

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 78

By: Bingman of the Senate

and

Trebilcock of the House

COMMITTEE SUBSTITUTE

An Act relating to oil and gas; amending 52 O.S. 2011, Section 87.6, which relates to the 2011 Shale Reservoir Development Act; modifying name of act; modifying definitions; amending 52 O.S. 2011, Section 87.7, which relates to application of act to certain horizontal wells; amending 52 O.S. 2011, Section 87.8, modifying allocation procedures for certain targeted reservoirs; and amending 52 O.S. 2011, Section 87.1, which relates to common source of supply; updating reference; authorizing the Corporation Commission to take certain actions to protect correlative rights of owners in certain spacing units; stating rights of participating owners in certain wells; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 2011, Section 87.6, is amended to read as follows:

A. Sections 87.6 through 87.9 of this title shall be known and may be cited as the "~~2011 Shale Reservoir~~ Horizontal Well Development Act".

1 B. As used in the ~~2011 Shale Reservoir~~ Horizontal Well

2 Development Act:

3 1. "Allocation factor" means the percentage of costs,
4 production or proceeds allocated to a unit affected by a multiunit
5 horizontal well;

6 2. "Application" means a written request filed by an owner of
7 the right to drill seeking approval to drill, complete and produce a
8 multiunit horizontal well or to create a horizontal well unitization
9 for a shale reservoir;

10 3. "Associated common source of supply" means ~~a~~ any common
11 source of supply which is subject to a drilling and spacing unit
12 formed by the Corporation Commission and located in all or a portion
13 of the lands in which the completion interval of a multiunit
14 horizontal well is located, or which is located within the
15 boundaries of a unit created through a horizontal well unitization,
16 ~~and which is immediately adjoining the shale common source of supply~~
17 ~~in which the completion interval of the horizontal well is located~~
18 for a shale reservoir, and which ~~is~~ may be or was inadvertently
19 encountered in the drilling of the lateral of ~~such~~ a horizontal well
20 when such well is drilled out of or exits, whether on one or
21 multiple occasions, ~~such shale~~ any common source of supply in which
22 the lateral of such horizontal well was originally intended to be
23 located or which may be or was placed in communication with the

1 completion interval of such a horizontal well by any completion
2 technique, including fracture stimulation;

3 4. "Commission" means the Corporation Commission;

4 5. "Completion interval" means, for an open hole completion in
5 a horizontal well, the interval from the point of entry to the
6 terminus and, for a cased and cemented completion in a horizontal
7 well, the interval from the first perforations to the last
8 perforations;

9 6. "Horizontal well" means a well drilled, completed, or
10 recompleted with one or more laterals ~~in a shale reservoir in a~~
11 ~~manner~~ in which, for at least one lateral, the horizontal component
12 of the completion interval ~~in the shale reservoir~~ exceeds the
13 vertical component thereof and the horizontal component extends a
14 minimum of one hundred fifty (150) feet in the formation;

15 7. "Horizontal well unitization" means a unitization for a
16 shale reservoir created pursuant to Section 87.9 of this title;

17 8. "Horizontal component" means the calculated horizontal
18 distance from the point of entry to the terminus;

19 9. "Lateral" means the portion of the wellbore of a horizontal
20 well from the point of entry to the terminus;

21 10. "Multiunit horizontal well" means a horizontal well ~~in a~~
22 ~~shale reservoir~~ wherein the completion interval of the well is
23 located in more than one unit formed for the same ~~shale~~ targeted
24

1 reservoir, with the well being completed in and producing from such
2 ~~shale~~ targeted reservoir in two or more of such units;

3 11. "Plan of development" means the proposed plan for
4 developing the shale reservoir unitized pursuant to Section 87.9 of
5 this title, which plan, based upon the information and knowledge
6 then available to the applicant, shall include:

- 7 a. a map or maps indicating the location of each existing
8 well in the proposed unit and the anticipated location
9 of each horizontal well proposed to be drilled in the
10 proposed unit that is anticipated to be necessary,
11 based upon the information and knowledge then
12 available to the applicant, for the full and efficient
13 development and operation of the proposed unit for the
14 recovery of oil and gas from the shale reservoir
15 within the proposed unit,
- 16 b. any applicable proposed allocation factor or factors
17 for allocating the costs, production and proceeds from
18 the proposed unit,
- 19 c. the anticipated timing and anticipated sequence of
20 drilling of each horizontal well in the proposed unit,
21 and
- 22 d. any other specific terms, provisions, conditions and
23 requirements set forth in Section 87.9 of this title
24 or determined by the Commission to be reasonably

1 necessary or proper to effectuate or accomplish the
2 purpose of Section 87.9 of this title;

3 12. "Point of entry" means the point at which the borehole of a
4 horizontal well first intersects the top of the shale reservoir;

5 13. "PRSA" means the Production Revenue Standards Act;

6 14. "Shale reservoir" means a common source of supply which is
7 a shale formation that is so designated by the Commission through
8 rule or order, and ~~shall also~~ may, for good cause shown, include any
9 associated common source of supply in relation thereto, as defined
10 in this section;

11 15. "Targeted reservoir" means any common source of supply
12 which has been determined by the Commission through rule or order as
13 a common source of supply that is appropriately suited for
14 development through a multiunit horizontal well, and may, for good
15 cause shown, include any associated common source of supply in
16 relation thereto, as defined in this section;

17 16. "Terminus" means the end point of the borehole of a
18 horizontal well in the shale reservoir;

19 ~~16.~~ 17. "Wellbore royalty interest" means, for each separate
20 multiunit horizontal well, the sum of resulting products of each
21 affected unit's royalty share for that unit, as defined by the PRSA,
22 multiplied by that unit's allocation factor for production and
23 proceeds;

1 ~~17.~~ 18. "Wellbore royalty proceeds" means the proceeds or other
2 revenue derived from or attributable to any production of oil and
3 gas from the multiunit horizontal well multiplied by the wellbore
4 royalty interest;

5 ~~18.~~ 19. "Unit" means a drilling and spacing unit for a single
6 common source of supply created pursuant to Section 87.1 of this
7 title or a horizontal well unitization created pursuant to Section
8 87.9 of this title;

9 ~~19.~~ 20. "Unit's royalty contribution factor" means the royalty
10 share for an affected unit, as defined by PRSA, multiplied by that
11 unit's allocation factor, then divided by the total wellbore royalty
12 interest; and

13 ~~20.~~ 21. "Vertical component" means the calculated vertical
14 distance from the point of entry to the terminus.

15 SECTION 2. AMENDATORY 52 O.S. 2011, Section 87.7, is
16 amended to read as follows:

17 ~~Corporation Commission Jurisdiction.~~

18 The Corporation Commission shall have jurisdiction, upon the
19 filing of a proper application therefor, to permit the drilling,
20 completing and producing of a multiunit horizontal well in
21 conformity with ~~Section 4 of this act~~ Section 87.8 of this title, or
22 to create a horizontal well unitization for a shale reservoir in
23 conformity with ~~Section 5 of this act~~ Section 87.9 of this title, if
24 the Commission finds that the multiunit horizontal well or the

horizontal well unitization will prevent waste and will protect the
correlative rights of the owners of oil and gas rights.
Furthermore, for the planned development of a common source of
supply through the use of horizontal well technology where there is
currently production from the common source of supply within an
existing unit or units, and the planned horizontal well or wells
would extend beyond the boundaries of one or more the existing
units, an alternative to creating a new drilling and spacing unit or
units, or modifying, superseding, amending or vacating the existing
drilling and spacing unit or units, to accommodate the horizontal
development shall be the utilization of a multiunit horizontal well
or wells pursuant to Section 87.8 of this title.

SECTION 3. AMENDATORY 52 O.S. 2011, Section 87.8, is
amended to read as follows:

A. Under the conditions contained in this section, the
Corporation Commission is authorized to allow multiunit horizontal
wells in any targeted reservoir or reservoirs in order to prevent
waste and protect the correlative rights of the owners of oil and
gas rights.

B. Ownership, Allocation of Costs, Commingled Production, and
Proceeds.

The Commission shall require the allocation ~~of~~ to each of the
units affected by a multiunit horizontal well the actual and
reasonable drilling, completion and production costs associated with

1 ~~a such multiunit horizontal well to each of the affected units which~~
2 ~~the well actually penetrates within the completion interval and~~
3 shall further require the allocation ~~of~~ to each of the units
4 affected by a multiunit horizontal well the commingled production,
5 and the proceeds from the sale thereof, from the completion interval
6 of ~~a~~ such multiunit horizontal well, with any allocation to be in a
7 manner that will prevent waste and protect the correlative rights of
8 the owners of the oil and gas rights in each of the affected units
9 ~~which the well actually penetrates within the completion interval.~~

10 1. The allocation factor for each affected unit shall be
11 determined by dividing the length of the completion interval located
12 within the affected unit by the entire length of the completion
13 interval in the subject multiunit horizontal well. The Commission
14 shall have the authority to adjust the allocation factors, based
15 upon reasonable testimony and evidence presented to the Commission,
16 if necessary to prevent waste and adequately protect the correlative
17 rights of the owners of the oil and gas rights in each of the
18 affected units.

19 2. Each party who participates as a working interest owner in a
20 multiunit horizontal well shall own an undivided interest in all
21 portions of the wellbore of the well and in the equipment on or in
22 the well in the same ratio that the party's allocated portion of the
23 total costs of the well and equipment bears to the total costs of
24 the well and equipment. The ownership of undivided interest

1 described in this paragraph shall not affect or prejudice the
2 ownership of oil and gas rights of the affected owners outside of
3 the ~~shale~~ targeted reservoir for the multiunit horizontal well.

4 3. A multiunit horizontal well shall be treated as a well in
5 each of the affected units and shall be subject to all of the rules
6 otherwise applicable to any other well in any of the affected units.

7 In allowing a multiunit horizontal well, the Commission, under
8 Section 87.1 of Title 52 of the Oklahoma Statutes, may grant any
9 necessary exceptions to the permitted well location tolerances in
10 each of the affected units for the well and permit the well as an
11 additional well in each of the affected units. When an owner has
12 drilled or proposes to drill a multiunit horizontal well or wells
13 and the owners of a present right to drill in any of the affected
14 units have not agreed to pool their interests in the unit or units
15 for the ~~affected common sources of supply~~ targeted reservoir, the
16 Commission, under Section 87.1 of Title 52 of the Oklahoma Statutes,
17 may, upon the filing of a proper application therefor, require the
18 owners to pool their interests in the targeted reservoir in each
19 affected unit on a unitwide basis as to the respective unit in
20 regard to the development involving the portion of the multiunit
21 horizontal well or wells located within the affected unit.

22 Furthermore, if the Commission has previously entered an order
23 pooling the interests of owners in an affected unit in which a
24 multiunit horizontal well or wells have been drilled or are proposed

1 to be drilled, the Commission, under Section 87.1 of Title 52 of the
2 Oklahoma Statutes, may, upon the filing of a proper application
3 therefor, amend the pooling order to the extent necessary to have
4 the pooling order cover the development involving the portion of the
5 multiunit horizontal well or wells located within the affected unit.

6 4. The application shall include:

- 7 a. the approximate anticipated location of the proposed
8 multiunit horizontal well or wells,
- 9 b. a map or maps indicating the location of each
10 currently existing well in each affected unit which is
11 the subject of the application and the anticipated
12 location of each multiunit horizontal well currently
13 proposed to be drilled in each affected unit as a
14 result of the application and any other horizontal
15 well not included in the current application, but
16 anticipated to be necessary, based upon the
17 information and knowledge then available to the
18 applicant, for the full and efficient development and
19 operations of the ~~shale~~ targeted reservoir within the
20 affected units if the well or wells are approved by
21 the Commission upon the filing of a proper application
22 at a future date, and
- 23 c. any applicable proposed allocation factor or factors
24 for allocating the costs, production and proceeds from

1 each proposed multiunit horizontal well under the
2 application.

3 5. Production from the completion interval of the ~~shale~~
4 targeted reservoir from each of the affected units in which a
5 multiunit horizontal well is completed may be commingled in the
6 wellbore of the well and produced to the surface. The commingled
7 production from a multiunit horizontal well shall be allocated to
8 each of the affected units based upon the allocation factors
9 approved by the Commission.

10 6. In granting an application for a multiunit horizontal well
11 or wells, the Commission shall find, based on the testimony and
12 evidence presented, that given the information and knowledge then
13 available, the proposed multiunit horizontal well or wells will
14 prevent waste, protect correlative rights and likely will aid in the
15 full and efficient development of each of the affected units.

16 7. The wellbore royalty proceeds for a multiunit horizontal
17 well shall be allocated to each affected unit by multiplying the
18 royalty contribution factor of the unit by the wellbore royalty
19 proceeds, with the resulting product being the royalty proceeds for
20 that unit. Each royalty interest owner in an affected unit shall be
21 entitled to receive the owner's proportionate royalty share of the
22 allocated royalty proceeds for that unit.

23 8. The multiunit horizontal well shall be subject to the
24 provisions of the Product Revenue Standards Act (PRSA). The

1 operator of the multiunit horizontal well shall be the designated
2 royalty distributor pursuant to the PRSA for the multiunit
3 horizontal well, unless there is a diversity of operators in the
4 affected units from which the multiunit horizontal well is producing
5 and another operator in each of the affected units agrees to perform
6 separately the PRSA royalty distribution functions for the unit.

7 C. Application, Notice and Retained Jurisdiction.

8 Application for approval of a multiunit horizontal well shall be
9 in a form prescribed by the Commission. The application, and the
10 notice of hearing on the application, shall be served no less than
11 fifteen (15) days prior to the date of the hearing, by regular mail,
12 upon each person or governmental entity having the right to share in
13 production from each of the affected units covered by the
14 application, as well as other persons or governmental entities
15 required by the rules of the Commission. Upon approval of a
16 multiunit horizontal well, the Commission shall retain jurisdiction
17 over the well. The retained jurisdiction of the Commission set
18 forth herein shall neither preclude nor impair the right of any
19 affected party to obtain through the district courts of this state
20 any remedy or relief available at law or in equity for injuries
21 caused by any action or inaction of the applicant, operator or any
22 other affected party.

23 SECTION 4. AMENDATORY 52 O.S. 2011, Section 87.1, is
24 amended to read as follows:

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

13 (a) To prevent or to assist in preventing the various types of
14 waste of oil or gas prohibited by statute, or any wastes, or to
15 protect or assist in protecting the correlative rights of interested
16 parties, the Corporation Commission, upon a proper application and
17 notice given as hereinafter provided, and after a hearing as
18 provided in the notice, shall have the power to establish well
19 spacing and drilling units of specified and approximately uniform
20 size and shape covering any common source of supply, or prospective
21 common source of supply, of oil or gas within the State of Oklahoma;
22 provided, that the Commission may authorize the drilling of an
23 additional well or wells on any spacing and drilling unit or units
24 or any portion or portions thereof or may establish, reestablish, or

1 reform well spacing and drilling units of different sizes and shapes
2 when the Commission determines that a common source of supply
3 contains predominantly oil underlying an area or areas and contains
4 predominantly gas underlying a different area or areas; provided
5 further that the units in the predominantly oil area or areas shall
6 be of approximately uniform size and shape, and the units in the
7 predominantly gas area or areas shall be of approximately uniform
8 size and shape, except that the units in the gas area or areas may
9 be of nonuniform size and shape when they adjoin the units in the
10 oil area or areas; provided further that the drilling pattern for
11 such nonuniform units need not be uniform, and provided further that
12 the Commission shall adjust the allowable production within the
13 common source of supply, or any part thereof, and take such other
14 action as may be necessary to protect the rights of interested
15 parties. Any order issued pursuant to the provisions hereof may be
16 entered after a hearing upon the petition of any person owning an
17 interest in the minerals in lands embraced within such common source
18 of supply, or the right to drill a well for oil or gas on the lands
19 embraced within such common source of supply, or on the petition of
20 the Conservation Officer of the State of Oklahoma. When such a
21 petition is filed with the Commission, the Commission shall give at
22 least fifteen (15) days' notice of the hearing to be held upon such
23 petition by one publication, at least fifteen (15) days prior to the
24 hearing, in some newspaper of general circulation published in

1 Oklahoma County, and by one publication, at least fifteen (15) days
2 prior to the date of the hearing, in some newspaper published in the
3 county, or in each county, if there be more than one, in which the
4 lands embraced within the application are situated. Except as to
5 the notice of hearing on such a petition, the procedural
6 requirements of Section 86.1 et seq. of this title shall govern all
7 proceedings and hearings provided for by this section.

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

13 (c) In establishing a well spacing or drilling unit for a common
14 source of supply thereunder, the acreage to be embraced within each
15 unit may include acreage from more than one governmental section,
16 but shall not exceed six hundred forty (640) acres for a gas well
17 plus ten percent (10%) tolerance, unless the unit is a governmental
18 section and the governmental section contains more than six hundred
19 forty (640) acres in which case the unit may comprise the entire
20 section. Provided, however, fractional sections along the state
21 boundary line and within the townships along the boundary where the
22 survey west of the Indian Meridian meets the survey east of the
23 Cimarron Meridian may be spaced with adjoining section unit, and the
24 shape thereof shall be determined by the Commission from the

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

14 The order establishing such spacing or drilling units shall set
15 forth: (1) the outside boundaries of the surface area included in
16 such order; (2) the size, form, and shape of the spacing or drilling
17 units so established; (3) the drilling pattern for the area, which
18 shall be uniform except as hereinbefore provided; and (4) the
19 location of the permitted well on each such spacing or drilling
20 unit. To such order shall be attached a plat upon which shall be
21 indicated the foregoing information. Subject to other provisions of
22 Section 86.1 et seq. of this title, the order establishing such
23 spacing or drilling units shall direct that no more than one well
24 shall thereafter be produced from the common source of supply on any

1 unit so established, and that the well permitted on that unit shall
2 be drilled at the location thereon as prescribed by the Commission,
3 with such exception as may be reasonably necessary where it is
4 shown, upon application, notice and hearing in conformity with the
5 procedural requirements of Section 86.1 et seq. of this title, and
6 the Commission finds that any such spacing unit is located on the
7 edge of a pool and adjacent to a producing unit, or for some other
8 reason that to require the drilling of a well at the prescribed
9 location on such spacing unit would be inequitable or unreasonable.
10 Whenever such an exception is granted, the Commission shall adjust
11 the allowable production for the spacing unit and take such other
12 action as may be necessary to protect the rights of interested
13 parties.

14 Any well spacing or drilling unit for a common source of supply
15 thereunder which exceeds six hundred forty (640) acres for a gas
16 well plus ten percent (10%) tolerance or exceeds the total amount of
17 acreage contained in a governmental section, and is not in
18 production or in the process of drilling development on ~~the~~
19 ~~effective date of this act~~ March 26, 1980, shall be de-spaced.
20 However, fractional sections along the state boundary line and
21 within the townships along the boundary where the survey west of the
22 Indian Meridian meets the survey east of the Cimarron Meridian may
23 be spaced with adjoining section unit, and the shape thereof shall
24 be determined by the Commission.

1 (d) The Commission shall have jurisdiction upon the filing of a
2 proper application therefor, and upon notice given as provided in
3 subsection (a) of this section, to decrease the size of the well
4 spacing units or to permit additional wells to be drilled within the
5 established units, or to increase the size or modify the shape of
6 the well spacing units, upon proper proof at such hearing that such
7 modification or extension of the order establishing drilling or
8 spacing units will prevent or assist in preventing the various types
9 of wastes prohibited by statute, or any of the wastes, or will
10 protect or assist in protecting the correlative rights of persons
11 interested in the common source of supply, or upon the filing of a
12 proper application therefor to enlarge the area covered by the
13 spacing order, if such proof discloses that the development or the
14 trend of development indicates that such common source of supply
15 underlies an area not covered by the spacing order and such proof
16 discloses that the applicant is an owner within the area or within a
17 drilling and spacing unit contiguous to the area covered by the
18 application. If the Commission modifies, supersedes, amends or
19 vacates the existing drilling and spacing unit or units, or creates
20 a new drilling and spacing unit or units, for a common source of
21 supply covering the same lands where there is currently, or has
22 been, production from the common source of supply within a
23 previously existing unit or units, the Commission shall have the
24 authority to take such other action and to make such orders as may

1 be necessary to protect the correlative rights or vested rights, or
2 both, of interested parties within the previously existing unit or
3 units, as well as the newly formed unit or units. Except in the
4 instance of reservoir dewatering as described herein, the Commission
5 shall not establish well spacing units of more than forty (40) acres
6 in size covering common sources of supply of oil, the top of which
7 lies less than four thousand (4,000) feet below the surface as
8 determined by the original or discovery well in the common source of
9 supply, and the Commission shall not establish well spacing units of
10 more than eighty (80) acres in size covering common sources of
11 supply of oil, the top of which lies less than nine thousand nine
12 hundred ninety (9,990) feet and more than four thousand (4,000) feet
13 below the surface as determined by the original or discovery well in
14 the common source of supply. In the instance of reservoir
15 dewatering to extract oil from reservoirs having initial water
16 saturations at or above fifty percent (50%), the Commission may
17 establish drilling and spacing units not to exceed six hundred forty
18 (640) acres in size.

19 (e) The drilling of any well or wells into any common source of
20 supply for the purpose of producing oil or gas therefrom, after a
21 spacing order has been entered by the Commission covering such
22 common source of supply, at a location other than that fixed by the
23 order is hereby prohibited. The drilling of any well or wells into
24 a common source of supply, covered by a pending spacing application,

1 at a location other than that approved by a special order of the
2 Commission authorizing the drilling of such well is hereby
3 prohibited. The operation of any well drilled in violation of any
4 spacing so entered is also hereby prohibited. When two or more
5 separately owned tracts of land are embraced within an established
6 spacing unit, or where there are undivided interests separately
7 owned, or both such separately owned tracts and undivided interests
8 embraced within such established spacing unit, the owners thereof
9 may validly pool their interests and develop their lands as a unit.
10 Where, however, such owners have not agreed to pool their interests
11 and where one such separate owner has drilled or proposes to drill a
12 well on the unit to the common source of supply, the Commission, to
13 avoid the drilling of unnecessary wells, or to protect correlative
14 rights, shall, upon a proper application therefor and a hearing
15 thereon, require such owners to pool and develop their lands in the
16 spacing unit as a unit. The applicant shall give all the owners
17 whose addresses are known or could be known through the exercise of
18 due diligence at least fifteen (15) days' notice by mail, return
19 receipt requested. The applicant shall also give notice by one
20 publication, at least fifteen (15) days prior to the hearing, in
21 some newspaper of general circulation published in Oklahoma County,
22 and by one publication, at least fifteen (15) days prior to the date
23 of the hearing, in some newspaper published in the county, or in
24 each county, if there be more than one, in which the lands embraced

1 within the spacing unit are situated. The applicant shall file
2 proof of publication and an affidavit of mailing with the Commission
3 prior to the hearing. All orders requiring such pooling shall be
4 made after notice and hearing, and shall be upon such terms and
5 conditions as are just and reasonable and will afford to the owner
6 of such tract in the unit the opportunity to recover or receive
7 without unnecessary expense the owner's just and fair share of the
8 oil and gas. The portion of the production allocated to the owner
9 of each tract or interests included in a well spacing unit formed by
10 a pooling order shall, when produced, be considered as if produced
11 by such owner from the separately owned tract or interest by a well
12 drilled thereon. Such pooling order of the Commission shall make
13 definite provisions for the payment of cost of the development and
14 operation, which shall be limited to the actual expenditures
15 required for such purpose not in excess of what are reasonable,
16 including a reasonable charge for supervision. In the event of any
17 dispute relative to such costs, the Commission shall determine the
18 proper costs after due notice to interested parties and a hearing
19 thereon. The operator of such unit, in addition to any other right
20 provided by the pooling order or orders of the Commission, shall
21 have a lien on the mineral leasehold estate or rights owned by the
22 other owners therein and upon their shares of the production from
23 such unit to the extent that costs incurred in the development and
24 operation upon the unit are a charge against such interest by order

1 of the Commission or by operation of law. Such liens shall be
2 separable as to each separate owner within such unit, and shall
3 remain liens until the owner or owners drilling or operating the
4 well have been paid the amount due under the terms of the pooling
5 order. The Commission is specifically authorized to provide that
6 the owner or owners drilling, or paying for the drilling, or for the
7 operation of a well for the benefit of all shall be entitled to
8 production from such well which would be received by the owner or
9 owners for whose benefit the well was drilled or operated, after
10 payment of royalty, until the owner or owners drilling or operating
11 the well have been paid the amount due under the terms of the
12 pooling order or order settling such dispute. No part of the
13 production or proceeds accruing to any owner of a separate interest
14 in such unit shall be applied toward payment of any cost properly
15 chargeable to any other interest in the unit.

16 For the purpose of this section, the owner or owners of oil and
17 gas rights in and under an unleased tract of land shall be regarded
18 as a lessee to the extent of a seven-eighths ($7/8$) interest in and
19 to the rights and a lessor to the extent of the remaining one-eighth
20 ($1/8$) interest therein, unless and until the owner or owners make an
21 election or are deemed to make an election not to participate under
22 a pooling order issued by the Commission, at which time each such
23 owner shall be considered a lessor, subject to the judicially
24 recognized implied covenant to market found to exist by the courts

1 of this state in oil and gas leases covering lands located in this
2 state, to the extent of the full royalty percentage elected under
3 the pooling order. Should the owners of separate tracts or
4 interests embraced within a spacing unit fail to agree upon a
5 pooling of their interests and the drilling of a well on the unit,
6 and should it be established by final, unappealable judgment of a
7 court of competent jurisdiction that the Commission is without
8 authority to require pooling as provided for herein, then, subject
9 to all other applicable provisions of this act, the owner of each
10 tract or interest embraced within a spacing unit may drill on his or
11 her separately owned tract, and the allowable production therefrom
12 shall be that portion of the allowable for the full spacing unit as
13 the area of such separately owned tract bears to the full spacing
14 unit.

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

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

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

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

23
24 54-1-1483

MJM

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