COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB669 ______________________________
Of the printed Bill

Page __________ Section __________ Lines ______________
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Todd Thomsen
____

Adopted: _____________________________

____
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 669 By: Marlatt of the Senate

and

O'Donnell of the House

PROPOSED COMMITTEE SUBSTITUTE

[oil and gas - pooling orders for horizontal spacing units and the 2011 Shale Reservoir Development Act - Corporation Commission jurisdiction - Horizontal Well Development Act -

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

SECTION 1. AMENDATORY 52 O.S. 2011, Section 87.1, as last amended by Section 4, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2016, 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 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 the 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 the 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 Section 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 may include acreage from more than one governmental section, but shall not exceed six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance, unless the unit is a governmental section and the 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 the source of supply; (3) the depth at which production from the 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 the actual or prospective source of supply which may be of probative value to the 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 Section 86.1 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 Section 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 the 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) of this section, to decrease the size of the well spacing units or to permit additional wells to be drilled within the established units, or to increase the size or modify the shape of the well spacing 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 the wastes, or will protect or assist in protecting the correlative rights of persons interested in the 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. Except in the instance of reservoir dewatering as described herein, 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 the common source of supply, and 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 the common source of supply. In the instance of reservoir dewatering to extract oil from reservoirs having initial water saturations at or above fifty percent (50%), the Commission may establish drilling and spacing units not to exceed six hundred forty (640) acres in size.

(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 the 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 the 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 the owner's 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 the 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 the 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 the rights and a lessor to the extent of the remaining one-eighth (1/8) interest therein, unless and until the owner or owners make an election or are deemed to make an election not to participate under a pooling order issued by the Commission, at which time each such owner shall be considered a lessor, subject to the judicially recognized implied covenant to market found to exist by the courts of this state in oil and gas leases covering lands located in this state, to the extent of the full royalty percentage elected under the pooling order. 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 or her 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~~ title 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) of this section, to establish spacing rules for horizontally drilled oil or gas wells whereby horizontally drilled oil or gas 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~~ any size not to exceed one mile in width.

1. For purposes of this subsection a "horizontally drilled oil or gas well" shall mean an oil or gas 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;

2. For purposes of this subsection a "horizontal well unit" shall mean a well spacing and drilling unit established for a common source of supply for the purpose of developing such unit by the drilling of a single horizontally drilled well;

3. Other than limitations on the size and shape of well spacing and drilling units, all other provisions of this section shall apply to the establishment of a horizontal well unit;

4. No order of the Corporation Commission establishing a horizontal well unit that overlies any existing well or producing lease or any portion of any existing well spacing and drilling unit with an existing well producing from the same common source of supply will become effective until at least fifty percent (50%) of the ownership having a right to drill in each such well and well spacing and drilling unit consents in writing to the establishment of such horizontal well unit; and

5. The Corporation Commission shall promulgate rules necessary for the proper administration of this subsection.

(g) Subject to all of the provisions of this section, a pooling order for a horizontal spacing unit which overlies an existing, producing non-horizontal drilling and spacing unit, shall provide that, if a working interest owner in such producing non-horizontal drilling and spacing unit does not agree to develop the horizontal spacing unit, the owner shall relinquish its non-participating working interest in the horizontal spacing unit while retaining all other rights, including the right to concurrently develop the producing non-horizontal unit;

(h) Notwithstanding anything in this title or a pooling order to the contrary, for any horizontal well drilled after the effective date of this act pursuant to a pooling order authorized by this section, whether the pooling order was issued before or after the effective date of this act, in a spacing unit which overlies all or any portion of any existing, producing spacing unit of any kind, even if the producing spacing unit is not the objective or target of the horizontal well, the following provisions shall apply:

1. If any well under a pooling order is authorized pursuant to Section 87.8 of this title, the relinquished rights of an owner who elects or is deemed to have elected not to participate with all or any part of that owner's interest in the multiunit horizontal well shall be limited to only the owner's non-participating working interest in the targeted reservoir(s), as defined by Section 87.6 of this title, which is actually drilled and produced by the multiunit horizontal well and the owner shall retain the right to participate with all or any part of that owner's interest in any subsequent well or subsequent operations which may be proposed under the pooling order (a) in any common sources of supply other than the

relinquished rights in targeted reservoir(s) described herein, and (b) within all common sources of supply in any then existing wellbores in which the owner has the right to participate;

2. If any well under a pooling order is authorized by the Commission as a horizontal well pursuant to a horizontal spacing unit created under Section 87.1 of this title, and the horizontal spacing unit shall be greater in size than six hundred forty (640) acres plus tolerances and variances as allowed for pursuant to subsection (c) of this section, or be comprised of more than one governmental section, then the relinquished rights of an owner who elects or is deemed to have elected not to participate with all or any part of that owner's interest in the well shall be limited to only the owner's non-participating working interest in the common source(s) of supply in the horizontal spacing unit which is actually drilled and produced by the horizontal well and the owner shall retain the right to participate with all or any part of that owner's interest in any subsequent well or subsequent operations which may be proposed under the pooling order (a) in any common source of supply or spacing unit other than the relinquished rights in the horizontally drilled and produced common source(s) of supply in the horizontal spacing unit described herein, and (b) within all common sources of supply in any then existing wellbores in which the owner has the right to participate;

3. As to any well which is subject to a pooling order which was entered prior to the effective date of this act, in order to be entitled to the rights and benefits of this subsection, and the resultant right to participate with non-relinquished rights in spite of an election not to participate in a prior horizontal well after the effective date of this act, the owner must have been vested with the right to participate in the subject well as of the effective date of this act; and

4. The provisions of this subsection shall supplement each affected pooling order as to development of the affected spacing unit by use of horizontal wells from and after the effective date of this act.

SECTION 2. AMENDATORY 52 O.S. 2011, Section 87.6, as last amended by Section 1, Chapter 400, O.S.L. 2014 (52 O.S. Supp. 2016, Section 87.6), is amended to read as follows:

Section 87.6 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".

B. As used in the ~~2011 Shale Reservoir~~ Horizontal Well Development Act:

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

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

3. ~~"Associated common source of supply" means a common source of supply which is subject to a drilling and spacing unit formed by the Corporation Commission and located in all or a portion of the lands in which the completion interval of a multiunit horizontal well is located, or which is located within the boundaries of a unit created through a horizontal well unitization, and which is immediately adjoining the shale common source of supply in which the completion interval of the horizontal well is located, and which is inadvertently encountered in the drilling of the lateral of such horizontal well when such well is drilled out of or exits, whether on one or multiple occasions, such shale common source of supply;~~

~~4.~~ "Commission" means the Corporation Commission;

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

~~6.~~ 5. "Horizontal well" means a well drilled, completed, or recompleted with one or more laterals which, for at least one lateral, the horizontal component of the completion interval exceeds the vertical component of the completion interval and the horizontal component extends a minimum of one hundred fifty (150) feet in the formation;

~~7.~~ 6. "Horizontal well unitization" means a unitization for a ~~shale~~ targeted reservoir created pursuant to Section 87.9 of this title;

~~8.~~ 7. "Horizontal component" means the calculated horizontal distance from the point of entry to the terminus;

~~9.~~ 8. "Lateral" means the portion of the wellbore of a horizontal well from the point of entry to the terminus;

~~10.~~ 9. "Marmaton common source of supply" means a common source of supply located within Texas and Beaver Counties and designated as the Marmaton by the Commission through rule or order;

~~11.~~ 10. "Multiunit horizontal well" means a horizontal well ~~in a targeted reservoir~~ wherein the completion interval of the well is located in more than one unit formed for the same targeted reservoir, with the well being completed in and producing from such targeted reservoir in two or more of such units;

~~12.~~ 11. "Plan of development" means the proposed plan for developing the shale reservoir unitized pursuant to Section 87.9 of this title, which plan, based upon the information and knowledge then available to the applicant, shall include:

a. a map or maps indicating the location of each existing well in the proposed unit and the anticipated location of each horizontal well proposed to be drilled in the proposed unit that is anticipated to be necessary, based upon the information and knowledge then available to the applicant, for the full and efficient development and operation of the proposed unit for the recovery of oil and gas from the shale reservoir within the proposed unit,

b. any applicable proposed allocation factor or factors for allocating the costs, production and proceeds from the proposed unit,

c. the anticipated timing and anticipated sequence of drilling of each horizontal well in the proposed unit, and

d. any other specific terms, provisions, conditions and requirements set forth in Section 87.9 of this title or determined by the Commission to be reasonably necessary or proper to effectuate or accomplish the purpose of Section 87.9 of this title;

~~13.~~ 12. "Point of entry" means the point at which the borehole of a horizontal well first intersects the top of the targeted reservoir;

~~14.~~ 13. "PRSA" means the Production Revenue Standards Act;

~~15.~~ 14. "Shale reservoir" means a common source of supply which is a shale formation that is so designated by the Commission through rule or order, and shall also include any associated common source of supply as defined in this section;

~~16.~~ <u>15.</u> "Targeted reservoir" means ~~any shale reservoir or any portion of the Marmaton common source of supply~~ <u>one or more common sources of supply which will be encountered by the horizontal lateral portion of a horizontal well, and which has been designated by the Commission as part of an order, rule or emergency rule as potentially suited for development for the applied for multiunit horizontal well or unitization pursuant to Section 87.9 of this title. Any such designation or determination may be limited to certain geographical areas</u>;

~~17.~~ <u>16.</u> "Terminus" means the end point of the borehole of a horizontal well;

~~18.~~ <u>17.</u> "Wellbore royalty interest" means, for each separate multiunit horizontal well, the sum of resulting products of each affected unit's royalty share for that unit, as defined by the PRSA, multiplied by that unit's allocation factor for production and proceeds;

~~19.~~ <u>18.</u> "Wellbore royalty proceeds" means the proceeds or other revenue derived from or attributable to any production of oil and gas from the multiunit horizontal well multiplied by the wellbore royalty interest;

~~20.~~ <u>19.</u> "Unit" means a drilling and spacing unit for a single common source of supply created pursuant to Section 87.1 of this title or a horizontal well unitization created pursuant to Section 87.9 of this title;

~~21.~~ 20. "Unit's royalty contribution factor" means the royalty share for an affected unit, as defined by PRSA, multiplied by that unit's allocation factor, then divided by the total wellbore royalty interest; and

~~22.~~ 21. "Vertical component" means the calculated vertical distance from the point of entry to the terminus.

SECTION 3. AMENDATORY 52 O.S. 2011, Section 87.7, is amended to read as follows:

Section 87.7 Corporation Commission Jurisdiction.

The Corporation Commission shall have jurisdiction, upon the filing of a proper application therefor, to permit the drilling, completing and producing of a multiunit horizontal well in conformity with ~~Section 4 of this act~~ Section 87.8 of this title, or to create a horizontal well unitization in conformity with ~~Section 5 of this act~~ Section 87.9 of this title, if 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.

SECTION 4. AMENDATORY 52 O.S. 2011, Section 87.8, as amended by Section 2, Chapter 400, O.S.L. 2014 (52 O.S. Supp. 2016, Section 87.8), is amended to read as follows:

Section 87.8. A. Under the conditions contained in this section, the Corporation Commission is authorized to allow multiunit horizontal wells in any targeted reservoir 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 the reasonable drilling, completion and production costs associated with ~~a~~ such multiunit horizontal well to each of the affected units which the well actually penetrates within the completion interval and shall further require the allocation to each of the units affected by a multiunit horizontal well of the commingled production, and the proceeds from the sale thereof, from the completion interval of ~~a~~ such multiunit horizontal well, with any allocation to be in a manner that will prevent waste and protect the correlative rights of the owners of the oil and gas rights in each of the affected units which the well actually penetrates within the completion interval.

1. The allocation factor for each affected unit shall be determined by dividing the length of the completion interval located within the affected unit by the entire length of the completion interval in the subject multiunit horizontal well. The Commission shall have the authority to adjust the allocation factors, based upon reasonable testimony and evidence presented to the Commission,

if necessary to prevent waste and adequately protect the correlative rights of the owners of the oil and gas rights in each of the affected units.

2. Each party who participates as a working interest owner in a multiunit horizontal well shall own an undivided interest in all portions of the wellbore of the well and in the equipment on or in the well in the same ratio that the party's allocated portion of the total costs of the well and equipment bears to the total costs of the well and equipment. The ownership of undivided interest described in this paragraph shall not affect or prejudice the ownership of oil and gas rights of the affected owners outside of the targeted reservoir for the multiunit horizontal well.

3. A multiunit horizontal well shall be treated as a well in each of the affected units and shall be subject to all of the rules otherwise applicable to any other well in any of the affected units. In allowing a multiunit horizontal well, the Commission, under Section 87.1 of this title, may grant any necessary exceptions to the permitted well location tolerances in each of the affected units for the well and permit the well as an additional well in each of the affected units. When an owner has drilled or proposes to drill a multiunit horizontal well or wells and the owners of a present right to drill in any of the affected units have not agreed to pool their interests in the unit or units for the ~~affected common sources of supply~~ targeted reservoir, the Commission, under Section 87.1 of

this title, may, upon the filing of a proper application therefor, require the owners to pool their interests <u>in the targeted reservoir</u> in each affected unit on a unitwide basis as to the respective unit in regard to the development involving the portion of the multiunit horizontal well or wells located within the affected unit. Furthermore, if the Commission has previously entered an order pooling the interests of owners in an affected unit in which a multiunit horizontal well or wells have been drilled or are proposed to be drilled, the Commission, under Section 87.1 of this title may, upon the filing of a proper application therefor, amend the pooling order to the extent necessary to have the pooling order cover the development involving the portion of the multiunit horizontal well or wells located within the affected unit.

4. The application shall include:

a. the approximate anticipated location of the proposed multiunit horizontal well or wells,

b. a map or maps indicating the location of each currently existing well in each affected unit which is the subject of the application and the anticipated location of each multiunit horizontal well currently proposed to be drilled in each affected unit as a result of the application and any other horizontal well not included in the current application, but anticipated to be necessary, based upon the information and knowledge then available to the applicant, for the full and efficient development and operations of the targeted reservoir within the affected units if the well or wells are approved by the Commission upon the filing of a proper application at a future date, and

c. any applicable proposed allocation factor or factors for allocating the costs, production and proceeds from each proposed multiunit horizontal well under the application.

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

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

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

8. The multiunit horizontal well shall be subject to the provisions of the Product Revenue Standards Act (PRSA). The operator of the multiunit horizontal well shall be the designated royalty distributor pursuant to the PRSA for the multiunit horizontal well, unless there is a diversity of operators in the affected units from which the multiunit horizontal well is producing and another operator in each of the affected units agrees to perform separately the PRSA royalty distribution functions for the unit.

C. Application, Notice and Retained Jurisdiction.

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

SECTION 5. AMENDATORY 52 O.S. 2011, Section 87.9, is amended to read as follows:

Section 87.9 A. Horizontal Well Unitization for Shale Reservoirs.

Under limited circumstances and conditions contained in this section, the Corporation Commission is authorized to unitize a shale reservoir for the drilling of horizontal wells to the end that a greater ultimate recovery of oil and gas may be had therefrom, waste is prevented, and the correlative rights of the owners are protected. Unless and until a unit created pursuant to this section is effective, nothing in this section shall prohibit the drilling of a horizontal well within a drilling and spacing unit created pursuant to Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title.

B. Prerequisites for Unitization.

Upon the filing of an appropriate application, and after notice and hearing, the Commission shall determine if:

1. The proposed unitization of the shale reservoir is reasonably calculated to increase the ultimate recovery of oil and gas from the shale reservoir through the use of horizontal well technology to drill one or more horizontal wells in the unit;

2. The use of horizontal well technology to drill the horizontal well or wells in the shale reservoir is feasible, will prevent waste, will protect correlative rights and will with reasonable probability result in the increased recovery of substantially more oil and gas from the shale reservoir within the unit than would otherwise be recovered;

3. The estimated additional cost, if any, of conducting the horizontal well operations is not anticipated to exceed the value of the additional oil and gas to be recovered; and

4. The unitization and the use of horizontal well technology to drill one or more horizontal wells is for the common good and will result in the general advantage of the owners of the oil and gas rights within the unit.

Upon making these findings, the Commission may enter an order creating the unit and providing for the unitized operation of the shale reservoir described in the order, all upon terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the several persons affected, including royalty owners, owners of overriding royalties and others, as well as the lessees. The application shall set forth a description of the proposed unit with a map or plat thereof attached, shall allege the existence of the facts required to be found by the Commission as provided in this subsection and shall have attached thereto a recommended plan of development which is applicable to the proposed unit and which is fair, reasonable and equitable.

C. Size of the Unit.

Each unit shall be two governmental sections. However, the Commission may expand the size of the unit by including additional governmental sections up to a maximum unit size of four governmental sections, if for good cause shown the Commission finds the expansion of the unit size beyond two governmental sections is necessary to prevent waste, to protect correlative rights and will result in the increased recovery of substantially more oil and gas from the shale reservoir than would otherwise be recovered based upon, but not necessarily limited to:

1. Geological features existing within the proposed unit;

2. The proposed location or orientation of the horizontal wells;

3. The length of the laterals of the proposed horizontal wells;

4. The proposed use of multilateral wells; or

5. Any combination thereof.

D. Ownership of Oil and Gas Rights within the Unit.

Where there are, or may thereafter be, two or more separately owned tracts within the unit, each owner of oil and gas rights within the unit shall own an interest in the unit of the same character as the ownership of the owner in the separately owned tract. From and after the effective date of the order of the Commission creating the unit and subject to the provisions of any pooling order covering the unit, the interest of each owner in the unit shall be defined as the percentage of interest owned in each separate tract by the owner, multiplied by the proportion that the acreage in each separately owned tract bears to the entire acreage of the unit. The costs incurred in connection with and the production and proceeds from the wells in the unit shall be allocated to each separate tract in the unit and shall be borne or shared by the owners in each separate tract based upon and determined by the interest of each owner in the tract. However, if a well or wells already exist within the area of the proposed unit which are producing or have produced or appear to be productive from the shale reservoir being unitized, the Commission may adjust the sharing of future costs incurred in connection with and future production and proceeds from any existing well or any subsequent well in the proposed unit in any manner deemed necessary by the Commission in order to protect the correlative rights of the owners within ~~the proposed~~ <u>any existing well or any subsequent well or within the</u> unit, including providing for the sharing of future costs incurred in connection with and future production and proceeds from any existing well or any subsequent well in a manner different from any other well in the unit so long as the various methods of sharing future costs, production and proceeds from the existing and subsequent wells in the ~~proposed~~ unit prevents waste and protects the correlative rights of all the affected owners. For the purpose of this section, any owner or owners of oil and gas rights in and under an unleased tract of land within the unit, unless the owner has relinquished the drilling rights or working interest of the owner in the applicable shale reservoir in the tract of land under a pooling order entered by the Commission which order remains in effect, shall be regarded as a lessee to the extent of a seven-eighths (7/8) interest in and to the rights and a lessor to the extent of the remaining one-eighth (1/8) interest therein.

E. The Plan of Development.

The application shall include a proposed plan of development. Based upon the facts and conditions found to exist with respect to a proposed unit, the Commission shall determine the necessary terms, provisions, conditions and requirements to be included in the plan of development for the unit. If a well or wells already exist within the area of the proposed unit which are producing or have produced or appear to be productive from the shale reservoir being unitized, the plan of development shall also include:

1. Any adjustments to the sharing of future costs incurred in connection with future development and production, and the sharing of proceeds, from any existing well or any subsequent well which the Commission determines to be necessary in order to be fair, reasonable and equitable, and to protect the correlative rights of the owners, considering the existing development in and the prior and anticipated future production from the shale reservoir within the proposed unit; and

2. The procedure and basis upon which existing wells, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation.

F. Order of the Commission.

The order of the Commission creating the unit shall:

1. Designate the size and shape of the unit;

2. Set forth the drilling pattern and setbacks for the unit, including the permitted well location tolerances for the permitted wells within the unit;

3. Approve and adopt the plan of development for the unit, with a copy thereof attached to the order <u>and include any necessary special allocation factors for allocating the costs, production and</u>

proceeds from the proposed unit resulting from existing wells or subsequent wells, or both;

4. Designate the unit operator; and

5. Provide for the conditions upon which the unit, and the order creating the unit, shall terminate.

G. Consent by Owners.

No order of the Commission creating a unit pursuant to this section shall become effective unless and until the proposed unitization has been consented to in writing, and the written consent submitted to the Commission, by lessees of record of not less than sixty-three percent (63%) of the working interest in the shale reservoir in the area to be included in the unit and by owners of record of not less than sixty-three percent (63%), exclusive of any royalty interest owned by any lessee or by any subsidiary of any lessee, of the one-eighth (1/8) royalty interest in the shale reservoir in the area to be included in the unit in an express writing separate from the oil and gas lease. The Commission shall make a finding in the order creating the unit as to whether the requisite consent has been obtained. Where the requisite consent has not been obtained at the time the order creating the unit is entered, the Commission shall, upon application and notice, hold any additional and supplemental hearings as may be requested or required to determine if and when the requisite consent has been obtained and the date the unitization will become effective. In the event lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not so consented to the unitization within a period of six (6) months from and after the date on which the order creating the unit is entered, the order creating the unit shall cease to be of further force and effect and shall be revoked by the Commission.

H. Notice.

The application for the creation of a horizontal well unitization for a shale reservoir under this section, and the notice of hearing on the application, shall be served no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each person or governmental entity having the right to share in production from the proposed unit covered by the application, as well as other persons or governmental entities required by Commission rules. Any person aggrieved by any order of the Commission made pursuant to this section may appeal therefrom to the Supreme Court of the State of Oklahoma upon the same conditions, within the same time and in the same manner as is provided for in ~~Title 52 of the Oklahoma Statutes~~ this title, for the taking of appeals from the orders of the Commission made thereunder.

I. Pooling of the Unit.

From and after the effective date of an order creating a unit pursuant to this section and subject to the provisions of the order in regard to the matters to be found by the Commission in the creation of the unit and the provisions of the applicable plan of development, an owner of the right to drill for and produce oil or gas from the unit may request the Commission to pool the oil and gas interests of the owners in the unit on a unitwide basis pursuant to the provisions of subsection (e) of Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title in regard to the development of the unit ~~involving a horizontal well or wells~~.

J. Effect on Existing Spacing Units and Pooling Orders.

From and after the effective date of an order creating a unit pursuant to this section, the operation of any well producing from the shale reservoir within the unit defined in the order by persons other than the unit operator, or except in the manner and to the extent provided in the order creating the unit shall be unlawful and is hereby prohibited. Once the order of the Commission creating a unit pursuant to this section becomes effective, the unit so created shall supersede any drilling and spacing unit previously formed by the Commission pursuant to Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title for the same shale reservoir within the area of the new unit. Any pooling order which was entered by the Commission pursuant to subsection (e) of Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title covering any drilling and spacing unit superseded by a unit created pursuant to this section and which was in effect at the time of the creation of the unit shall remain in full force and effect as to any oil and gas interests in the shale targeted reservoir which were relinquished and transferred by operation of law under the pooling order. However, further development of the shale reservoir in the area of the unit created pursuant to this section shall not be subject to any of the other provisions of any prior pooling order, but shall be governed by and pursuant to the order creating the unit, including the applicable plan of development, and any subsequent pooling order covering the unit.

K. Payment of Proceeds.

Units created pursuant to this section shall be subject to the terms and provision of the PRSA.

L. The Commissioners of the Land Office.

The Commissioners of the Land Office, or other proper board or officer of the state having the control and management of state land, and the proper board or officer of any political, municipal, or other subdivision or agency of the state, are hereby authorized and shall have the power on behalf of the state or of any political, municipal, or other subdivision or agency thereof, with respect to land or oil and gas rights subject to the control and management of the respective body, board, or officer, to consent to or participate in any unitization adopted pursuant to the ~~2011 Shale Reservoir~~ Horizontal Well Development Act.

M. Retained Jurisdiction.

Upon the creation of a unit pursuant to this section, and approval of the plan of development in connection therewith, the Commission shall retain jurisdiction over the unit and the plan of development. The retained jurisdiction of the Commission set forth herein shall neither preclude nor impair the right of any affected party to obtain through the district courts of this state any remedy or relief available at law or in equity for injuries caused by any action or inaction of the applicant, operator or any other affected party.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 155 of Title 52, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Vertical Well Protection Act of 2017".

A. Should a vertical well operator determine that a horizontal well has affected the production from its vertical well, the vertical well operator shall notify the horizontal well operator of the damages to its vertically producing well. The parties shall have thirty (30) days in which to arrive at a settlement of damages to the vertical well’s production as well as the reserves which were lost.

B. In the event the matter cannot be resolved within this thirty-day period, the vertical well operator shall have the right to file an application with the district court for an appraiser to determine the damages which were sustained to the vertical well. The damages to be considered shall take into account both the loss of oil and gas production as well as the loss of reserves attributable to the drilling of the horizontal well.

C. The appraiser determining damages may be mutually selected by the parties or appointed by the district court if the parties cannot mutually agree on an appraiser. The appraiser shall be a qualified petroleum engineer who is capable of evaluating the loss of oil and gas production, as well as the loss of reserves and is capable of presenting a damage report to the parties and the court.

D. In the event both parties agree that the appraisal report of the damages is accurate and is accepted, this damage finding shall become the court’s final determination and shall act as a judgment in favor of the vertical well operator against the horizontal well operator and its working interest owners.

E. In the event the vertical and horizontal well operators do not agree with the appraiser’s damage report, the case shall be placed on the district court trial docket and shall proceed in an orderly manner to a final resolution. Further, in the event either part recovers a finding by the court that is ten percent (10%) different from the appraisal damage report, the prevailing party shall be entitled to attorney fees calculated from the time of rejection of the offer by the parties.

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