has a right to sell royalty gas in kind may do so as described in the agreement creating such right, but in no event upon less than sixty (60) days' prior written notice to its lessee or lessees and the operator. Solely for purposes of revenue allocation under the Production Revenue Standards Act, the interest of a royalty interest owner selling gas and the working interest burdened thereby shall each be regarded as part royalty interest and part working interest, in the same percentages that the royalty and working interests are provided in the lease. A royalty interest owner selling gas shall remit the royalty share of its gas sales to the operator in the same manner as any other producing owner.

B. If metered, consumption of gas from a well by a royalty interest owner or surface owner wherein there is no sale of such gas shall be deemed production by the working interest owner burdened by the contractual right to consume gas and shall be accounted for at the average price, weighted by volume, of gas from that well sold by such working interest owner during that month. In the absence of a sale by such working interest owner, the average price, weighted by volume, of gas from that well sold by all producing owners during that month, shall be used.



C. A burdened working interest owner and the operator shall have the right to accomplish the accounting required pursuant to this section by offset or adjustment.

D. Royalty gas taken in kind by the Commissioners of the Land Office shall be considered consumption of gas from a well by a royalty interest owner and shall be deemed production by the working interest owner burdened by the contractual right of the Commissioners of the Land Office to take such gas in kind. Such gas shall be accounted for by the working interest owner so burdened at the average price, weighted by volume, of gas from that well sold by such working interest owner during that month. In the absence of a sale by such working interest owner, the average price, weighted by volume, of gas from that well sold by all producing owners during that month shall be used. The Commissioners of the Land Office shall account to such working interest owner for such royalty gas taken in kind at the average price, weighted by volume, of gas from that well sold by all producing owners during that month.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.7 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. For purposes of the Production Revenue Standards Act a well is out of balance when cumulative gas sales on a volumetric basis for the account of all owners in a well have not been made in proportion to the respective net revenue interest of each owner.

B. In a well wherein the cumulative gas production accounts of royalty interest owners are out of balance, producing owners in that well may agree to have the distribution of gas royalty proceeds among the royalty interest owners made in a manner other than according to their proportionate royalty shares, provided that:

1. Such variance shall only be permitted to the extent required to balance the cumulative gas production accounts of the royalty interest owners; and

2. Prior notice thereof is given to the royalty interest owners affected thereby, and to the operator along with any ongoing information necessary for the operator to discharge its duties.

C. Nothing in this section shall be construed to impair any rights to balancing which may exist by contract or law.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.8 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Within sixty (60) days after receiving a written request from the operator, each working interest owner in a well producing gas shall furnish or cause to be furnished to the operator a written statement showing the name, address, royalty interest, taxpayer identification number and payment status of owners of royalty interest to which such working interest is subject. Thereafter, each working interest owner shall furnish or cause to be furnished to the operator a written statement showing:

1. Changes in the above specified information within sixty (60) days of receipt of notification thereof; or

2. Changes in its working interests within sixty (60) days of the occurrence of the change.

B. Each producing owner of gas from a well shall provide to the operator no later than five (5) business days, but earlier if required by the purchaser, prior to the end of the month prior to the month in which the producing owner's nomination is to be effective, the name of the shipper and the volumes of gas nominated for production for such producing owner's account. The term "shipper", as used in this section, shall include producers, pipeline companies, local distribution companies, consumers, marketers, gatherers and gas processing plants. If a nomination is not timely received by the operator it shall have the right, but not the obligation, to confirm zero volume of gas sales for such

noncomplying producing owner. The owner of the gas meter shall confirm all nominations with the operator of the well prior to the month in which production occurs.

C. Within sixty (60) days after the end of the month of production, each producing owner shall report and account to the operator of the well, the identity of the first purchaser or shipper of the gas and the information specified in Section 12 of this act. Within thirty (30) days after receiving notice of any retroactive gas volume adjustment, each producing owner shall furnish, or cause to be furnished, notice of such retroactive adjustment to the operator of the well.

D. Within sixty (60) days after the end of the month of production, each owner of a gas meter shall provide or cause to be provided to the operator of the well, the gross volume of gas measured by such meter, both in MCF and British Thermal Unit equivalent, and the volume allocation supplied to each entity that shipped gas and each producing owner that sold gas to the owner of the gas meter.

The owner of a gas meter who has a gas contract, whether one or more, with one or more producing owners covering all of the gas flowing through its gas meter, may, as an alternative to supplying the operator with the information stated in this subsection, furnish monthly volume statements to the operator of the well, provided it has already furnished the operator with the names of the producing owners and the decimal interest owned by each such producing owner or any method other than by decimal interest then in effect for allocating gas among the producing owners. Thereafter, the owner of the gas meter shall only be required to supply the operator with changes to the name of a producing owner, the decimal interest owned by a producing owner or the method, other than by decimal interest, for allocating gas among the producing owners within thirty (30) days after receiving notice of such change.

Within thirty (30) days after receiving notice of any retroactive gas volume adjustment, each owner of a gas meter shall furnish notice of such retroactive adjustment to the operator of the well.

E. Within sixty (60) days after the end of the month of production each shipper of gas from a gas meter shall furnish or cause to be furnished to the operator of the well, a volume allocation statement showing the volume of gas shipped for each producing owner. Within thirty (30) days after making any retroactive gas volume adjustment for such well, the shipper shall furnish notice of such retroactive gas volume adjustment to the operator of the well.

F. Any owner of a gas meter, or any gas shipper that does not provide the information required under subsection D or E of this section shall be subject to a penalty assessment, payable to the operator of the well, of One Hundred Dollars (\$100.00) per violation. The operator of the well shall promptly serve notice of such noncompliance, by certified mail, to each noncomplying party.

The penalty assessment shall be due and payable within fifteen (15) days after receipt of such notice, unless the noncomplying party provides the operator of the well with the required volume allocation statement within said fifteen-day period. No penalty shall be assessed against a party that provides the volume allocation statement to the operator within said fifteen-day period. The assessment shall be promptly paid to the operator of the well by each noncomplying party.

Any noncomplying party that disagrees with the information contained in the required notice of noncompliance shall have the right to challenge such noncompliance notice under subsection J of this section.

G. For production occurring after August 31, 1992, each person distributing proceeds to a royalty interest owner shall maintain for a period of not less than five (5) years:

1. Copies of information furnished to the operator pursuant to the Production Revenue Standards Act; and

2. A record of receipts and payments of proceeds which have occurred pursuant to the Production Revenue Standards Act.

Such records shall be available for inspection upon reasonable notice by any royalty interest owner in the well.

H. The Production Revenue Standards Act shall not supersede or limit the operator's right to control gas nominations and allocations pursuant to the provisions of any joint operating agreement, gas balancing agreement or other agreement then in effect between the operator of the well and any producing owner, or any order of the Oklahoma Corporation Commission. If the operator of the well is not provided with the information set forth in subsections A and C of this section within the sixty-day period set forth in each said subsection, the operator of the well shall have the right, but not the obligation, to make available for nomination and sale to the producing owners in the well then in compliance with the provisions of subsections A and C of this section, all of the noncomplying producing owner's share of production for the next subsequent calendar month of production and for each and every month thereafter during which such producing owner is in noncompliance with provisions of subsections A and C of this section. If the operator elects to make the noncomplying producing owner's share of production available for nomination and sale, the operator shall immediately notify the noncomplying producing owner, by certified mail, that it shall no longer have the right to nominate any volume of gas until it is in compliance with the provisions of subsections A and C of this section. Such notice shall contain the following information:

1. Lease or well identification;

2. Legal location; and

3. Production months of noncompliance with subsections A and C of this section.

The operator shall then immediately notify each producing owner then in compliance with subsections A and C of this section that additional gas may be available for nomination and sale. The operator shall also immediately notify the noncomplying producing owner's shipper and the owner of the gas meter that the noncomplying producing owner is in noncompliance with the provisions of subsections A and C of this section and thus does not have the right to nominate and sell any volume of gas until it is in compliance with subsections A and C of this section.

The noncomplying producing owner shall have ten (10) days after receipt of the notice sent by the operator within which to provide the operator with all unsatisfied information required pursuant to subsections A and C of this section for the relevant time period covered in the notice. If the required information is provided to the operator within the ten-day period specified by this subsection, the noncomplying producing owner's gas volume nomination will be reestablished and the operator shall immediately notify the shipper, the owner of the gas meter, and all producing owners then in compliance that the noncomplying producing owner has fully complied with subsections A and C of this section.

As soon as a noncomplying producing owner is in compliance with the provisions of subsections A and C of this section, the operator of the well shall give such producing owner the opportunity to make-up, through existing agreements or by common practice within the oil and gas industry, the volume of gas it did not receive as a consequence of the actions taken by the operator pursuant to this subsection.

Any noncomplying party that disagrees with the information contained in the operator's written notice required under this subsection shall have the right to challenge the operator's actions pursuant to the provisions of subsection J of this section.

I. All elections and notices given pursuant to the provisions of the Production Revenue Standards Act shall become effective as of the first day of the month following the end of any time period specified in the Production Revenue Standards Act.

J. Any noncomplying party that disagrees with the action taken by the operator of the well pursuant to subsections F and H of this section may seek relief in the district courts of Oklahoma or before the Oklahoma Corporation Commission. An action before the Commission shall be commenced by filing an application in the secretary's office. Notice that an application has been filed shall be published by the applicant in a newspaper of general circulation in Oklahoma County and published in a newspaper of general circulation in the county in which the well is located. Notice shall be served by the applicant by regular mail upon the operator of the well. Notice shall be given not less than fifteen (15) days prior to the date of the hearing. Until such application is resolved through administrative or judicial hearings, the operator of the well shall have the continuing right to allocate zero gas sales to the noncomplying producing owner.

K. The remedies provided for in this section shall not preclude any party from pursuing the remedies available to it through the district courts, as provided by existing law, including the right of offset.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.9 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Each owner entitled to produce shall at a minimum have the right to produce separately its proportionate production interest in monthly production, subject to balancing restrictions created by statute, rule, agreement or operation of law; provided, however, no provision of the Production Revenue Standards Act shall create a new right for any owner to produce in excess of its proportionate production interest share of the total recoverable reserves from a well. As used herein, an owner is entitled to produce when by right of contract, lease, mineral ownership, Corporation Commission order or operation of law, such owner has acquired or retained a current right to separately contract for, dispose of or sell oil or gas from a well. Nothing in the Production Revenue Standards Act shall prevent any owner having the right to take production in kind, including a royalty interest owner, from so taking its share of production in kind or create a right to take in kind or use production, which right did not previously exist.

B. Except as otherwise provided by statute, rule, agreement or operation of law, proceeds from production, after deduction of royalty proceeds, shall be separately owned by the producing owner and any subsequently created interests attributable to the interests of such owner. A working interest owner shall be responsible for payment and reporting to any subsequently created interest which burdens its working interest.

C. All rights, burdens, duties and undertakings attributable to working interest other than the duty to pay royalty proceeds shall remain with such working interest and shall not be communitized pursuant to the Production Revenue Standards Act.

D. Notwithstanding any other provisions of the Production Revenue Standards Act, any working interest owner that pays or causes to be paid royalty proceeds for gas production in accordance with the Production Revenue Standards Act valued according to the terms of such working interest owner's lease shall be relieved from

all liability to royalty interest owners for any further payment of proceeds from such production.

E. Nothing in the Production Revenue Standards Act shall:

1. Prevent any working interest owner entitled to produce gas from receiving the price agreed upon by contract;

2. Eliminate or otherwise affect the rights and remedies available to any operator or working interest owner against any other working interest owner, including but not limited to an operator, that defaults or fails to pay its proportionate share of the well cost; or

3. Set the price, terms or conditions under which a purchaser takes the production or set any restrictions, limitations, floor or ceiling on the price to be paid for such production.

SECTION 10. AMENDATORY 52 O.S. 1991, Section 540, is amended to read as follows:

Section 540. A. All proceeds from the sale of production shall be regarded as separate and distinct from all other funds of any person receiving or holding the same until such time as such proceeds are paid to the owners legally entitled thereto. Any person holding revenue or proceeds from the sale of production shall hold such revenue or proceeds for the benefit of the owners legally entitled thereto. Nothing in this subsection shall create an express trust.

B. Except as otherwise provided in this section:

1. Proceeds from the sale of oil or gas production from an oil or gas well shall be paid to persons legally entitled thereto:

a. commencing not later than six (6) months after the date of first sale, and

b. thereafter not later than the last day of the second succeeding month after the end of the month within which such production is sold.

2. Notwithstanding paragraph 1 above, royalty proceeds from the sale of gas production from an oil or gas well remitted to the operator pursuant to subsection B of Section 4 of this act shall be paid to persons legally entitled thereto:

a. commencing not later than six (6) months after the date of first sale; and

b. thereafter not later than the last day of the third succeeding month after the end of the month within which such production is sold; provided, however, when proceeds are received by the operator in its capacity as a producing owner, the operator may pay the royalty share of such proceeds to the royalty interest owners legally entitled thereto at the same time that it pays the royalty proceeds received from other producing owners for the same production month, but not later than the last day of the third succeeding month after the end of the month within which such production was sold.

3. Proceeds from production may be remitted to the persons entitled to such proceeds semiannually for the accumulation of proceeds totaling less than Twenty-five Dollars (\$25.00).

4. Any delay in determining the persons legally entitled to proceeds from production caused by unmarketable title shall not affect payments to persons whose title is marketable.

C. 1. A first purchaser that pays or causes to be paid proceeds from production to the producing owner of such production or, at the direction of the producing owner, pays or causes to be paid royalty proceeds from production to:

a. the royalty interest owners legally entitled thereto,  
or

b. the operator of the well,

shall not thereafter be liable for such proceeds so paid and shall have thereby discharged its duty to pay those proceeds on such production.

2. A working interest owner that pays or causes to be paid royalty proceeds from production to:

a. the royalty interest owners legally entitled thereto,  
or

b. the operator of the well,

shall not thereafter be liable for such proceeds so paid and shall have thereby discharged its duty to pay those proceeds on such production.

3. An operator that pays or causes to be paid royalty proceeds from production, received by it as operator, to the royalty interest owners legally entitled thereto shall not thereafter be liable for such proceeds so paid and shall have thereby discharged its duty to pay those proceeds on such production.

4. Where royalty proceeds are paid incorrectly as a result of an error or omission, the party whose error or omission caused the incorrect royalty payments shall be liable for the additional royalty proceeds on such production and all resulting costs or damages incurred by the party making the incorrect payment.

D. 1. Except as otherwise provided in paragraph 2 of this subsection, where proceeds from the sale of oil or gas production or some portion of such proceeds are not paid prior to the end of the applicable time periods provided in this section, that portion not timely paid shall earn interest at the rate of twelve percent (12%) per annum to be compounded annually, calculated from the end of the month in which such production is sold until the day paid.

2. a. Where such proceeds are not paid because the title thereto is not marketable, such proceeds shall earn interest at the rate of six percent (6%) per annum to be compounded annually, calculated from the end of the month in which such production was sold until such time as the title to such interest becomes marketable. Marketability of title shall be determined in accordance with the then current title examination standards of the Oklahoma Bar Association.

b. Where marketability has remained uncured for a period of one hundred twenty (120) days from the date payment is due under this section, any person claiming to own the right to receive proceeds which have not been paid because of unmarketable title may require the holder of such proceeds to interplead the proceeds and all accrued interest into court for a determination of the persons legally entitled thereto. Upon payment into court the holder of such proceeds shall be relieved of any further liability for the proper payment of such proceeds and interest thereon.

E. 1. Except as provided in paragraph 2 of this subsection, a first purchaser or holder of proceeds who fails to remit proceeds from the sale of oil or gas production to owners legally entitled thereto within the time limitations set forth in paragraph 1 of subsection B of this section shall be liable to such owners for interest as provided in subsection D of this section on that portion of the proceeds not timely paid. When two or more persons fail to remit within such time limitations, liability for such interest shall be shared by those persons holding said proceeds in proportion to the time each person held such proceeds.

2. When royalty proceeds on gas production are remitted pursuant to subsection B of Section 4 of this act:

a. A first purchaser that causes such proceeds to be received by the operator or by a producing owner in the well for distribution to the royalty interest

- owner legally entitled thereto within the first month following the month in which such production was sold shall not be liable for interest on such proceeds.
- b. A producing owner receiving royalty proceeds that causes such proceeds to be received by the royalty interest owner legally entitled thereto or by the operator for distribution to the royalty interest owner legally entitled thereto not later than the end of the first month following the month in which proceeds for such production was received by the producing owner from the purchaser shall not be liable for interest on such proceeds.
  - c. An operator receiving royalty proceeds that causes such proceeds to be received by the royalty interest owner legally entitled thereto, not later than the end of the first month following the month in which proceeds for such production was received by the operator from the purchaser or producing owner shall not be liable for interest on such proceeds.
  - d. Liability for interest provided in subsection D of this section shall be borne solely by the person, or persons, failing to remit royalty proceeds within the time limitations set forth in subsection B of this section. When two or more persons fail to remit within such time limitations, liability for such interest shall be shared by such persons in proportion to the time each person held such proceeds.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.11 of Title 52, unless there is created a duplication in numbering, reads as follows:

A division order is an instrument for the purpose of directing the distribution of proceeds from the sale of oil, gas, casinghead gas or other related hydrocarbons which warrants in writing the division of interest and the name, address and tax identification number of each interest owner with a provision requiring notice of change of ownership. A division order is executed to enable the first purchaser of the production or holder of proceeds to make remittance of proceeds directly to the owners legally entitled thereto and does not relieve the lessee of any liabilities or obligations under the oil and gas lease. Terms of a division order which conflict with the terms of any oil and gas lease are invalid, unless previously agreed to by the affected parties. This subsection shall only apply to division orders executed on or after July 1, 1989.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.12 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The following information for each property and month of sale shall be included with each payment made to an interest owner from the sale of oil or gas:

1. Lease or well identification;
2. Month and year of sales included in the payment;
3. Total barrels or MCF attributed to such payment;
4. Price per barrel or MCF, including British Thermal Unit adjustment of gas sold;
5. Total amount attributed to such payment of severance and other production taxes, with the exception of windfall profit tax;
6. Net value of total sales attributed to such payment after taxes are deducted;
7. Owner's interest, expressed as a decimal, in production from the property;
8. Owner's share of the total value of sales attributed to such payment prior to any deductions;

9. Owner's share of the sales value attributed to such payment less owner's share of the production and severance taxes; and  
10. A specific listing of the amount and purpose of any other deductions from the proceeds attributed to such payment due to the owner upon request by the owner.

B. For purposes of the Production Revenue Standards Act:

1. All revenue decimals shall be calculated to not less than the nearest sixth decimal place, which is the nearest part in one million; and

2. Gas volumes reported to any owner shall be measured as required by Section 474 of Title 52 of the Oklahoma Statutes.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.13 of Title 52, unless there is created a duplication in numbering, reads as follows:

The Corporation Commission shall promulgate rules, as needed, in furtherance of the purposes of the Production Revenue Standards Act, including but not limited to a schedule of equitable fees and expense reimbursements from working interest owners sufficient to cover the actual costs incurred by the operator to perform duties required by the Production Revenue Standards Act not assumed by private agreement.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.14 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The district courts within this state shall have the sole and exclusive jurisdiction to determine the entitlement of any owner in a well to:

1. Its share of proceeds from production; or

2. Damages, interest, court costs, attorneys' fees or allowable litigation expenses incurred as a result of the violation of this act.

B. Any rulemaking power granted to the Corporation Commission by the Production Revenue Standards Act shall neither preclude nor impair the right of any owner to obtain through the district courts remedies available under existing law or additional remedies herein granted to any owner injured in business or property by reason of any action in violation of the provisions of the Production Revenue Standards Act.

C. Any owner injured in business or property by reason of any action in violation of the provisions of the Production Revenue Standards Act shall have the right to:

1. Recover actual damages so sustained; and

2. Obtain specific performance where equitable.

The prevailing party in any court proceeding brought pursuant to the Production Revenue Standards Act shall be entitled to recover the costs of the suit, including but not limited to reasonable attorney and expert witness fees.

D. For purposes of the Production Revenue Standards Act, the statute of limitations on actions brought pursuant to the provisions of the Production Revenue Standards Act shall be five (5) years from the date the cause of action shall have accrued, provided however, nothing shall create, limit or expand any statute of limitations applicable to production occurring prior to September 1, 1992.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570.15 of Title 52, unless there is created a duplication in numbering, reads as follows:

Notwithstanding the effective dates of various provisions of the Production Revenue Standards Act, performance under the terms of the Production Revenue Standards Act which causes proper payment of proceeds to owners legally entitled thereto for sales of gas production subsequent to the date of enactment but prior to the effective date of the Production Revenue Standards Act will satisfy duties or obligations pertaining to such sales under Sections 87.1



and 540 of Title 52 of the Oklahoma Statutes in effect on or before the effective date of the Production Revenue Standards Act.

SECTION 16. AMENDATORY 64 O.S. 1991, Section 293, is amended to read as follows:

Section 293. The royalty proceeds derived from the sale of oil or gas production under any oil and gas lease granted by the Commissioners of the Land Office shall be paid to the Commissioners pursuant to the terms of the Production Revenue Standards Act, Sections 1 through 15 of this act.

SECTION 17. AMENDATORY 52 O.S. 1991, Section 87.1, is amended to read as follows:

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

(a) To prevent or to assist in preventing the various types of waste of oil or gas prohibited by statute, or any of said wastes, or to protect or assist in protecting the correlative rights of interested parties, the Corporation Commission, upon a proper application and notice given as hereinafter provided, and after a hearing as provided in said notice, shall have the power to establish well spacing and drilling units of specified and approximately uniform size and shape covering any common source of supply, or prospective common source of supply, of oil or gas within the State of Oklahoma; provided, that the Commission may authorize the drilling of an additional well or wells on any spacing and drilling unit or units or any portion or portions thereof or may establish, reestablish, or reform well spacing and drilling units of different sizes and shapes when the Commission determines that a common source of supply contains predominantly oil underlying an area or areas and contains predominantly gas underlying a different area or areas; provided further that the units in the predominantly oil area or areas shall be of approximately uniform size and shape, and the units in the predominantly gas area or areas shall be of approximately uniform size and shape, except that the units in the gas area or areas may be of nonuniform size and shape when they adjoin the units in the oil area or areas; provided further that the drilling pattern for such nonuniform units need not be uniform, and provided further that the Commission shall adjust the allowable production within said common source of supply, or any part thereof, and take such other action as may be necessary to protect the rights of interested parties. Any order issued pursuant to the provisions hereof may be entered after a hearing upon the petition of any person owning an interest in the minerals in lands embraced within such common source of supply, or the right to drill a well for oil or gas on the lands embraced within such common source of supply, or on the petition of the Conservation Officer of the State of Oklahoma. When such a petition is filed with the Commission, the Commission shall give at least fifteen (15) days' notice of the hearing to be held upon such petition by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the application

are situated. Except as to the notice of hearing on such a petition, the procedural requirements of Sections 86.1 et seq. of this title, shall govern all proceedings and hearings provided for by this section.

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

(c) In establishing a well spacing or drilling unit for a common source of supply thereunder, the acreage to be embraced within each unit shall not exceed six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance, unless a governmental section contains more than six hundred forty (640) acres in which case the unit may comprise the entire section. Provided, however, fractional sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission from the evidence introduced at the hearing, and the following facts, among other things, shall be material:

(1) The lands embraced in the actual or prospective common source of supply; (2) the plan of well spacing then being employed or contemplated in said source of supply; (3) the depth at which production from said common source of supply has been or is expected to be found; (4) the nature and character of the producing or prospective producing formation or formations; and (5) any other available geological or scientific data pertaining to said actual or prospective source of supply which may be of probative value to said Commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the producers and royalty owners interested therein.

The order establishing such spacing or drilling units shall set forth: (1) the outside boundaries of the surface area included in such order; (2) the size, form, and shape of the spacing or drilling units so established; (3) the drilling pattern for the area, which shall be uniform except as hereinbefore provided; and (4) the location of the permitted well on each such spacing or drilling unit. To such order shall be attached a plat upon which shall be indicated the foregoing information. Subject to other provisions of this act, Section 81 et seq. of this title, the order establishing such spacing or drilling units shall direct that no more than one well shall thereafter be produced from the common source of supply on any unit so established, and that the well permitted on that unit shall be drilled at the location thereon as prescribed by the Commission, with such exception as may be reasonably necessary where it is shown, upon application, notice and hearing in conformity with the procedural requirements of Sections 86.1 et seq. of this title, and the Commission finds that any such spacing unit is located on the edge of a pool and adjacent to a producing unit, or for some other reason that to require the drilling of a well at the prescribed location on such spacing unit would be inequitable or unreasonable. Whenever such an exception is granted, the Commission shall adjust the allowable production for said spacing unit and take such other action as may be necessary to protect the rights of interested parties.

Any well spacing or drilling unit for a common source of supply thereunder which exceeds six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance or exceeds the total amount of acreage contained in a governmental section, and is not in production or in the process of drilling development on the effective date of this act shall be de-spaced. However, fractional

sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission.

(d) The Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) above, to decrease the size of the well spacing units or to permit additional wells to be drilled within the established units, upon proper proof at such hearing that such modification or extension of the order establishing drilling or spacing units will prevent or assist in preventing the various types of wastes prohibited by statute, or any of said wastes, or will protect or assist in protecting the correlative rights of persons interested in said common source of supply, or upon the filing of a proper application therefor to enlarge the area covered by the spacing order, if such proof discloses that the development or the trend of development indicates that such common source of supply underlies an area not covered by the spacing order and such proof discloses that the applicant is an owner within the area or within a drilling and spacing unit contiguous to the area covered by the application. The Commission shall not establish well spacing units of more than forty (40) acres in size covering common sources of supply of oil, the top of which lies less than four thousand (4,000) feet below the surface as determined by the original or discovery well in said common source of supply. The Commission shall not establish well spacing units of more than eighty (80) acres in size covering common sources of supply of oil, the top of which lies less than nine thousand nine hundred ninety (9,990) feet and more than four thousand (4,000) feet below the surface as determined by the original or discovery well in said common source of supply.

(e) The drilling of any well or wells into any common source of supply for the purpose of producing oil or gas therefrom, after a spacing order has been entered by the Commission covering such common source of supply, at a location other than that fixed by said order is hereby prohibited. The drilling of any well or wells into a common source of supply, covered by a pending spacing application, at a location other than that approved by a special order of the Commission authorizing the drilling of such well is hereby prohibited. The operation of any well drilled in violation of any spacing so entered is also hereby prohibited. When two or more separately owned tracts of land are embraced within an established spacing unit, or where there are undivided interests separately owned, or both such separately owned tracts and undivided interests embraced within such established spacing unit, the owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owners have not agreed to pool their interests and where one such separate owner has drilled or proposes to drill a well on said unit to the common source of supply, the Commission, to avoid the drilling of unnecessary wells, or to protect correlative rights, shall, upon a proper application therefor and a hearing thereon, require such owners to pool and develop their lands in the spacing unit as a unit. The applicant shall give all the owners whose addresses are known or could be known through the exercise of due diligence at least fifteen (15) days' notice by mail, return receipt requested. The applicant shall also give notice by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the spacing unit are situated. The applicant shall file proof of publication and an affidavit of mailing with the Commission

prior to the hearing. All orders requiring such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner of such tract in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil and gas. The portion of the production allocated to the owner of each tract or interests included in a well spacing unit formed by a pooling order shall, when produced, be considered as if produced by such owner from the separately owned tract or interest by a well drilled thereon. Such pooling order of the Commission shall make definite provisions for the payment of cost of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, including a reasonable charge for supervision. In the event of any dispute relative to such costs, the Commission shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the pooling order or orders of the Commission, shall have a lien on the mineral leasehold estate or rights owned by the other owners therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon said unit are a charge against such interest by order of the Commission or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order. The Commission is specifically authorized to provide that the owner or owners drilling, or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to production from such well which would be received by the owner or owners for whose benefit the well was drilled or operated, after payment of royalty, until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order or order settling such dispute. No part of the production or proceeds accruing to any owner of a separate interest in such unit shall be applied toward payment of any cost properly chargeable to any other interest in said unit.

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

In the event a producing well or wells are completed upon a unit where there are, or may thereafter be, two or more separately owned tracts, each royalty interest owner shall share in all production from the well or wells drilled within the unit, or in the gas well rental provided for in the lease covering such separately owned tract or interest in lieu of the customary fixed royalty, to the extent of such royalty interest owner's interest in the unit. Each royalty interest owner's interest in the unit shall be defined as the percentage of royalty owned in each separate tract by the royalty owner, multiplied by the proportion that the acreage in each

separately owned tract or interest bears to the entire acreage of the unit.

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

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 581.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

Sections 18 through 26 of this act and Section 546 of Title 52 of the Oklahoma Statutes shall be known and may be cited as the "Natural Gas Market Sharing Act".

SECTION 19. AMENDATORY 52 O.S. 1991, Section 541, is amended to read as follows:

Section 541. It is the purpose and intent of the Natural Gas Market Sharing Act to protect the rights and correlative rights of all owners in wells producing natural gas including but not limited to casinghead gas and to afford all such owners an equal opportunity to produce and market their share of gas and to receive the proceeds derived therefrom. It is further the intent of the Natural Gas Market Sharing Act to protect such owners against discrimination in purchases in favor of one owner as against another.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 581.3 of Title 52, unless there is created a duplication in numbering, reads as follows:

As used in the Natural Gas Market Sharing Act:

1. "Designated marketer" means the operator of the well or a producing owner substituted for the operator as provided in Section 22 of this act;

2. "Electing owner" means any owner who elects to produce and market its share of production pursuant to the provisions of this act;

3. "Nonexempt sales" means those gas sales which are subject to the provisions of this act and do not qualify for exemptions as set forth in Section 21 of this act;

4. "Overproduced owner" means an owner who has produced and sold a volume of gas in excess of his working interest percentage of cumulative sales from a well;

5. "Owner" means a person or persons who own a working interest in a well;

6. "Producing owner" means an owner who produces and sells gas from a well for its own account; and

7. "Working interest" means the interest in a well, calculated prior to deduction for royalty, overriding royalty and other non-cost-bearing interests burdening production, entitling the owner thereof to drill for and produce oil and gas, including the interest of a participating mineral owner to the extent set forth in Section 87.1 of Title 52 of the Oklahoma Statutes.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 581.4 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The following sales are exempt from the provisions of the Natural Gas Market Sharing Act:

1. Sales pursuant to contracts for an initial term of more than one (1) year entered into prior to January 1, 1985, or any successor, replacement, or rollover contract thereto entered into prior to January 1, 1990. This subsection shall not apply to participating mineral owners who were sharing in any contract on January 1, 1992 and continue to share in such contract on September 1, 1992. Such participating mineral owners shall be subject to all other provisions of this act;

2. Sales pursuant to contracts which provide for:

- a. an initial term of more than three (3) years,
- b. a guarantee or warranty for delivery of fixed volumes of gas without limitation to specified wells or reserves, and
- c. delivery of such volumes;

3. Sales of natural gas liquids extracted as a result of mechanical processing of the natural gas stream for the removal of liquid components other than methane.

B. Owners in a well shall not be entitled to elect to market share pursuant to the provisions of the Natural Gas Market Sharing Act if in such well, such owners:

1. Are subject to a balancing agreement or other written agreement which expressly provides for the taking, sharing, marketing or balancing of gas in a manner other than as provided for in the Natural Gas Market Sharing Act;

2. Have terminated their contract with a purchaser for value received, until the expiration of the remainder of the term provided in such contract;

3. Have terminated market sharing within the previous twelve (12) months; or

4. Are currently overproduced owners.

SECTION 22. AMENDATORY 52 O.S. 1991, Section 543, is amended to read as follows:

Section 543. A. For wells producing natural gas or casinghead gas, any owner not having a gas sales contract shall be entitled to elect to share in the sale of production, to the extent set forth in the Natural Gas Market Sharing Act.

An electing owner shall give written notice of his election to the designated marketer. An election shall constitute a warranty that gas production attributable to such electing owner's interest is not covered by an existing gas purchase contract, and an indemnification of any designated marketer sharing market with such electing owner from losses arising from breach of such warranty. Market sharing shall become effective as to sales commencing on the first day of the month following the expiration of sixty (60) days from receipt of such election by the designated marketer. Termination of a market sharing shall become effective on the first day of the month following expiration of sixty (60) days from receipt of written notice of said termination by the designated marketer. Copies of all elections and notices required shall also be sent to the operator if the operator is not the designated marketer.

B. The operator shall serve as designated marketer until such time as a substituted designated marketer is elected by a numerical majority of the eligible electing owners. No election of a substituted designated marketer shall occur within twelve (12) months of the prior election.

C. Upon receipt of the notice of election to market share, the designated marketer shall secure an independent nonaffiliated purchaser for gas production of such electing owner or shall produce and sell for the account of such electing owner gas attributable to the working interest of such electing owner and account to such

electing owner at the same average price, weighted by volume, received by the designated marketer for all of its nonexempt gas sales from that well during each month, net of all reasonable marketing and post-production costs and expenses required to render the gas marketable and to sell and deliver the gas to market. The volumetric allocation of sales between a designated marketer and an electing owner shall be in proportion to their respective working interests in such well.

D. If all of a designated marketer's sales of gas are exempt, it may so notify the electing owners and the operator in writing whereupon the electing owners shall select another designated marketer pursuant to subsection B of this section by written notice thereof to the operator and the new designated marketer.

E. If the gas sales of the designated marketer are subject to a contract of a duration in excess of one (1) year, the designated marketer may require such electing owners' written agreement to be bound by the terms of such contract. If the contract does not contain a confidentiality provision preventing the furnishing of a copy to the electing owners, the designated marketer shall then furnish them a copy of the gas sales contract, and upon receipt of a copy of such contract and notice setting forth the provisions of this section, each electing owner shall have thirty (30) days within which in writing to either:

1. Elect a new designated marketer pursuant to subsection B of this section, notwithstanding the twelve-month limitation contained therein;

2. Agree to be bound by the terms of such contract; or

3. Terminate market sharing.

Failure by any electing owner to return such written agreement shall be deemed an election to not market share and shall relieve that producing owner of any further obligation to market share or otherwise secure a market for such electing owner's share of production under this section for the duration of that contract.

F. Any administration fees established by the Corporation Commission which are payable to a designated marketer by an electing owner who has elected to market share may be deducted from proceeds.

G. The election to market share under the provisions of the Natural Gas Market Sharing Act shall not result in the electing owner becoming a party to any contract under which the electing owner's gas is marketed, and neither the electing owner nor any person owning a royalty or other non-cost-bearing interest burdening the interest of the electing owner shall acquire any third-party beneficiary rights in such contract. Further, the election to market share under the Natural Gas Market Sharing Act shall not result in the designated marketer having any fiduciary or other duties to the electing owner, or to any persons having a royalty or other nonoperating interest burdening the interest of the electing owner with respect to the marketing of the electing owner's gas except those expressly provided in the Natural Gas Market Sharing Act. In no event shall any designated marketer be liable to any electing owner for any losses sustained or liabilities incurred in the absence of bad faith, gross negligence or willful misconduct.

H. If by statute an owner's percentage entitlement to produce and market gas in a well is other than its working interest percentage, such percentage calculated pursuant to statute shall be utilized in lieu of the working interest percentage for purposes of the Natural Gas Market Sharing Act.

SECTION 23. AMENDATORY 52 O.S. 1991, Section 542, is amended to read as follows:

Section 542. An election to market share pursuant to the terms of the Natural Gas Market Sharing Act grants to any producing owner thereby required to share its market the authority to market its proportionate share of gas attributable to the working interest of

such electing owner during the term of that election without further notice or consent. Nothing in the Natural Gas Market Sharing Act shall be construed to:

1. Prevent any owner from receiving the price agreed upon by contract or to prevent any owner from taking its share of production in kind or separately disposing of its share;

2. Eliminate or otherwise affect the rights and remedies available to any operator or any other owner against any owners, including operators, who either default or fail to pay their proportionate share of the well or operating costs; or

3. Diminish the existing rights of each owner to ultimately receive its share of gas disposed or sold from the well.

SECTION 24. AMENDATORY 52 O.S. 1991, Section 544, is amended to read as follows:

Section 544. On and after the effective date of the Natural Gas Market Sharing Act, an owner of a well producing natural gas or casinghead gas may produce from the well that amount of gas which may be lawfully produced therefrom; however, the foregoing shall not diminish the rights of each owner against an overproduced owner by reason of such production, such as the right to an accounting as among co-owners and the right to balance in cash or in kind, as those rights may otherwise be established by law or contract.

SECTION 25. AMENDATORY 52 O.S. 1991, Section 545, is amended to read as follows:

Section 545. Proper distribution of revenues from the sale of production from the well shall be made pursuant to the provisions of Section 540 of this title and the Production Revenue Standards Act, Sections 1 through 15 of this act.

SECTION 26. AMENDATORY 52 O.S. 1991, Section 547, is amended to read as follows:

Section 547. A. The Corporation Commission is herein empowered to promulgate rules by which the purpose of the Natural Gas Market Sharing Act shall be administered, including the power to establish and enforce penalties for violations thereof. The Corporation Commission shall establish a schedule of reasonable administration fees sufficient to cover the actual costs incurred by the designated marketer to perform duties required by the Natural Gas Market Sharing Act and not assumed by private agreement. Such power shall supplement the existing authority of the Corporation Commission to provide for a ratable taking of gas to protect the correlative rights of those entitled to take from a common reservoir or common source of supply. Such power shall not preclude the remedies available through the district courts as provided by existing law nor preclude the right, herewith granted, of any owner who is injured in business or property by any other owner in the well by reason of any action in violation of the provisions of the Natural Gas Market Sharing Act to sue in the courts of this state and to recover actual damages so sustained and obtain specific performance where equitable. The prevailing party in any court proceeding brought pursuant to the Natural Gas Market Sharing Act shall be entitled to recover court costs, attorneys' fees and allowable litigation expenses. The statute of limitations on actions brought pursuant to the provisions of the Natural Gas Market Sharing Act shall be five (5) years from the date of violation of the Natural Gas Market Sharing Act.

B. In any action brought pursuant to the provisions of the Natural Gas Market Sharing Act, the district courts of this state shall have the sole and exclusive jurisdiction to determine the entitlement of any working interest owner in a well to its share of proceeds from production or any damages, interest, court costs, attorneys' fees and allowable litigation expenses incurred as a result of a nonpayment of such working interest owner's share of



proceeds from production or as a result of any action brought to enforce the right to receive any such payment.

SECTION 27. REPEALER 52 O.S. 1991, Section 540.1, is hereby repealed.

SECTION 28. RECODIFICATION 52 O.S. 1991, Section 540, as last amended by Section 10 of this act, shall be recodified as Section 570.10 of Title 52 of the Oklahoma Statutes.

SECTION 29. RECODIFICATION 52 O.S. 1991, Sections 541, 543, 542, 544, 545 and 547, as amended by Sections 19, 22, 23, 24, 25 and 26 of this act, shall be recodified as 581.2, 581.5 through 581.8 and 581.10 of Title 52 of the Oklahoma Statutes. 52 O.S. 1991, Section 546, shall be recodified as Section 581.9 of Title 52 of the Oklahoma Statutes.

SECTION 30. Sections 1 through 3, 8, 11 through 15, and 18 through 27 of this act shall become effective September 1, 1992.

SECTION 31. Sections 4 through 7, 9, 10, 16 and 17 of this act shall become effective July 1, 1993.